



Northwest Tribal Treaty Nations

NWTT Nations Governance Project

Phase One Final Report

*“The question is:
Are we a true governing body?
or, are we a service delivery agent
for Indian Affairs?”*

Northwest Tribal Treaty Nations
May 27, 2002

TABLE OF CONTENTS

ACKNOWLEDGMENTS 3

I. PLAIN SPEAK DEFINITIONS 4

II. CONTEXT 7

 a) Message from NWTT Nations Co-Chairs

 b) INAC Governance Initiative

 c) NWTT Nations Governance Project

III. PURPOSE 12

IV. SCOPE 12

V. COMMUNITY MEETING METHODOLOGY 13

VI. HOW THE *INDIAN ACT* WORKS NOW 16

VII. WHAT INAC IS PROPOSING TO MAKE LAW 20

VIII. THE LEGISLATIVE PROCESS 23

IX. INAC LEGISLATIVE TIMELINE 25

X. COMMUNITY MEETINGS OVERVIEW 26

 a) Bill C-31

 b) Capacity

 c) Child Welfare (Foster Care)

 d) Communication

 e) Consultation & Royal Commission on Aboriginal Peoples (RCAP)

 f) Corbiere Decision

 g) Culture & Language

 h) Dispute Resolution

 i) Economic Development

 j) Education

 k) Elders

 l) Fiduciary

 m) Governance, Law-Making & Taxation

 n) Healing, Addictions & Residential School

 o) Hereditary Systems & Elected Systems

 p) Housing

 q) Human Rights

 r) INAC Accountability

 s) Leadership Accountability

 t) Reserve Lands

May 27, 2002

- u) Sustainability
- v) Traditional Territories
- w) Treaty
- x) Trust, Skepticism, Control & Change
- y) Women & Youth

XI. QUESTIONNAIRE OVERVIEW 45

XII. SELF-GOVERNMENT 47

XIII. LAW-MAKING 48

XIV. GOVERNANCE 48

- a) Term of Office
- b) Eligibility Requirements to Hold Office
- c) Non-Resident Seat on Council
- d) Non-Member Voting Rights
- e) Non-Members Holding Office
- f) Off-Reserve Members Holding Office
- g) Chief & Council Dismissal or Resignation
- h) Conduct of Elections & Appeals

XV. ACCOUNTABILITY 51

XVI. LEGAL CAPACITY & AUTHORITY 51

XVII. NWTT NATIONS INPUT 53

XVIII. NEXT STEPS? (Recommendations) 55

APPENDIX ONE NWTT NATIONS CONSULTATION AND DEVELOPMENT PROCESS

APPENDIX TWO NWTT NATIONS QUESTIONNAIRE

May 27, 2002

ACKNOWLEDGMENTS

The Northwest Tribal Treaty Nations (NWTT Nations) Steering Committee wishes to acknowledge the over 800 people who participated in 51 communities throughout Northern British Columbia.

In addition, we acknowledge the hard work and dedication of our community teams, including Cliff White and Nelson Leeson who were the Team Leaders, and Lynn White and Delbert Good who were the Fieldworkers/Recorders. These people worked tirelessly to do their best to ensure the voices in our communities were heard and recorded.

We also wish to acknowledge the skills and dedication of our Coordinator Angela Wesley who also worked tirelessly to ensure the success of this project.

The writers, Lee Francoeur and Joan Jack, worked within an inordinate time frame and we thank them for their dedication.

Finally, we acknowledge the fiscal support received through Indian and Northern Affairs Canada (INAC), without which this work would not have been undertaken nor completed.

May 27, 2002

I. PLAIN SPEAK DEFINITIONS

The following definitions are included to **guide the reader from a community perspective within the context of this paper** and are **not legal, political or conclusive definitions**. Nor are the following definitions representative of the opinion of the NWTT Nations.

Aboriginal Rights	Our legal rights to our selves, culture, language, governance, economy, land and resources. Section 35 of the Canadian Constitution recognizes and affirms existing aboriginal and treaty rights.
Aboriginal Title	Is our legal aboriginal right to use and occupy our lands, and this right comes from the fact that we were using and occupying our lands before settlers arrived.
Administrative Power	Is the power and responsibility held by Band Council to deliver programs and services. This power is typically delegated to Band Office staff that deliver INAC programs and services.
Assimilation	A deliberately organized process of making sure that one thing becomes something else. In our case, it is the process of making sure we become “White People” through the imposition of law (<i>Indian Act</i>) and federal policy (Residential School Policy, Assimilation Policy, and now the very narrow Inherent Self-Government Policy, etc.). Provincial policies, generally, have the same goal and effect.
Band	A group of people registered as Indians under the <i>Indian Act</i> .
Band Council	A group of registered Indians elected from Band membership to govern and manage Band affairs.
Collective Right	A legal right that belongs to a group of people equally. In our case, for example, the right to fish for food, social and ceremonial purposes is a collective right.
Colonization	Is what happens when one people take over another peoples land and impose their own laws and culture. Colonization is achieved through assimilation law and policy.
Constitution	The laws that a group of people agree to live by.
Consultation	The process of asking someone how what you want to do affects them and making sure that your actions meet their needs. Recent court cases in BC have affirmed that the consultation process is a legal obligation which must include accommodating our interests (<i>Taku, Haida</i>)

<p>Democracy</p>	<p>Is an adversarial form of politics that is based upon the individual vote and the rule of the majority. There is more than one form of democracy.</p> <p>The form of democracy used in Canada is called “Representative Democracy”, which is a political system wherein individuals are elected to a term of office by a majority vote. Votes are cast supporting a political platform or mandate that is to be implemented over a specific term of office.</p> <p>The Chief & Council system is a form of representative democracy.</p> <p>According to representative democracy, the political leaders elected do not involve the individual voters directly in the day-to-day decision-making of government. Democratic governing power is divided into legislative (MP/MLA), executive (Cabinet) and administrative (Ministers) power. MPs or MLAs make law, Cabinet sets the direction of the government and Ministers and bureaucrats make decisions on behalf of the people. The people only vote and have a say through public processes, like hearings or committees.</p>
<p>Executive Power</p>	<p>Is power held by Chief & Council to pass Band Council Resolutions that direct the affairs of government.</p>
<p>Fiduciary Obligation</p>	<p>Is owed when one party has the power and responsibility to make decisions for another party. Fiduciary means the party with the power and responsibility must make the decisions in the best interests of the other party.</p> <p>For example, federal and provincial governments have a fiduciary obligation to make decisions about our lives and lands in our best interests. And, Band Councils have a fiduciary obligation to make decisions in the best interests of band members.</p>
<p>First Nation</p>	<p>A group of people who identify themselves as one of the original nations on this land known as Canada.</p>
<p>Governance</p>	<p>The process through which people participate and agree to conduct themselves in accordance with their own culture and laws.</p>
<p>Indian</p>	<p>Any person, regardless of race, registered and numbered through the <i>Indian Act</i> as an Indian.</p>
<p>Individual Rights</p>	<p>A legal right that belongs to one person. For example, the right to vote is an individual right.</p>

May 27, 2002

JMAC: Joint Ministerial Advisory Committee	Along with other streams of information influencing the process of amending the <i>Indian Act</i> , the Joint Ministerial Advisory Committee was formed to advise the Minister of Indian Affairs about his proposed changes to the <i>Indian Act</i> .
Legislation	Law that is passed by the provincial or federal government in the form of an act of parliament or legislatures.
Legislative Power	In terms of the <i>Indian Act</i> form of representative democracy, legislative power is the power Band Council has to pass by-laws. Under the <i>Indian Act</i> , most times, Band Councils do not need the approval of the people to pass a by-law.
NWTT Nations	“Northwest Tribal Treaty Nations” is the group of First Nations from the northern areas of British Columbia that have agreed to work together on common issues on an as-needed basis. This work is done through an organization incorporated under the <i>Societies Act</i> that is governed by two Co-chairs and guided by a Steering Committee who are all members of the participating First Nations. The NWTT Nations is also sometimes referred to as the NWTT Group.
Off-loading	The way that provincial and federal governments transfer governing responsibility to First Nation governments, typically without enough money to do the job properly.
Reserve	The land within our traditional territories that the federal government kept for our use and benefit when the provinces were formed. The federal government gave the rest of our land, without our consent, to the provincial governments for the use and benefit provincial citizens.
Treaty	A legal agreement reached between two independent nations.

May 27, 2002

II. CONTEXT

a) Message from NWTT Nations Co-Chairs Gerald Wesley & Justa Monk

Late in the year 2000, the Minister of Indian and Northern Affairs Canada (INAC) gave indication that he was considering a process to make changes to the *Indian Act*. The general rationale seemed to be because of isolated incidents or accusations of financial mismanagement by First Nation leaders across Canada. Early the following year (2001), Minister Robert Nault confirmed intentions to make changes to the Act involving only a limited number of areas – all relating to matters of Band Governance.

The initial reaction of First Nations generally across Canada was one of concern: *What changes are going to be made, why, and how will they affect me?*

As further details of the proposed changes and process emerged, those concerns were not properly addressed and in fact more concerns were identified. Through a series of meetings, the Northwest Tribal Treaty (NWTT) Nations pointed out the following:

- there is limited opportunity for input
- the Indian Affairs 'consultation process' is not appropriate
- the INAC process demanded very tight time lines for changes to be implemented
- the areas for proposed change were too limiting and would not provide any real benefit to First Nations people.

In addition, changes within the limited areas identified would not address the Inherent Right to Self-Government and might remove or impact on certain of Canada's fiduciary obligations.

After much internal discussion, the NWTT Nations presented an option to Indian and Northern Affairs Canada. We said there was merit in pursuing changes to the Indian Act as long as we were directly involved in not only identifying the areas for change, but also in crafting the proposed changes of legislation. In a letter to Indian & Northern Affairs dated June 8, 2001 we stated:

"We wish to be very clear, we are prepared to engage in further discussion around the federal initiative subject to two conditions:

1. *That the Minister will meet with us to review the overall process, and,*
2. *that the Minister, or your office confirms there is flexibility in the announced Governance Act initiative to address our key issues."*

While we did not meet directly with the Minister, we did meet with the Assistant Deputy Minister and based on that meeting and subsequent discussions with the Department, we formally agreed to a contract to allow us to work on an NWTT Governance Project.

This report is the culmination of over 12 months of attention and direction by First Nations leaders within the northern portion of British Columbia. It is also the conclusion of a very intense effort by a small group of officers to organize, co-ordinate and actually get into each First Nation community and urban centres between Haida Gwaii and Prince George in order to gather the input of our people.

It is on this note that the Co-chairs would like to express our appreciation. To everyone who offered his or her assistance, whether it was as a political leader in recognizing a need; whether it was as a Steering Committee member or one of our key advisors for putting it all together;

May 27, 2002

whether it was to our community members in expressing their feelings or in seeking more information ... thank you!

We also wish to express appreciation to Mr. Lee Francoeur and Mrs. Joan Jack who have had the challenge of pulling all of our thoughts together in a written form that is a fair summary of issues and will be useful in our next level of work.

Please remember, this is only the first part of a plan that we seek to follow, a plan that will indeed see First Nations fulfil our objectives of being Self-Governing, self sustaining, healthy and economically strong. We look forward to your involvement in our next steps.

b) INAC Governance Initiative

On April 30, 2001, the federal government launched a project to make changes to the *Indian Act*, which they say will result in “a change of authority which would shift the primary relationship between the Government of Canada and Chief and Council to one between First Nations governments and First Nation members. ... What the legislation, or legislative changes, will do is provide First Nations operating under the *Indian Act* with the tools they need to foster effective, responsive and accountable governance.”¹

“... Based on ideas from First Nations and others, new legislation would build on the idea of ‘effective governance’ and could include these general subject matter areas:

- 1) Legal Standing and Capacity;
- 2) Leadership Selection and Voting Rights; and
- 3) Accountability to First Nation Members”²

According to Indian and Northern Affairs Canada (INAC), “to date, over 7000 First Nations people have participated in over 400 consultation and information sessions, responded to questionnaires, or used interactive media to provide their views to consultation teams”.³ Information from another INAC source states: “Through *Communities First*, over 10,000 individuals have expressed their views. Approximately 8,500 people attended consultation meetings. More than 1,600 mailed back questionnaires and filled in questionnaires on-line and approximately 600 emails and letters have been received.”⁴

As First Nations, we number approximately 550,000 and make up approximately 2% of the total population in Canada. In BC, we number approximately 113,000, which is again about 2% of BC’s population.⁵ INAC has “consulted” with only 2% of our population across Canada, and it is not known how many First Nations were consulted in BC.

However, even if all 10,000 INAC participants were from BC, they would still only be a reflection of less than 10% of our First Nation population. Through the census, the government does not break down our population nation by nation and simply lumps us all into the same First Nation category.

¹ Communities First: First Nations Governance, www.fng-gpn.gc.ca/AB_e.asp, pg. 1.

² Communities First: First Nations Governance under the *Indian Act* package, pg. 1

³ Backgrounder – Communities First: First Nations Governance, www.ainc-inac.gc.ca/nr/prs/s-d2001/01248bk_e.html, pg.1.

⁴ Communities First: First Nations Governance, Consultation Report – Phase I, January 2002, pg. li.

⁵ Statistics Canada, 1996 Census, www.statcan.ca/english/Pqdb/People/Population/demo39a.htm, pg. 1.

May 27, 2002

c) **NWTT Nations Governance Project⁶**

In 1991, a significant number of the First Nations in Northern British Columbia identified a desire to be more cooperative with each other in sharing information and to address common and emerging issues. On February 11th, 1991 the founding “Northwest Tribal Treaty” among those First Nations who participated was signed at the All Native Basketball Tournament in Prince Rupert, BC. The original agreement is as follows:

Northwest Tribal Treaty

We, the Northwest First Nations have occupied and governed our respective territories since time immemorial. The Creator put us on our territories and gave us laws in which to define and govern our relationships with each other and with the animals, plants, lands, waters and air.

We have maintained our spiritual beliefs, our languages, our way of life and traditions. We have done this through intermarriage and the exchange of material and food resources, and shall continue to do so through infinity.

We, the signatories to this Treaty are of one heart in the advancement and protection of our common interests identified in the following principles:

1. *We shall continue to practice our own tribal political system and laws, and we intend these separate jurisdictions to continue.*
2. *We shall continue to express our sovereignty as Nations.*
3. *We shall assist each other to reaffirm our continuing Hereditary Title and give expression to our rights; and to defend these against any erosion through external forces.*
4. *We shall collectively join the other First Nations efforts to pursue the explicit recognition of aboriginal title in Canada's constitution.*
5. *We shall continue to enter into bilateral and multilateral relationships with each other to strengthen and assist in setline matters and common concerns regarding our respective cultural identities, traditions, diversity, equality of our peoples and our common boundaries according to our traditional laws.*
6. *We shall, in the spirit of sharing and co-existence, continue to enter into mutually beneficial relationships regarding access to traditional territories and natural resources. These include all resources that come from our territories.*

We, as represented by the undersigned leaders of the respective First Nations, reaffirm these principles by this treaty.

Dated at Lax Xheen, Monday February 11, 1991

Signed by representatives of:

Listed but not signed:

Tsimshian Nation	Gitksan Nation	Tahltan Nation
Haisla Nation	Lake Babine Band	Taku River Tlingit First Nation
Haida Nation	Gitanyow Nation	Kaska Dene Nation
Wet'suwet'en Nation	Carrier Sekani Nations	
Nisga'a Nation		

⁶ For complete information, see the NWTT Nations web page at www.nwttgroup.com.

May 27, 2002

An organization was incorporated under the *Societies Act* to assist in addressing common issues. The “Northwest Tribal Treaty Nations” is operated through two Co-chairs Justa Monk (Tl’azten Nation) and Gerald Wesley (Tsimshian Nation), who are guided by a Steering Committee made up of members of signatory Nations: Chief Ron Brown (Old Massett Village Council), Chief Diane Collins (Kitsumkalum Band Council), Chief Glen Williams (Gitanyow First Nation), Chief Norm Johnson (Gitwangak First Nation), Morris Amos (Haisla Resource Centre), Mel Bevan (Kitselas First Nation), Bill Spenst (Lake Babine First Nation) and Elmer Derrick (Gitxsan Nation).

The signatory Nations of the Northwest Tribal Treaty recognized a need for strong principles to guide the efforts of First Nations Governance and, in October of 2001 at a NWTT Governance Symposium held in Prince George, finalized and agreed upon the following principles of governance:

“NWTT Nations Guiding Principles of Governance”

1. Principles of Governance must developed and led by First Nations
 - reflect traditional components including the hereditary system(s)
 - provide for preservation and enhancement of language and culture
 - provide stability
2. No extinguishment (of Rights/Title)
3. Any INAC Governance Initiative must be optional
4. Application over traditional territory
 - include provision for sharing of or within territory
5. Must address management and accountability
 - involvement and accountability to our own people
 - accountability of Indian Affairs to our Governments
 - involvement and rights of all people, on and off First Nation Lands
6. Must address greater powers and jurisdiction
7. Must address fiscal realities and ability to create a better economic climate
 - maintaining the Section 87 *Indian Act* tax exemption
 - provide for improved and secure fiscal transfers
8. Recognize, respect and honor differences among Nations
 - Enhance our autonomy
9. Address government fiduciary obligation (especially in relation to health services and education).
10. Constitutional protection for our governments
 - Under federal Constitution and First Nation Constitution
11. Incorporate an accurate records system (genealogy, names, population and other important statistics).

May 27, 2002

Based on agreement from a series of meetings and ending with further direction from a Governance Symposium held in Prince George in October of 2001, the NWTT Nations Steering Committee developed and began implementing a four stage process to ensure that the interests of First Nations in northern British Columbia (BC) were adequately and accurately addressed within the INAC Governance Initiative. Stage One was to establish teams of resource people to visit First Nation communities, both rural and urban, to provide information on the INAC Governance Initiative, seek feedback, gather and summarize findings. This report is the result of Stage One of that process.

To complete Stage One, this report will be brought back to the people through a second Governance Symposium, scheduled for April 24 to 26, 2002 during which the report, it's findings and recommendations will be confirmed prior to submission of the report to Indian and Northern Affairs Canada.

Stage Two will involve further presentation and discussion of the Stage One report at four additional regional governance information sessions and beginning to develop NWTT input into a legislative proposal.

Stage Three will involve the development of a joint proposal, between the NWTT Nations and INAC, which will be based upon the information and needs identified within the Stage One report.

The last stage of the NWTT Nations Governance Framework, Stage Four, will involve the development and implementation of a process to ensure the participation of NWTT citizens in the legislative process, including making presentations to the INAC Standing Committee, the Minister and other key officials regarding the proposed legislative changes.⁷

In terms of context, it is very important that the reader note that the NWTT Nations is not the final voice for the people of the northern BC, nor has our work eliminated the voice of any individual First Nation. The NWTT Nations Governance Project is simply one stream of information in response to the INAC Governance Initiative. All northern First Nations are encouraged to communicate directly with INAC regarding this matter.

Finally, the NWTT Nations Governance Project, while frank and honest, is in no way intended to be seen as an exercise in "bashing" First Nation Chief & Councils or INAC.

⁷ See Appendix One – NWTT Group Consultation and Development Process
Stages 2 to 4 in the NWTT process are dependant upon the availability of further funding

May 27, 2002

III. PURPOSE

This document is prepared to report to those who participated in the work of the NWTT Nations Governance Project and also to provide the basis for the further Stages of the project identified in the NWTT Nations Governance Framework document. To that end, Stage One of the NWTT Nations Governance Framework will be fulfilled through acceptance of this report which will be presented to those attending the Northern First Nations Governance Symposium scheduled for April 24 to 26, 2002 in Prince George.

It is the hope of the NWTT Nations Steering Committee that this report will also serve to generate further thought regarding the broader issue of governance within our communities through four regional governance information sessions planned for Stage Two. Stages One and Two are intended to create Stage Three, which is specifically intended to culminate in a joint project between the NWTT Nations and Indian and Northern Affairs Canada to further address the governance issues identified in Stages One and Two. This report will also be of support in Stage Four in the preparation of participation in the legislative process; specifically in the development of our input through presentations to the INAC Standing Committee, which will be struck to solicit feedback regarding the draft legislative changes.

Lastly, and most importantly, it is the hope of the NWTT Nations Steering Committee that this report will serve as a community education tool regarding governance at the grassroots.

IV. SCOPE

This report is severely limited by the fact that the NWTT Nations had no choice but to work within the predetermined timeframe of the Indian and Northern Affairs Canada Governance Initiative. The report is also limited by the fact that it is based on input gathered over only a three-month period during which (usually) two-hour community meetings were held in each of the 51 communities visited.

Feedback was sought in relation to the specific agenda of the INAC Governance Initiative (Legal Standing and Capacity, Leadership Selection and Voting Rights, and Accountability), but was not limited to the INAC agenda. Participants were invited to share their broader governance concerns. In many instances, the participants were seeing the materials related to the INAC Governance Initiative for the first time at the outset of the meeting and thus did not have sufficient time to absorb the material and respond to the INAC agenda in a truly informed manner.

Many participants were not interested in even responding to the proposed changes to the *Indian Act*, which will likely be made through a stand alone Act that will have to be read together with the present *Indian Act*. Nor were our people very interested in talking about the *Indian Act* -- period. Participants were extremely interested in talking about governance in a broader context and that input is included within this report as well. To that end, the scope of this report is affected by the NWTT Nations goal of continuing to facilitate the broader discussion of governance within our communities and the educational purpose underlying that discussion. To accomplish this, rather than creating a lengthy academic analysis of what we heard, we have kept our words brief and let the people speak for themselves by including as many direct quotes as possible. ***The quotes are not intended to be representative of the opinion of any organization or nation; they are simply a reflection of some of what was said at the meetings.***

Finally, this report only represents the conclusion of Stage One in the NWTT Nations four stage Governance Project and is neither exhaustive nor conclusive as related to the broad topic of governance in our communities.

May 27, 2002

V. COMMUNITY MEETING METHODOLOGY

Over a three-month period between January and March 2002, NWTT Nations Community Governance meetings were conducted in 51 communities, involving over 800 participants. Two, two-person teams conducted the meetings on behalf of the NWTT Nations. Since this project was a partnership with Indian and Northern Affairs Canada, there was an INAC representative present at many of the community meetings. The INAC representative was there simply to listen and provide information where appropriate. Within each meeting the same person facilitated and while the other recorded community input.

Communities were contacted directly to determine whether or not there was an interest in conducting such a meeting. Communities were asked to organize and convene the meeting and all available forms of public media were used to advertise the community meetings.

The meeting process:

All meetings proceeded on the principles of “openness and active listening”, and, to that end, all comments were recorded. Although there were some variations, all sessions generally followed the following format:

- a standard presentation (which could be reviewed in a variety of presentation styles: PowerPoint presentation; transparencies/overheads; or hand-outs) briefly explaining the INAC Governance Initiative and the NWTT Governance Project was provided to each team and was also included in community information kits. At each meeting the facilitator opened the meeting with this standard presentation and opened the floor for discussions;
- also prepared and made available were folders of information for “NWTT Governance Project Community Meetings – January to March 2002” including the standard presentation, an introduction letter from the Co-chairs, the NWTT questionnaire and other general information regarding INAC Governance Initiative and First Nations information;
- only where the time of the group was limited was the presentation summarized rather than reviewed in detail
- most sessions began with an opening prayer, which was always left at the discretion of the community, and where this was the case, the meeting was also concluded with a prayer
- teams met with a wide variety of community members including Chiefs and Councils, treaty negotiation/community teams, children and teenagers (in elementary schools and high schools), post-secondary students, elders, women’s groups, individual clan/house representatives, and also had the opportunity in 2 instances to host display booths at well-attended large gatherings in the north (All-Native Basketball Tournament and Women’s Gathering); at these sessions information was shared on an individual basis and people were encouraged to complete questionnaires
- at the more formal meetings, introduction of the NWTT team was usually led by the inviting community sponsor, (Chief/Council representative, administration or a member of the treaty team). Afterwards, the community would go around and introduce themselves, which was the norm but not always the case

May 27, 2002

- meetings began with the introduction of the various information available: the INAC information kit, the *Indian Act* and NWTT kit, including the NWTT Nations questionnaire, which were handed out to each of the participants
- teams reported that participants were very interested in obtaining all of the information that was available on the subject
- each team had a copy of Minister Nault's video and in all cases where time allowed and the technology was available, the video was shown to provide participants with "first hand" information on the federal government's intentions regarding their Governance Initiative
- the majority of each session was focused on obtaining comments and feedback from the participants on any concerns, issues, questions or comments on First Nation governance and the changes to the *Indian Act*
- in all cases, meeting participants had no problem in voicing their concerns and adding information to the process
- comments were captured by the recorder of the session who were instructed to record what was said by the people and not to provide interpretations of what was said. Little attention was paid to recording the comments made by the facilitator or INAC feedback. The main focus was recording the concerns, issues and perspectives of the participants
- all participants were encouraged to complete and return questionnaires at the sessions and additional information packages were left in communities if requested
- the duration of meetings averaged approximately 2-1/2 hours, however, some were less, and many were more, with one session lasting all day and into the evening
- in many instances meals were provided which allowed for a natural break and allowed team members to interact with the people on an individual basis

Some concerns and limitations:

- as indicated elsewhere in this report, the time frame for this phase of the NWTT Governance Project was very limited. NWTT teams had a period of only 3 months to become oriented to the NWTT Nations Governance Project and the INAC Governance Initiative, to make initial contact with First Nations, to prepare travel and meeting schedules and to conduct the community meetings within a geographic area comprising more than 50% of British Columbia's geographic area
- the number of meetings that teams were able to hold and the number of individuals that could be directly contacted was limited by the "natural realities" of the north (geographic distances, weather)
- teams had no option but to plan time and cost-efficient travel arrangements that would allow them to cover as much of northern British Columbia as possible in a short time frame and to hope that communities could be responsive to that schedule; the time period in which First Nations were contacted, being the end of the fiscal year for First Nations, often impacted on teams' ability to schedule meetings

May 27, 2002

- many community members raised concerns regarding inadequate time frames to be able to meaningfully take part discussions and to make comments based on full knowledge of the subject matter. They would have much preferred to have the packages in hand in advance of the meetings and to have had opportunity to review the materials more thoroughly ... in general, to have more time for thought on the issues presented to them. Participants made it very clear that this should not be considered by any means of the imagination, a consultation process

(Data resulting from the completed NWTT Nations questionnaires has been analyzed and is presented in summary form and discussed in Section XI of this report titled “Questionnaire Overview”.)

May 27, 2002

VI. HOW THE INDIAN ACT WORKS NOW

The first federal legislation about Indians was the 1868 *Secretary of State Act*, soon followed by *An Act for the Gradual Civilization and Enfranchisement of Indians*. These statutes were consolidated in the *Revised Statutes, 1876*.

Originally the *Indian Act* was created to give effect the concept set forth in the *Royal Proclamation of 1763* which was to create the concept of “status” to separate those who were entitled to reside on and use Indian lands. Similarly, the Act exempted reserve lands from taxation and seizures to ensure reserve lands always remained with the Indians.

However, soon after, the Act became a tool of abuse. The *Indian Act* was used to deny the right to vote and substantially reduce the Indian land base, often for nominal or no consideration. Later, the Act became the primary tool of colonization when the federal government adopted their policies of Indian assimilation:

When the Potlatch and Sun Dance were seen as uncivilized, the *Indian Act* was used to ban them. Possession of liquor, on or off the reserve, was punished more harshly under the Act than by general laws. Loitering in pool rooms was forbidden. Indian children were removed from their homes, under the Minister's authority to educate them, and sent to residential schools. Children who were habitually absent from school were “deemed” to be juvenile delinquents. Most telling in relation to this attitude was the definition of “person” which was in the statute until 1951: “an individual other than an Indian”. Indians could become persons by voluntarily enfranchising -- renouncing Indian status -- and, in many circumstances, were involuntarily enfranchised by the Act.⁸

Later, when Indians complained of administrative abuses respecting their Aboriginal rights and title, the Act was amended to make it an offence to retain a lawyer for the purpose of advancing a claim.

“An Act has put our people in a Third World standard of living in the area of 60 – 70% poverty.”

Northwest Community College

“I have read the Indian Act from beginning to end and I still can't remember anything I've read.”

Lheidli T'enneh Advisory Council

“Most of our people do not understand what the Indian Act is or means. We don't find out about it until something happens. We have to learn about it. Everyone should have an orientation.”

Metlakatla

“The Indian Act was not developed to help First Nations people. It has been used against us. It was used as a tool to kill our Spirit. It was used by taking us into residential school and was a holocaust right here in Canada.”

Haisla Nation

⁸ See Henderson's Annotated *Indian Act*: <http://www.bloorstreet.com/200block/sindact.htm>

⁹ (1999), 173 D.L.R. (4th)

May 27, 2002

In 1982, the Canadian Constitution was amended. Two important aspects of the *Constitution Act, 1982* were the constitutional incorporation of section 35, which recognizes and affirms Aboriginal and treaty rights, and the *Charter of Rights and Freedoms*.

Section 35 of the *Constitution Act, 1982* was added to specifically recognize and affirm Aboriginal and treaty rights, which includes aboriginal title and self-government. First Nations, as a result, are now spending substantial time and effort in negotiations to replace the archaic *Indian Act* with treaties and self-government agreements. Courts are also used to help define what Aboriginal rights, including the scope of Aboriginal title and the Inherent right of self-government.

The *Charter* did not take effect until 1985. In 1985, because of the equal rights provision of the *Charter* under section 15, *Bill C-31* was enacted to remove the discriminatory provisions of the Act against women and children that lost their status just because the mother married a non-Indian person. *Bill C-31* had the double effect of both substantially increasing the status Indian population, and creating a substantial if not majority off-reserve population.

To complicate matters further, the *Indian Act* did not provide for off-reserve Band members to vote in Band Council elections because section 77 of the Act restricted voting to those Indians that were “ordinarily resident on reserve.” This upset off-reserve Band members and this matter was brought all the way to the Supreme Court of Canada. In *Corbiere v. Canada (Minister of Indian and Northern Affairs)*⁹, the court ruled that excluding off-reserve Band members from voting was a further violation of section 15 of the *Charter*. The federal government was given 18 months to redesign the voting provisions to balance the rights of off-reserve members with the specific interests and concerns of those members living on reserve. The *Indian Band Election Regulations* have been amended to apply this court decision.

“I don’t know anything about the Indian Act. From what I learned is that we have been living here for centuries. The Europeans came over to our home. And, they tell us how to live in our own homes. I have a hard time dealing with this. I want a better understanding of what this is all about. We should be given rights on our own land (fishing, hunting). What I don’t understand is that these people are still going to continue to tell us how to live. I am worried about our health care, social assistance and the housing. These things are given to us because they took our land. It seems like all these rights are being taken away. We can see it and we can feel it. I don’t fully understand what is in these papers, I only know how I feel.”
Metlakatla Community Meeting

“We don’t have control of our lives because we are run by the Indian Act. Let’s not fool ourselves into believing that we have any control. As Chief & Council, they are only figureheads for INAC. This is universal, not just in our village. When INAC shifted the funding to the band office, all they did was shift the target.”

May 27, 2002

<p>How the <i>Indian Act</i> currently addresses Leadership Selection and Voting Rights</p> <ul style="list-style-type: none">• Band elections are held either according to Custom Election or under the <i>Indian Act</i>.• Elections held under Custom Election select their leaders under their own rules.• Elections under the <i>Indian Act</i> are held under section 74 – 80 of the Act, as well as the <i>Indian Band Election Regulations</i>.• Elections under the Act are usually over 79 days, but may be a 30-day period if a band council loses quorum and is unable to function.• A person running for Chief does not have to be a Band member. In fact, they do not even have to be an Indian, mentally competent, or over 18 years old.• In contrast, a councilor has to be 18 years old, and ordinarily resident on the reserve.• The <i>Indian Band Election Regulations</i> now provides for mail in ballots for off-reserve Band members to nominate candidates, and they can vote in person.• The Department of Indian and Northern Affairs handles election appeals. <p>How the <i>Indian Act</i> currently addresses Accountability to First Nation Members</p> <ul style="list-style-type: none">• The Act does not specifically address accountability for funds and program delivery. These issues are commonly addressed through funding arrangements with the Department of Indian and Northern Affairs.• Indian and Northern Affairs is primarily responsible for determining whether Indian moneys are being used for the use and benefit of the band.• The Minister is also responsible for distributing capital moneys acquired by the band through the sale of lands or capital assets of the band.• Indian and Northern Affairs handle election appeals, and may set aside elections.• The Minister of Indian and Northern Affairs approves Band Council by-laws.	<p><i>“To some people this is new [referring to the proposed changes to the Indian Act]. To others this is old hat. This is not the Indian Act, it is the Whiteman Act.</i> Dease Lake Community Meeting</p> <p><i>“Currently with the government, you are always following their manuals and we cannot make our own decisions. It is their policies which are always being enforce, not ours.”</i> Xai’Xais Treaty Community Meeting</p> <p><i>“I think they should abolish the Indian Act altogether. All they are doing [with the proposed changes] is giving us a longer leash.”</i> Lach Clan Society Meeting</p> <p><i>“I think the Indian Act should be protecting us from such things as this referendum. Why isn’t the federal government speaking up for us? The minister’s role, what does he do to protect us? When we take someone to court he should be behind us, supporting us. Where is he in these court cases? This is part of the fiduciary responsibility.”</i> Atlin Community Meeting</p> <p><i>“This is Indian Affairs bull. We have no say over our own lives.”</i> Telegraph Creek Tahltan Nation¹⁰</p>
---	--

May 27, 2002

<p>How the <i>Indian Act</i> currently addresses Legal Status and Capacity</p> <ul style="list-style-type: none">• Legal Status: The Act does not specifically address Legal Status. Case law has addressed these issues on a case-by-case basis.• Chief and Council by-law making authority is set out in sections 81, 83, and 85.1• Section 81 deals with General Matters,• Section 83 by-laws deal with Money by-laws.• Section 85.1 deals with by-laws to prohibit alcohol.• The Minister may disallow by-laws under section 81 and 83, but must approve section 85.1 by-laws.• There is no appeal of the Minister's decision to disallow by-laws.• Enforcement of by-laws is difficult, and penalty provisions are minor.	
--	--

May 27, 2002

VII. WHAT INAC IS PROPOSING TO MAKE LAW

Without having the proposed changes to the *Indian Act* in hand, it is near impossible to say what INAC will be making law for us. We can, however, get an idea from reading the following excerpt from the *Communities First: First Nations Governance Consultation Report – Phase 1*.¹¹ While the excerpt is lengthy, it is worth reading. The following quote shows clearly what INAC intends to change and INAC asserts that we support these changes.

Passed in 1876, the Indian Act sets out certain federal government obligations and regulates the management of Indian reserve lands. It was last amended in 1985. Among its provisions, the Act requires the Minister of Indian Affairs and Northern Development to manage certain moneys, hear Indian Act election appeals and approve or disallow First Nations by-laws. However, the Indian Act is largely silent on community governance matters which are common to modern governance regimes across Canada and internationally.

Community governance means how a community is run and the rules that apply in its day-to-day operation for First Nations who are under the Indian Act – until such time as they complete negotiations for self-government/modern treaties. . .

*The consultation results reflect strong views about the Communities First **themes of Legal Standing and Authorities; Leadership Selection and Voting Rights; and Accountability**. Above all, there is consensus — there is a need for positive change in respondents' communities.*

A clear pattern has emerged. First Nations participants have expressed a clear desire for Chiefs and Councils to have the power and authority to respond effectively to their local community needs. Participants have also expressed that the involvement of First Nation individuals in community governance is essential. At the outset, First Nations members want to be informed. Participants viewed that information is key to effective decision-making and to ensure that those making decisions are held to account. First Nations members also see a clear distinction in roles between the political leadership who make various rules and the band administration who should administer those rules. In short, First Nations participants are seeking modern, enabling and effective community governance tools that help and support the roles of First Nations members, Chiefs and Councils and band administrators. We've been clearly told that any proposed legislation should be empowering for First Nations. Finally, this pattern remains consistent across regions, age-cohorts, gender and on and off reserve residency.

Legal Standing and Authorities

The subject of legal standing and authorities is a difficult and complex subject, on which First Nations expressed strong views, and cautioned Canada to be mindful of the implications of changing and/or defining the legal status of Bands. Nevertheless, 62.7% of questionnaire respondents wanted the term "First Nation" legally recognized in new governance legislation. Other consultation input on this subject included:

¹¹ *Communities First: First Nations Governance Consultation Report – Phase 1*, http://www.fng-gpn.gc.ca/CRP1_J02_e.asp

May 27, 2002

- *significant support for better definition around Band legal standing, with clear direction that this should not result in a negative impact on the fiduciary relationship between the Crown and First Nations, nor should it jeopardize First Nations land ownership/management in any way;*
- *a clear separation between political and band administration functions;*
- *support for greater authorities for elected officials to govern their communities effectively, with a strong caveat that increased powers should come “with limits”;*
- *support for authorities for elected officials in a variety of areas, including band businesses;*
- *support for the ability to create boards and agencies to deliver services effectively (e.g. Health Boards and Boards of Education);*
- *support for fines/ticketing powers for by-law enforcement; and preference for community meetings and referenda as mechanisms for member involvement in community decision-making.*

Leadership Selection & Voting Rights:

The issue of leadership selection and voting rights was clearly top of mind for participants in the consultation process, and generated a significant amount of response around consistent themes. Highlights of consultation input include:

- *support for eligibility rules or standards for candidates for Chief and Council;*
- *support for rules to enable the removal of elected officials from office, as a result of criminal convictions, breaches;*
- *support to extend the term of office for Chief and Council for greater than two years (with preferences around three and four-year terms);*
- *acknowledgment of the need to balance the interests of on and off-reserve members, with a range of suggestions around how best to do this (also reflected in discussions on legal standing and authorities); worthy of note is that over 70% of questionnaire respondents supported the need to create a special seat on council for off-reserve band members.*
- *lack of support for Indian and Northern Affairs Canada (INAC) or the Minister to have responsibility for band elections and appeals, with preferences for community or third party-based processes.*

Accountability:

On the issue of accountability, we heard consistently that community members want to be informed about, and engaged in, the affairs of their communities. While over 64% of questionnaire respondents stated Chief and Council should have the power to pass and enforce by-laws, almost 80% of respondents indicated band members should be involved in the development and passage of by-laws. Community meetings and referendums were seen as ways to include band members in decision-making. Other accountability themes include:

May 27, 2002

- a desire for greater involvement of respondents in community decision-making overall;
- specific interest in greater involvement in decisions related to establishing salaries and benefits for Chief and Council; and approving annual budgets;
- interest in and support for the separation of politics and administration in First Nation governance structures;
- endorsement for the introduction of conflict of interest guidelines and codes of ethics for Band leadership;
- support for more policies/procedures (e.g. eligibility for programs and services) in virtually all aspects of First Nation governance; interest in more effective redress mechanisms, e.g. when individuals feel the policies and procedures have not been applied to them properly;
- a desire to receive more and better information about First Nations' affairs.

Other Subject Matters

From the outset of Communities First, we have had significant input from First Nations people on the core subject matters of this initiative. However, it was anticipated that First Nations people may also raise other subject matters. Indeed this was the case. Other subject matter feedback can be divided into two general categories: 1) those subjects that are consistent or could complement the core areas; and 2) those that are not directly related.

In the first category, First Nations people expressed an interest in a range of topics related to on-reserve economic development, including Indian moneys, pre-reserve designation votes and regulatory gaps. In addition, there was an indication that First Nations believed by-law making authority needed to be modernized and expanded to be at least comparable to other local governments. As well, the ability to adopt regulatory regimes from other jurisdictions was also supported.

In the second category, First Nations people expressed an interest in Aboriginal and treaty rights, women's issues, eligibility for programs and services, resource revenue sharing and others.

We are committed to considering all of the input we receive, whether it's in the context of Communities First or through other fora.

Looking Ahead

Governance Discussion Groups, comprised of First Nations people with expertise in areas related to governance, offered opinions and considered the information received through the first phase of Communities First consultations. A Joint Ministerial Advisory Committee (JMAC) has been established to provide advice to the Minister by preparing policy proposals for the development of draft legislation on First Nations governance.

JMAC is using the information gathered during the first phase of consultations to jointly develop models or policy options on which new First Nations governance

May 27, 2002

(FNG) legislation could be based. Still to come are many opportunities for input through the legislative process and the development of regulations in support of legislative change. We will continue to listen. We will continue to feed back the input we've received.

We will continue to provide information about how we are working with First Nations people to consider the practical application of their advice in policy and, ultimately, in legislation.

As stated earlier, it is difficult to predict the future. The previous excerpt, however, clearly suggests that the proposed changes to the *Indian Act* will involve substantive changes to the way we conduct our governance affairs in our communities. Within the INAC excerpt, they say we want things like:

- A separation between politics and administration;
- More power for Chief & Council to “govern” their communities – with limits;
- Band owned businesses;
- Health & Education Boards;
- Fine/Ticketing Power for by-law enforcement;
- Eligibility rules or standards for leadership candidates;
- Rules to enable the removal of leaders;
- Expansion of Chief & Council terms to 3 or 4 years;
- A balancing of on and off reserve interests;
- Third-party Election delivery and monitoring;
- Greater community involvement in decision-making, especially in relation to leadership pay and the approval of annual budgets;
- Conflict of Interest and Code of Ethics for leadership;
- More policies and procedures for band governments; and
- More and better information flow.

VIII. THE INAC GOVERNANCE INITIATIVE LEGISLATIVE PROCESS¹²

Before an Act becomes law, it goes through different stages:

1. A member of parliament (Minister or regular MP) is given permission to introduce the Act in the House of Commons in Ottawa;
2. The Act is read a first time and printed;
3. The Act is read a second time;
4. The Act is referred to Committee;
5. The Report Stage is when the Committee prepares a report for the House;
6. The Act is read a third time and passed by the House;
7. The Act goes through similar stages in the Senate;
8. The Act gets Royal Assent;
9. Regulations to implement the Act are developed.

1.0 Introduction of the Act to the House

¹² “The Legislative Process”, R. Jones for BC-AFN, 2002

May 27, 2002

To table a draft Act a Minister or regular member of the House of Commons has to give 48 hours written notice and then, by motion, get the approve from the House to table the draft Act.

2.0 First Reading

First reading is the official tabling of the draft Act. This stage usually takes place immediately after step 1.

Again, it is through a motion that First Reading takes place. The motion is automatically adopted.

There is no debate.

The motion includes an order that the draft Act get printed/copied so that it can get distributed.

3.0 Second Reading

This is the most important stage of the process. A debate takes place concerning why the draft Act is needed and what will be accomplished if the draft Act becomes law. The debate is not intended to review the details in the draft Act rather the debate is general. This debate is intended to produce an acceptance or rejection of the draft Act. Therefore, it can proceed further or stop.

In most cases the decision to reject or approve is not made at this time because an amendment to the motion for second reading can be made, and usually is, which usually sends the draft Act to a Standing Committee to do a detailed clause by clause study of the draft Act.

4.0 Committee Stage

Draft Acts are usually referred to some sort of House of Commons Committee. On draft Acts that are about First Nations peoples and/or First Nations issues the House of Commons Standing Committee on Aboriginal Affairs is the committee that studies these kinds of draft Acts.

The Committee usually starts its work of studying the draft Act by inviting the Minister responsible for the draft Act to make a presentation to them. Other people or organizations may also be invited or given permission to make a presentation as well and they may also propose amendments or oppose the draft Act.

After hearing from witnesses the Committee has to prepare a report which may include amendments.

5.0 Report Stage

The House of Commons gets the Report from the Committee and deals with the proposed amendments, if any are proposed in the report.

A debate takes place on proposed amendments.

After the debate a motion is made (with any amendments) for the members of the House to agree with the report.

May 27, 2002

6.0 Third Reading

The third reading is intended to be where the draft Act passes in the House.

Amendments can be made, but normally are not.

7.0 Passage by Senate

After a draft Act gets passed by the House it goes to the Senate. Again, the draft Act goes through a similar process in the Senate as it did in the House.

The Senate can pass the draft Act without amendments.

The Senate can propose amendments and request the House to approve the amendments and if the House agrees then the draft Act would be amended accordingly.

The House can reject the amendments and inform the Senate. If the Senate insists on the amendments then a meeting can take place between the representatives of the House of Commons and the Senate to resolve the issue.

8.0 Royal Assent

The last stage of the process is Royal Assent, usually by the Governor General. This stage means that the draft Act is being approved by the Crown or Queen's representative in Canada.

9.0 Regulations

Most laws have sections that state that in addition to the Act providing rules, etc. that regulations can also be made under the Act to cover other details that the Act doesn't. Usually Cabinet is given the authority to prepare and pass regulations which means that it doesn't go through the House of Commons or Senate.

IX. INAC LEGISLATIVE TIMELINE¹³

Possible Timelines for The Proposed First Nations Governance Act

- Tabling/First Reading – anywhere from April to June, 2002
- Second Reading (could be delayed until after Committee Hearings)
- Committee Hearings – could begin in April and conclude in November, 2002
- Report – could be January, 2003
- Third Reading – could be February, 2003
- Senate Process – between March 2003 – September, 2003
- Royal Assent – October or November, 2003
- Regulations – between April 2002 – October/November, 2003

¹³ "The Legislative Process", R. Jones for BC-AFN, 2002

May 27, 2002

X. COMMUNITY MEETINGS OVERVIEW (Themes)

What follows in left hand column of this section are statements summarizing the issues raised in community meetings. Direct quotes from the community meetings, to illustrate the point, are included in the column on the right.

The direct quotes have been selected at random and are a reflection of the feelings in many communities. When the words used by the speaker were sensitive, the community is not identified. So, if you do not see your community name, it's probably because what you said was true for you and controversial for others – that makes it “sensitive”.

Finally, the themes have been presented in alphabetical form in no particular priority. All these themes are important and many participants simply would not prioritize the issues.

<p>a) Bill C-31</p> <p>This bill continues to cause serious dissention in our communities in relation to the exclusion of our descendants, the distribution of limited resources and the continued discrimination.</p> <p>Many people spoke of blood quantum being the preferred method of determining eligibility for registration.</p> <p>In addition to the objection to the ongoing discrimination caused by the bill, dissention often related to a perception and expectation that there is new and separate monies specifically allocated for Bill C-31; particularly in relation to housing.</p>	<p><i>“Bill C-31 is a thorn in my side. It talks about equality and yet my own grandchildren are not eligible. It should be blood quantum.”</i> Haisla Nation</p> <p><i>“I am Bill C-31 through marriage and stepping back into being First Nations is like stepping back into time, back to the time of rations.”</i> Kitselas Community</p> <p><i>“I am non-status because my grandparents gave up status to become “Canadian” citizens. The system of determining who is status in not fair. Blood quantum should be used.”</i> Kermode Friendship Centre</p>
<p>b) Capacity</p> <p>Our communities clearly recognize the need to build capacity as it relates to governance. People recognize the right and ability to make their own decisions as a fundamental principle of self-determination. People also believe, however, that they are being set up for failure because they don't expect that the new responsibilities will come with any new money.</p>	<p><i>“it is such a big task; our small nation might not be able to handle this change.”</i> Lheidli T'enneh Advisory Council</p> <p><i>“I am afraid of self-government right now because I do not feel we are ready. We need capacity building. I can see it in our health right now. The responsibility is being handed over without the resources.”</i> Metlakatla Community Meeting</p>

May 27, 2002

<p>The belief that sufficient resources will not accompany the added governance responsibility comes from the fact that communities say they were under funded to adjust to the changes brought about through Bill C-31 and also referenced the Corbiere decision as an example of “off loading”.</p>	<p><i>“These changes don’t look good because we need more money. Changing this Indian Act is not going to help us in any way other than to give us more responsibility and no funds along with it.”</i> Nee Tahí Buhn Nation</p>
<p>c) Child Welfare (Foster Care)</p> <p>Many people expressed strong concern about the loss of our children to the provincial foster care system. People identified this as a further loss of culture and saw the process as assimilation.</p> <p>Through the NWTTG questionnaire, people were asked to identify areas in which they believed their government should have more, less, or the same decision-making authority. The number one area identified was child welfare with 83% of those surveyed believing there should be an increase in decision-making power for their government.</p> <p>While under the Canadian constitution, the province has gained jurisdiction over our children through service delivery, INAC still has a fiduciary obligation to act in the best interests of our children. The figure of 83% is certainly evidence that we do not believe that the province is acting in the best interest of our children and begs the question, “What is INAC doing to fulfill its fiduciary and protect our children?”</p> <p>In the north region of the Ministry for Children and Family Development (MCFD), our children make up over 80% of the children in care in some communities and in total throughout the province there are 4000 aboriginal children in care. Of the 4000, about 40% are from the north. It appears to some of us that the MCFD has taken over where the residential schools have left of and that INAC is standing by letting this happen.¹⁴</p>	<p><i>“Another thing is the children that end up in non-native foster care. The government will not fund group homes on reserve. Because of all the economic conditions, most of our people do not qualify to be foster parents. Too many of our children are leaving our communities to live in non-native homes.”¹⁵</i></p> <p><i>“Foster children often do not know their ancestry.”</i></p>

¹⁴ As the former President of the Federation of Aboriginal Foster Parents (FAFP) of BC, the writer has personal knowledge of these statistics that can be verified through contacting the FAFP or the MCFD.

May 27, 2002

<p>d) Communication</p> <p>Everyone recognized a need to improve communication both within our communities amongst each other and in terms of our relationship with INAC.</p> <p>People were frank and honest recognizing that the communication breakdown in our communities is in large part a legacy of the residential school systems. In other words, people recognized that communicating with one another requires individual, family and community healing from the atrocities we suffered in residential schools.</p> <p>Communities also clearly said that the federal government was responsible for communicating with “White People” saying that the government has a responsibility to educate non-natives about the fact that we are here to stay and that we have a constitutionally protected legal interest in our culture and land.</p>	<p><i>“I do hope everyone starts talking to each other so we can plan together to have the voice. I will pray to our Creator to return our way of life to us.”</i> Gitanyow Elders Group</p> <p><i>“First Nations people are not going to go away. Our languages, dances and songs were [just] squashed by the Government.”</i> Kermode Friendship Centre</p>
<p>e) Consultation & RCAP</p> <p>Participants were adamant that the NWTT Nations community meetings not be viewed by INAC as consultation. And, people clearly expressed that the “INAC consultation” process regarding the proposed changes to the <i>Indian Act</i> was not acceptable.</p> <p>The RCAP report was cited often as an example of how we are consulted and then nothing is done. Many people believed that the RCAP recommendations should simply be implemented.</p> <p>Communities also spoke of the need to develop their own standards of consultation to put the world on notice and saw the federal government as having a fiduciary obligation to assist us in developing consultation standards that would meet our needs and not the needs of those outside our communities and territories.</p>	<p><i>“Consultation is sitting at a table with my people and working with them. Many people want to come into our area and want to get involved . . . I have never trusted the Government when it comes to consultation. It’s always after the fact . . . This consultation will not make a difference.”</i> Lax Kw’Alaams Community Meeting</p> <p><i>“We developed a consultation process that we handed out to all kinds of businesses and government agencies. Now everyone has to consult with us in our territory [on our terms].”</i> Burns Lake First Nation</p> <p><i>“Consultation has to be meaningful. The INAC video is like a commercial – there is no dialogue.”</i> Metlakatla Community Meeting</p> <p><i>“There is nothing done about the Royal Commission [so why should we believe these changes will make a difference].”</i> Atlin Community Meeting</p>

¹⁵ Due to the sensitive nature of this quote, the community has not been identified.

May 27, 2002

<p>Basically, people are tired of being studied to death by outside organizations and governments that then do not act on the studies in a manner that better our lives. People believe it is time to take action to protect their own interests since it appears that others are not.</p>	
<p>f) Corbiere Decision</p> <p>Our communities are confused, frustrated and angry about the Corbiere decision and feel that INAC has forced this decision upon them in a rush and without adequate resources and training.</p> <p>The inadequate and speedy implementation of the Corbiere decision has polarized our communities. Rather than providing appropriate transition and education opportunities, the inappropriate INAC implementation of Corbiere has left some of our people believing in the inclusion of off-reserve members and while others continue to believe that off-reserve members should have no say. Our leaders are, once again, left to deal with a conflict created by INAC procedures.</p> <p>One community suggested a Corbiere Conference should be held in the Northwest.</p>	<p><i>“The man hours it takes to set up the election since Corbiere is ridiculous. Not to mention the cost of postage and telephone calls. We do not get extra resources to handle this.”</i> Cheslatta Nation</p> <p><i>“As an off-reserve person, I feel isolated. People need to enjoy and benefit from programs on reserve [delivered] to both on and off reserve members.”</i> Kermode Friendship Centre</p> <p><i>“Off-reserve should not be allowed to vote. They don’t know what is going on on-reserve. It’s for the birds. They could disrupt this village. We have a large off-reserve population. We do not like this. I am deadly against this. This is not right. The Indian Affairs moved fast to get that Corbiere decision in action. What comes with it? We don’t want DIA to tell us who should and should not be able to vote. Let us decide, not DIA”</i>¹⁶</p>
<p>g) Culture & Language</p> <p>The protection and revival of our cultures and languages remains a huge concern for us in the Northwest.</p> <p>People are concerned that we learn our languages because they contain our laws, philosophies and history.</p> <p>Many people spoke of how their relationship to land is the means through which they preserve their culture.</p>	<p><i>“Many of our youth have not been taught how to respect Elders. This is how some of our culture has been lost. Our culture is to stay home and watch TV.”</i></p> <p><i>“We have learned enough of the White ways, that we know what is not working for us. The cultural genocide has to be stopped and reversed . . . “</i> Dze L Kant Friendship Society</p> <p><i>“Take a look at what has happened – they have tried to assimilate us.”</i> Xai’Xais Treaty Community Meeting</p>

¹⁶ Due to the sensitive nature of this quote, the community has not been identified. In the following quotes throughout this paper where communities are not identified, it is for the same reason.

May 27, 2002

<p>Consequently, they are angry and frustrated that their land relationships continue to be determined by a government not their own. People recognize the continued outside control of their land relationship as the continued means to perpetuate cultural genocide.</p>	
<p>h) Dispute Resolution</p> <p>Communities recognized that there is a need for a formal dispute resolution process within our communities. As a direct result of our experience to date with Canada and BC, people are need of healing at the individual, family, community and national level. Our suffering has, not surprisingly, caused us to be distrusting. Consequently, people spoke of the need to develop a dispute resolution process at the community level that was fair and impartial.</p> <p>Many communities spoke of the power struggle between families who are in and out of office. When you are not from the family who is in office, people asked, "Where do you go?" to be heard.</p>	<p><i>"What do you mean by accountability to Band Members? There should be a system that addresses appeals and reviews, a dispute resolution process."</i> Kermode Friendship Centre</p> <p><i>"We have to have a separate committee that deals with grievances. This is a neutral group. This way we have better decision-making when it comes to grievances."</i> Native Brotherhood of BC</p> <p><i>"Often we have to pick sides. It just doesn't work. We have to work at resolving issues."</i></p> <p><i>"Control once again is the issue. We have to start to rebuild. The hardest thing is getting along with each other."</i></p>
<p>i) Economic Development</p> <p>With the high rates of unemployment in our communities, it is no surprise that economic development is a priority.</p> <p>Through the NWTT questionnaire, it was clearly determined that, along with health and education, economic development is the number one concern in our communities.</p> <p>People also identified in no uncertain terms that their reserve lands are insufficient to develop sustainable economies and called for more control of resources throughout their territories.</p> <p>People continue to be outraged as they see everyone else benefiting from the resources throughout their traditional territories except them.</p>	<p><i>"For myself, I have tried not to rely on the Band, especially social assistance, but with the economy on reserves the way they are we have no choice."</i> Gitwangak Education Society</p> <p><i>"We need to be in control of our lands and resources and privatization."</i> Xai'Xais Treaty Community Meeting</p> <p><i>"The government is giving away our land. This goes on year after year, generation after generation. Where is the certainty for our people? We will be fighting people with big bank accounts, who know nothing about our territory. They have put us on a time limit, I feel a confrontation coming on. How are we going to govern ourselves when there are too many people coming in and taking our land? We have to protect our land so we have something to govern."</i> Lax Kw'Alaams Community Meeting</p> <p><i>"In terms of capacity, we really have our hands tied. We have to encourage business and economic development. The instability in our communities discourages business."</i> Metlakatla</p>

May 27, 2002

<p>People also spoke of the need and desire to become educated so that they could be gainfully employment and shared the impossible struggle of living on social assistance where people are forced to live on a disposable income of less than \$300 per month per person.</p> <p>In many communities, people are “giving up on waiting for government to save them” and are moving ahead to form partnerships with businesses that result in immediate economic benefits to their communities.</p>	<p><i>“Another thing is capacity building in terms of resources. We need the support so that we can look after things ourselves. Fiduciary means trust. Maybe we have to change that word. We really haven’t gotten anywhere. Look at the resources. First Nations people are not the ones benefiting from it. We would like to see something happens so that we can pass it on to our future generations.”</i> Atlin Community Meeting</p> <p><i>“It is the corporations that are involved in this community to put this community ahead. We had to get out of the box to move this community ahead with economic opportunities. We did it ourselves, not the government.”</i> Xai’Xais Treaty Commission Meeting</p>
<p>j) Education</p> <p>The communities were unanimous on the need for more education both in terms of our traditional knowledge and culture, and in terms of mainstream knowledge.</p> <p>People expressed strong concerns about the cutbacks to their education benefits and spoke of the difficulty in getting funding for both post-secondary education and local initiatives.</p> <p>Some people also shared their difficulties in gaining employment with their nations once they had become educated and this relates to the healing which needs to happen in our communities.</p> <p>Whether we like to admit it or not, colonization has resulted in cultural self-hate that sometimes manifests itself as our inability to “believe” that our own professionals are competent.</p> <p>The result is sometimes that, we still hire a majority of “White” people at the professional level (lawyers, consultants) or place “White” people in crucial decision-making areas (managers) within our own governments. Cultural self-hate is a difficult healing issue with which we are slowly coming to grips.</p>	<p><i>“Education and awareness are important to me. I want our traditional ways and values to be followed the way they used to be. Respect and discipline are the most important things.”</i> Telegraph Creek Tahltan Nation</p> <p><i>“Why do our own people choose to use non-native lawyers, consultants and professionals rather than use our own educated people?”</i> Northwest Community College</p> <p><i>“I think it’s hard for urban First Nations, they don’t feel like they belong when they try and go home. It’s hard for educated people to go home, because there are no jobs or homes to go home to.”</i> Gitxsan Treaty Society</p>

May 27, 2002

<p>k) Elders</p> <p>The importance of Elders is a given within our culture. People expressed concern that we are not learning our history and culture from our Elders and saw that as the role and responsibility of our Elders. There was little mention of Elders as decision-makers. Elders were seen more as advisors and relationship builders or communicators.</p>	<p><i>“They should form a committee in each community that includes an Elder and a Speaker to keep us informed.”</i> Wet’suwet’en Nation</p> <p><i>“We need to go back to the Elders and learn about our traditional ways in order to move forward. I would like to see this come back.”</i> Lake Babine Nation</p>
<p>l) Fiduciary</p> <p>Practically everyone had heard of the word “fiduciary”, but there is not a common understanding of the concept in our communities.</p> <p>For example, everyone understood that it had something to do with our relationship with INAC, but few people raised the fiduciary concept in relation to the provincial government, their own Band Councils and did not speak of it in terms of applying throughout their entire traditional territories. This is an education challenge.</p> <p>However, although few of our people fully understood the concept, very few wanted to let the concept go. Enforcing the concept was the issue. Most people saw this INAC Governance Initiative as some kind of trick to get out of their fiduciary obligation to us.</p> <p>Those who do understand the fiduciary obligation owed to us by the federal and provincial governments do not believe that either government is fulfilling this obligation and believe our leaders should take the governments to task politically, and even legally.</p> <p>Some people see the fiduciary in terms of “you can’t have it both ways”. They say you can’t have the government owing you something and also have independence.</p>	<p><i>“What about our rights? A lot of people think that if we do away with the ‘Indian Act’ you are taking those rights away. What about INACs fiduciary obligations – is there any legislation that enforces this?”</i> Native Education Centre</p> <p><i>“The fiduciary obligation is forgotten when it comes to protection [against] things like the provincial referendum.”</i> Gitxsan Government Commission</p> <p><i>“ I am concerned about the fiduciary responsibility to the band council. This [change to the Indian Act] should not be happening at this time. This change should be happening at the Treaty table or tribal council level. It is undermining the Treaty process.”</i> Lax Kw’Alaams Community Meeting</p> <p><i>“It’s a double edged sword. The Indian Act should be abolished. This has been used to suppress our people. We must make an agreement. The Government has been trying for the last hundred years to convince us that they are trustworthy. It is very hard for us.”</i> Metlakatla Community Meeting</p> <p><i>“The government shouldn’t be allowed to off-load us to the province, they have that fiduciary obligation.”</i></p>

May 27, 2002

<p>To this perception, others respond and understand that the fiduciary obligation owed to us is not limited to the question of dependence or independence. They recognize that the fiduciary will always be owed to us because our territories will always be our land.</p> <p>As we sign treaties, for example, we are not extinguishing our aboriginal title and therefore the fiduciary owed to us must remain intact in relation to our land that we will let others use through the treaties.</p>	
<p>m) Governance, Law-Making & Taxation</p> <p>People strongly suspect that the proposed changes to the <i>Indian Act</i> are taking us in the direction of municipal type governance, and they are strongly opposed.</p> <p>Although we use the election system, we continue to see ourselves as distinct or different from the mainstream government and do not see ourselves as municipal governments.</p> <p>In terms of law-making, many people spoke of the need to revive our traditional law and by in large rejected the whole “by-law” process as ineffective in our communities primarily due to the issues of enforcement.</p> <p>People called for their own “First Nations Act”.</p> <p>Taxation was also big on the minds of the people and no one is ready to give up tax-exempt status. People realize that governments need to tax their citizens, but they also realize that governments generate a large tax base from industry that removes our resources from our lands daily.</p> <p>We believe that the provincial government owes us big tax dollars for the resources that have been taken without our permission.</p>	<p><i>“Is INAC trying to change the status of First Nations to municipal type government?”</i> Burns Lake First Nation</p> <p><i>“By-laws are a slow cumbersome process. A lot of times it is for immediate problems and we have to wait years for it to pass at INAC.”</i> Burns Lake First Nation</p> <p><i>“The real question is structure [of government]. This present structure that was put in place is causing lots of turmoil. It’s not working for the Government or the people. Many people are suffering from it. The system is not serving its purpose.”</i> Fort Babine Community Meeting</p> <p><i>“They are trying to develop a municipal type government. They must recognize First Nation government, not First Nations governments as municipalities.”</i> Xai’Xais Treaty Community Meeting</p> <p><i>“I would like to see our people put together our own ‘First Nations Act’. Something we could be proud of and gives us enjoyment in our lives. Together over the years, who has given the government jurisdiction over us and tell us how we should live our lives?”</i> Gitanyow Elders Group</p> <p><i>“If people would respect traditional law, it is very different than regular law. Hereditary Chief has to think before he says anything because he cannot change it. We have ways to deal with disputes like in a traditional potlatch. Many First Nations do not understand our traditional law. It looks after the land and the trap lines. Getting a name is very involved and very expensive. The traditional people would honour him. Someone else would speak for the person receiving a name. Most young people do not know or understand our traditional law. Our land and tradition looks after the land through the names, clans and trap lines.”</i></p>

May 27, 2002

<p>In summary, grass roots people have grown to a place where they no longer accept that another government should be determining their lives. While they may not call this growth “self-government” or “self-determination”, that is what it is – a demand for self-determination.</p> <p>The imposition of the <i>Indian Act</i> is no longer acceptable to the grass roots people and they demand the ability to determine their own forms of government and how accountability will work within their governments.</p> <p>Many people spoke of their traditional laws as their preferred means of governance. While there is a need for re-education, and perhaps codification, of traditional law, traditional law is not dead and gone from the hearts and minds of our people.</p> <p>The caution people express, however, relates to the need to build capacity in both traditional and contemporary knowledge and skills. People are tired of being legally forced to do things that they do not want to do and see “self-government” in this light when the plan does not address capacity and nation building.</p> <p>Finally, the people definitely do not see themselves as “municipalities”, they see themselves as the “nations” that they are. It is highly unlikely that our communities will accept any type of imposed municipal type government.</p>	<p><i>“They want to turn reserves into municipalities because it makes their administration easier. One check per year, you administer the programs, you go broke, you go broke.”</i> Gitksan Government Commission</p> <p><i>“The tax money comes from the land, not individual “Whiteman”. We should not have to pay taxes – they get big bucks from our resources and land.”</i> Lax Kw’Alaams Community Meeting</p> <p><i>“Taxation scares me. It’s not that I’m afraid to pay taxes. I’ve paid taxes. Before we pay taxes, why don’t they pay us for our land – then we can talk about paying taxes. I am worried about the agendas of INAC and our treaty negotiations. I do not like treaty. All our rights are on the table, including taxation. As far as the grassroots are concerned, I would prefer to go to court.”</i> Lax Kw’Alaams Community Meeting</p> <p><i>“I’m not comfortable with self-government. We have a lot of people who are not healthy in a sense. There is too much nepotism. Also there should be a criminal record check and we should be able to remove people off Councils if they’re not doing their jobs. We have to clean up our backyards before we can even think of self-government. We need accountability [to ourselves].”</i> Kermode Friendship Centre</p> <p><i>“The governments change their policies to suit their needs from conservation to food fish, and then recreation. Now recreation is taking first place.”</i></p> <p><i>“Each community must be respected for its uniqueness and not pigeon-holed into a category, tribal council area or any other grouping, just because it seems to make sense to the bureaucracy.”</i> Xai’Xais Treaty Community Meeting</p> <p><i>“It is important to adhere to the laws of our culture because it is a lot stronger than any laws in place of the Indian Act, and must be recognized as such.”</i> UBC Longhouse Meeting</p>
<p>n) Healing, Addictions & Residential School</p> <p>Although our healing and health issues are beyond the scope of the proposed changes to the <i>Indian Act</i> as they have been determined by INAC, these issues are of primary concern to the grassroots people.</p>	<p><i>“Everybody keeps to themselves. We used to visit with [each other and] the other bands, but now that is not done.”</i></p> <p><i>“I don’t know where to argue anymore.”</i></p> <p><i>“Communities should not label people who are trying to change, they should support these people.”</i></p> <p><i>“If we want to preserve language and culture, we have to deal with the residential school issue.”</i> Gitwangak Education Society</p>

May 27, 2002

<p>The NWTT questionnaire verified that health, which includes healing, was of number one concern, along with education and economic development with over 80% of the respondents believing their governments should have more power to make changes in these areas.</p> <p>Although our people sound incredibly critical of their leaders, at the same time, everyone recognizes the relationship between the need for good government and the need for healing in our communities, including leadership. People are frustrated and want to heal themselves and want to see their leaders heal as well.</p> <p>Alcohol and drug abuse remain one of the biggest social problem in our communities and people continue in their substance abuse because they remain disempowered personally. Many people cannot see any hopeful future for themselves. No jobs. No housing. Health benefits being cut back. Social Assistance rates criminally low. And, they think, why bother? Consequently, mental, emotional, spiritual and physical health risks remain high in our communities.</p>	<p><i>“The reason why we do not have healthy Chief and Council is because of the residential school. For years I was angry, I did not want to be an Indian, I did not want to be White, I was angry with everyone. I drank for years to forget. I did not get healthy until I learned to forgive and show respect for myself.”</i> Kermode Friendship Centre</p> <p><i>“I have been through a lot of abuse. I went to treatment center to deal with my issues. My husband was an alcoholic. I had to work hard at it when I came home. I went to support groups. I didn’t stop. I keep going for healing.”</i> Wet’suwet’en Nation</p> <p><i>“There are drug dealers sitting right in our community and nobody will speak up even though everyone knows about it.”</i></p> <p><i>“The residential schools have had a major effect on our people. It took me a long time to sober up. The residential school is a crucial issue. I feel good about being here today. I am gaining back my self-esteem. A lot of our people are not there yet. I am on a healing journey. You have to be more than a survivor, you have to get out there and heal yourself.”</i></p> <p><i>“I want First Nations people to know there is a way out of alcohol and drugs. There is hope and forgiveness.”</i></p>
<p>o) Hereditary Systems & Elected Systems</p> <p>There is a diversity of opinion in our communities and some of the opinion is polarized with people definitely wanting one system or the other. There is, however, a growing majority of people who want to create governance that blends the two systems.</p> <p>The imposed system of representative democracy through the <i>Indian Act</i> has caused the confusion, and as a result people admit that they have a lot to learn about their traditional governing systems. On the other hand, not many people truly understand the system of representative democracy either.</p>	<p><i>“The Band Council system is service delivery, the Hereditary system is lands and resources, and people think we should marry the two. To me this should be separate. This is where the conflict is, we cannot get together on this.”</i></p> <p><i>“The Hereditary Chiefs should be given more support because overall they are there for the overall well-being of their people. Under their own laws, their clan can remove them and they will be removed if they are not doing right by their people.”</i></p> <p><i>The Hereditary system has been suppressed because of the Indian Act and residential school. They (Hereditary Chiefs) need more support and education. We must recognize their role. We need to get back to our roots so that we can get stronger.”</i> Kermode Friendship Centre</p> <p><i>“The reason we are looking at the Family System is our Elders do not know enough to bring back the Clan System.”</i></p>

May 27, 2002

<p>In terms of custom elections, people seem confused in this area as well and are concerned as to how these proposed changes will affect custom elections.</p> <p>Some communities are also looking at developing Family Systems of governance to address the question of full and culturally appropriate representation within their communities.</p> <p>Ultimately, we will have to engage in a period of development because although the people are clear they want their own form of government, they are undecided as to whether it should be a traditional system, an elected system, a custom system or some combination thereof.</p> <p>It is going to take us a while to work through the conflict and damage caused by the imposition of the <i>Indian Act</i> elected system of government that has left us fighting and not trusting each other.</p>	<p><i>"In the Band Council system there is no continuity in so many areas; no continuity in knowledge, no continuity in wisdom and so on. We are looking at a Family Head System because each family has a head of the family. It provides continuity and keeps the best interests of family and community in place."</i> Nadleh Whut'en Nation</p> <p><i>"Where the Hereditary System is not in play, there are more problems with accountability."</i> Native Brotherhood of BC</p> <p><i>"Why don't you mention anything about Matriarchs in this questionnaire. It is equally important to include them in governance. You mention Hereditary Chiefs, but do not say anything about women."</i> Prince Rupert Open Forum Meeting</p> <p><i>"Although the band system is an imposed system, I see it as a democracy – if the system is looked after. Hereditary Systems are only beneficial to the Chief, at most times the House does not benefit."</i></p>
<p>p) Housing</p> <p>Needless to say there was a consistent outcry regarding the need for housing in our communities. There is a definite shortage of housing, many people said there houses were not built to standard and everyone expressed that there is severe competition for housing in our communities. One person spoke of the housing shortage as forced assimilation.</p> <p>From the quotes, however, it can be said that there is a growing desire to build and own our own homes. Nothing fancy, but our own. In many of our communities, people remember growing up in homes built and owned by their parents. They remember a time before INAC housing and they want to return to that time of independence. To meet this desire to be self-respecting and self-determining, however, does require getting out of the box as it relates to how the housing subsidies are used to build on-reserve housing.</p>	<p><i>"Housing never used to be a problem because we had access to our resources."</i> Gitxsan Government Commission</p> <p><i>"The housing situation does not allow us to live on-reserve and this promotes integration with non-natives and our children end up being excluded."</i> Haisla Nation</p> <p><i>"We need better quality housing. It's like living in a cardboard house here. We should be looking at log houses, they would last ten times longer."</i> Nee Tahi Buhn Nation</p> <p><i>"I think we could have community volunteers to build one house, under the direction of professionals. This would cut down on the cost and our people would learn skills."</i> Nee Tahi Buhn Nation</p> <p><i>"I would like to rent to own my house. I do not want to be moved out of my house because I don't own it."</i></p>

May 27, 2002

<p>q) Human Rights</p> <p>Many people spoke of experiencing injustice in our communities and called for us to look at the racial discrimination within our own communities. The racial discrimination identified related to how we treat people who are not “blood” members of our communities and particularly those who have “married in”.</p> <p>One community, in particular, identified that they were dealing with the matter of inclusion positively.</p> <p>There also appeared to be sexual discrimination in terms of the treatment of women in general. In some communities, it appeared that women do not have a voice. On the other hand, it should also be noted that there were an awful lot of strong women who participated and spoke out strongly.</p> <p>To deal with the matter of human rights within our communities, several people suggested we develop our own human rights legislation.</p> <p>Existing human rights legislation does apply in our communities, except where affirmative action hiring is concerned, but we do not access that forum to resolve the sexual and other forms of discrimination we create and experience.</p> <p>So, what we are talking about here is the need for our own system of ensuring “administrative fairness” when it comes to decision-making. The people recognize that there is a need to develop policy and procedure in our communities that results in fairness for all.</p>	<p><i>“All people should have a voice in government, in every aspect. It doesn’t matter who you are.”</i></p> <p><i>“Each family has a speaker that speaks on behalf of the family. This is done through genealogy, this is our direction. To expand, there will be a 7th Family, this will bring in the outside members into having the same rights as our six families, people from other communities.”</i></p> <p><i>“We should have the First Nations Human Rights [Act]”</i></p> <p><i>“There is very little representation on human rights for women on reserves.”</i></p> <p><i>“Some of our husbands are non-native. It should be ok for them to go out and hunt because they are hunting for us (our family)”</i></p> <p><i>“I would like to make all First Nations people more accountable.”</i> Native Brotherhood of BC</p> <p><i>“There should be more fairness in our communities.”</i></p> <p><i>“We don’t have any powers at this time for our band councils. I think we should have a Bill of Rights. Everyone would vote to decide if we could borrow money, or take out money if we had a trust fund.”</i> Native Brotherhood of BC</p> <p><i>“There should be more fairness in our communities.”</i> Prince Rupert Open Forum Meeting</p>
---	--

May 27, 2002

<p>r) INAC Accountability</p> <p>There was a definite consensus throughout our communities that INAC was not, and needed to be, accountable to us and the Canadian citizens.</p> <p>People shared about how the INAC bureaucracy imposes its will in our communities. The people clearly expressed that the INAC bureaucracy is not efficient and is not appropriate. There is a deep resentment in our communities for a department of bureaucrats who do not know our communities or us and yet have the power to make decisions that affect our lives.</p> <p>People wanted to know where all the money goes and were angered by the fancy offices that INAC staff work in while we live in substandard housing; if housing is even available.</p> <p>Leadership spoke of the need to hold INAC accountable for not funding First Nation government leadership. Typically, INAC provides each First Nation with only enough money to give each person on council a monthly honourarium of about \$200!</p> <p>At the same time, we see that the Premier or Prime Minister and Ministers are well paid and leave office with generous pension plans. In order to govern, and earn a living, our leaders are forced to work two jobs; some within our First Nation governments and some outside our communities.</p> <p>In truth, INAC has set our governance up like a corporation where the board of directors (our Chief & Council) only meets a maximum of once a month. Furthermore, the people, in general, do not realize this and turn around and criticize their leadership for having two jobs thinking that they are collecting two salaries. This is inadequate and something for which INAC is accountable. We have been set up to fail.</p>	<p><i>"I think one of the areas of change for INAC could be that they speed up their end."</i> Burns Lake First Nation</p> <p><i>"DIA should be doing an evaluation of what they are doing, if they are doing the job they are there for – for the First Nations people."</i> Gitksan Government Commission</p> <p><i>"If you did an assessment on DIA – all the moving around in Vancouver for example. Why are these people asking us for accountability? They should be accountable to us. Who checks on the governments' gross incompetency?"</i> Xai'Xais Treaty Commission</p> <p><i>"Accountability – the department has funding formulas and it is my way or the highway."</i> Tachet Community Meeting</p> <p><i>"On accountability – the federal government is trying to cover their butt."</i> Dease Lake Community Meeting</p> <p><i>"The minister says that this [changing the Indian Act] should not be about politics. This process is all about politics, how can the minister say that? It is whether or not we bite, and we are seen to have bitten just by being in this process."</i> Atlin Community Meeting</p> <p><i>"Every time there is a new court case against us, Indian Affairs immediately adds a whole new floor to their building to make sure we are kept in line."</i></p> <p><i>"First Nations are being treated as puppets – do as we say – or else."</i> Kermode Friendship Centre</p>
---	---

May 27, 2002

<p>s) Leadership Accountability</p> <p>It is important that we understand that the cry for our leaders to be accountable should not be distorted and interpreted as solely a matter of incompetence. That is too simple.</p> <p>The processes of colonization and assimilation that have been legally imposed upon us have caused much of the dissension in our communities. While it is true that, in some cases, the abused have become the abusers, we cannot resolve this situation by attacking ourselves – we have the victims.</p> <p>Many of our people also identified that there is a relationship between healing and good leadership. People realized that they were in a “Cycle of Dependency” which needed to be broken and people also recognized that change is something all humans naturally resist.</p> <p>People did not always see leadership accountability from two perspectives. One, accountability to INAC and, two, accountability to their own people. What everyone does not understand is that what we and INAC are demanding from our leadership are two extremely different things from our leadership.</p> <p>Not everyone understands “why” our leaders travel, but everyone wanted more reporting about what they were doing when they were gone.</p> <p>Everyone seemed to agree that our leaders should live in our communities and everyone wanted more involvement in a decision-making process that promoted fairness.</p> <p>We need to be accountable and we need to hold INAC accountable for setting up a system of leadership within our communities that does not promote fairness and accountability to the people.</p>	<p><i>“There is intimidation here when you try to make changes and run for Chief. When we voice our concerns we are considered troublemakers. We can’t voice what we want to say. When we do the councilors cry and walk out. It makes it difficult on the community.”</i></p> <p><i>“Don’t you figure that this is the biggest fear amongst the grassroots people? That their leaders are going to be another DIA in the way they run their governments if it comes to self-government. The government always sets us up for failure. The government has taken our ways to live life and gotten money for themselves to make jobs.”</i> Nadleh Whut’en Nation</p> <p><i>“There has to be trust in what we do – on both sides. The people have to believe in their leadership and our leadership have to show the people that they can be believed in.”</i> Lak Skik-Gitwangak</p> <p><i>“We need to take responsibility and stop being so dependant.”</i> Lake Babine Nation</p> <p><i>“We are the most accountable people in Canada because of policy upon policy given to us by INAC.”</i> Gitxsan Government Commission</p> <p><i>“Filling out reports and following policies consume our time. In my office alone, I have about 15 thousand pages of guidelines.”</i> Hagwilget Band Council</p> <p><i>“People don’t realize they can come out and make a difference. To be responsible to your people you must have your door open.”</i> Kermode Friendship Centre</p> <p><i>“Everything reverts back to control. We should have more say about how our elected leaders conduct themselves.”</i></p> <p><i>“To run as Chief or Council members, you have to have some qualifications for these positions.”</i></p> <p><i>“They [leaders] are unhealthy. We should remove them. Sexual abuse by our leaders. Chief and Council don’t care.”</i></p> <p><i>“A lot of Council show favoritism to relatives. Being related to the Chief is a main benefit.”</i></p> <p><i>“I want fairness. Too many people think Chief and Council will look after them.”</i></p>
---	--

May 27, 2002

<p>t) Reserve Lands</p> <p>People feel trapped on their reserves and in many cases the populations have outgrown the reserve. What is not surprising and remains a serious issue is the psychological effect of being trapped on reserve – people described themselves as feeling like cattle.</p> <p>As well, people clearly stated that the reserves were not big enough to promote economic development.</p>	<p><i>“Mr. Nault says that they are going to change the Indian Act. I haven’t seen any improvement. We are still like cattle that are kept on a piece of land and fed like animals.”</i> Gitanyow Elders Group</p> <p><i>“We are held on reserves like cattle. In the past we were not permitted to travel from one reserve to the next.”</i> Haisla Nation</p> <p><i>“We don’t go outside the box because that is where the money comes from.”</i></p> <p><i>“I feel like I am a cow in a corral. If I make enough noise, they will give me some hay. If I make lots of noise, they will move me to a new corral.”</i> Nee Tahi Buhn Nation</p> <p><i>“How do we tear down the fences set up called ‘Reserves’? We need to address lands. When we plan to have an expansion or economic development, it should be up to us, not INAC.”</i> Gitxsan Government Commission</p> <p><i>“Why don’t we have the same rights that a city has to expand their boundaries? . . . The same with economic development. We are out of land to develop further. We are upset about this that there is no room for economic development on this stamp sized reserves.”</i> Native Brotherhood of BC</p> <p><i>“In 1927, when my father was born, our people moved back and forth . . . they cleared and farmed land and fished here. But, after the government opened our lands, the White people killed off their [his father’s] cattle and burned their houses down. They, until that time, were self-sufficient. We did not know what welfare was. Until we were forced to stay on these small reserves, we did not need handouts.</i></p> <p><i>“We are sitting in the middle of several forest districts and yet we are still poor.”</i> Fort Babine Nation</p> <p><i>“I have lived off reserve most of my life and to come back hurts because I see the rut our people live in.”</i></p>
<p>u) Sustainability</p> <p>While people are trapped on reserve, they see others around them prosper and sustain themselves by taking resources from their traditional territories.</p>	<p><i>“What am I going to pass on to my grandchildren? There is nothing left on our lands but stumps. Where are they going to get their food?”</i> Gitxsan Health Society Board</p>


May 27, 2002

<p>People are very concerned that there is a deliberate agenda to access their resources in a speedy fashion before treaties are done.</p> <p>Many people, naturally, spoke of developing economies responsibly because we are aware that what we do today affects both our ancestors and our future generations.</p> <p>While people want jobs, they did not see the concept of sustainability as purely one necessary to promote or sustain profit. People saw sustainability as related to their relationship within their lands from and to time immemorial.</p>	<p><i>"We have a right to resources within our territories, but we must prove we can do this and still be environmentally friendly. Sustainable forestry is another thing we have developed, but the government doesn't see things this way, they are geared for profit."</i> Lak Skiik-Gitwangak</p> <p><i>"We need to be doing something with our land. We are keepers of our land. We are not like INAC, we care about land."</i> Nee Tahi Buhn Nation</p> <p><i>"One thing I often hear is about accountability, but we forget about accountability to our environment. That is where the balance is and we should respect these creatures."</i> UBC Longhouse Meeting</p>
<p>v) Traditional Territories</p> <p>There is no doubt that our people see themselves as owners of their traditional territories.</p> <p>Over and over, people wanted to know why everyone else was getting rich off their lands. This cry for economic justice is clear evidence that we do not see our lands as limited to the reserves upon which we have been legally forced to live.</p> <p>People are concerned that their lands are being alienated to third parties at such a rapid pace that there will be nothing left by the time we sign treaties, if we sign them at all.</p> <p>The recent <i>Taku</i> and <i>Haida</i> court cases are cause for hope, however, since the court recognized that we do not have to establish aboriginal title before the duty to consult and accommodate us is triggered. This means that the provincial government must consult and accommodate our interests throughout our traditional territories. The province has applied for leave to appeal these decisions to the Supreme Court of Canada and, in the meantime, we should all be developing our own Consultation and Accommodation guidelines to protect our territories.</p>	<p><i>"We need a resource base for our future survival. The fish and wildlife must be protected. They must keep back at least 200 miles away from the lake for the future of our children. Our youth has to put away land areas to protect, to go fishing in and to go hunting."</i> Lake Babine Nation</p> <p><i>"We talk about off-reserve, but to me the land still belongs to us. We've never surrendered our lands."</i> Gitksan Government Commission</p> <p><i>"We own 100% of this land. Why would we negotiate to only get 5% of our own land back? That would be crazy."</i> Burns Lake Band</p> <p><i>". . . the Whiteman comes in here and just builds what he wants. The Whiteman says this is provincial land and we have to prove that we are here. We have many artifacts and proof that we were here. We have always said, 'Where is the bill of sale?' The government sits there and says nothing to us. We are tired of getting crumbs."</i> Lax Kw'Alaams</p> <p><i>"This is our land. We have to have input into how the royalties and resources are spent. We should have more say. One truckload would pay for our communities. The resources are extracted from our communities."</i> Dease Lake Community Meeting</p> <p><i>"We will not give our land base away."</i> Xai'Xais Treaty Commission Meeting</p>

May 27, 2002

<p>w) Treaty</p> <p>Some people are frustrated with the treaty process, while others are dead against it. Many people also raised the fact that compensation is not on the table.</p> <p>People are really concerned that the treaty process is getting them no where while the pressing need to meet the basic needs of their people gets worse and worse.</p> <p>Once again, it appears to be a situation where the process, the treaty process, itself has caused conflict within our communities. Or, perhaps it is more accurate to say that the behaviour of the federal and provincial governments within the treaty process is the cause for conflict within our communities. Many people do not believe that the other governments are negotiating in “good faith”, nor do they see the mandates of the other governments as upholding the “honour of the crown”.</p> <p>Ultimately, if the other governments do not change their positions at the negotiating table, it is unlikely that the treaty process will lead us anywhere since we spoke to no one who is interested in surrendering their lands.</p>	<p><i>“Compensation for the injustices that have impacted First Nations are not even on the table.”</i> Tlingit - Atlin Community Meeting</p> <p><i>“These changes should not be limited to reserves. Negotiators, federal and provincial, are not mandated to negotiate treaties. They are told to prolong the process and break us down again. Negotiations are kept going while resources continually leave our lands. Only then [when everything is gone] they are willing to negotiate this land.”</i> Kitselas Community</p> <p><i>“At the Treaty table, government doesn’t want to address the damages this ‘Act’ has brought over the past 100 plus years.”</i> Gitxsan Government Commission</p> <p><i>“We do not want to be in treaty and don’t believe in the process.”</i></p> <p><i>“Seven years of working with treaties – there is no honour in the offers that are put forward. They talk about honesty and integrity and they do not put enough in the packages. Their offers do not match the needs.”</i> Xai’Xais Treaty Commission Meeting</p>
<p>x) Trust, Skepticism, Control & Change</p> <p>Colonization and assimilation have resulted in a lack of trust within our communities. We, generally speaking, trust no one. We do not trust “the government”, we do not trust our own government, we do not trust each other and, sometimes, we do not even trust ourselves. This lack of trust produces a real atmosphere of skepticism.</p> <p>The result of our having been legally separated from our land, languages and cultures is that “control issues”, both individually and collectively, have become the most important thing in our lives. We “need” to regain control of our lives and lands both as individuals and as nations.</p>	<p><i>“Our major problem is control – we don’t have it.”</i> Fort Babine Nation</p> <p><i>“We talk about trust and mistrust with the government. We also have to talk about trust amongst ourselves. We have to be clear about our lines of authorities – on and off reserve. Our leaders do have to be accountable to the people. We have become so dependant over the years. It is ourselves that is holding us back.”</i> Metlakatla Community Meeting</p> <p><i>“Are we becoming White people if these changes happen?”</i> Gitxsan Health Society Board</p>

May 27, 2002

<p>Many of us still “blame” each other and the government, but just as many are determined to break the cycle of legal and social oppression in which we have been trapped for over a hundred years.</p> <p>We are moving into an era of accountability. Accountability as individuals, communities, nations and governments. We are calling for everyone to be accountable and that is healthy. We do not see anyone, or any government, as exempt from the principle of accountability.</p> 	<p><i>“I want the pride of the people brought back. INAC has stripped our culture. We came from being an independent people, to being totally dependant. We have to have control over decisions that affect our people. The government has to recognize this. It is like they still want to oppress us. We have to go by what they think.”</i> Tlingit – Atlin Community Meeting</p> <p><i>“Is it really in our best interests to have these changes rammed through? Or is it a plan to reduce fiduciary responsibility to us? I am concerned about the trust issue.”</i> Haisla Nation</p> <p><i>“Any resources that are being extracted or planned for extraction should have First Nations input because of on-going negotiations or it will lead to litigation.”</i> Kermode Friendship Centre</p> <p><i>“Change on reserve is hard. People seem to be comfortable where they are. They don’t know any difference.”</i></p> <p><i>“What has happened to us? Why do we always respond to what other groups set for us? Who is really in control of this process? The federal government. This is the product after 130 years. When will they learn that they must be doing something wrong?”</i> Xai’Xais Treaty Community Meeting</p> <p><i>“One of the major problems is that the communities don’t trust the government. They use the Indian Act to stop us – like a roadblock. Why bother to consult if we don’t believe it will be looked at? If there is no trust, it will not work. We have to be on a level playing field.”</i> Metlakatla Community Meeting</p> <p><i>“If there’s going to be change, why not change to better our relationship and better our lives instead of just changing the Indian Act.”</i> Kitsumkalum</p> <p><i>“I would like to keep things going slow so that we are sure that we are taking the right steps. I don’t care if it takes ten or twenty years, I want to do it right. I don’t want someone out there to tell me it’s OK because I had my chance to have a say.”</i> Metlakatla Community Meeting</p> <p><i>“Where is the Minister for Section 35? In the USA, the Indians are supported by their Minister. They sit on the same side of the table in court. This does not happen in Canada. How long can we trust when we’ve been trusting since the 1800’s? We are still sitting at the table.”</i> Atlin Community Meeting</p>
---	--

May 27, 2002

<p>y) Women & Youth</p> <p>And, last but not least, our women and children. It may be that we have some issues that we just don't talk openly about in our communities and how we treat our women may be one.</p> <p>Some women speak out strongly, but in several communities women did not speak at all. The silence of these women may, however, be due to a cultural norm.</p> <p>The question of how women are treated in our communities is one we must ask and ourselves. Some people say that traditionally women were not leaders and speakers, but still other point out that all culture evolve and change – or the die.</p> <p>On a final note about women, it is noteworthy that no one mentioned domestic violence as a problem in our communities.</p> <p>Like the larger Canadian society, women suffer beatings, rape, emotional and other forms of violence in our communities and the silence on this matter is something we must note.</p> <p>With our youth, the principles that we are working for our future generations and that they should learn their culture are alive and well in our communities. Are we however, really doing much but pay that principle lip service? With our youth suicide and addiction rates as high as they are, this is also a question we must ask and answer for ourselves.</p>	<p><i>"From listening from the beginning, talking about change planned and unplanned change, when it comes to Capacity Building women should be looked at. Because, we are the backbone of our communities. Colonization promotes putting men first. I don not have anything against men, in general, but we should really look at women's involvement."</i> Gitsegukla Band Administration</p> <p><i>"We have to train our youth. They must know our history."</i> Lake Babine Nation</p> <p><i>"I would like to see our youth being taught in the band office. We should have a curriculum to help teach them."</i> Nee Tahi Buhn Nation</p> <p><i>"There should be legislation that states the involvement of women at the consultation level and at the treaty table. There is very little representation on human rights for women on reserve."</i> Northwest Community College</p> <p><i>"Self-government is something that we dream about, not for us, but for our children."</i> Wet'suwet'en Hereditary Chiefs.</p> <p><i>"We have to empower our young people."</i> Gitxsan Government Commission</p> <p><i>"There is nothing going on for the Elders and the Youth."</i></p> <p><i>"Our younger people are feeling frustrated."</i></p> <p><i>"The drugs and alcohol are unbelievable. The young mothers leave their children at home and go cabaret hopping. After a few days, they say they don't have any money for food."</i></p>
--	--

May 27, 2002

XI. QUESTIONNAIRE OVERVIEW

Of the 1200 questionnaires distributed, 386 were returned giving the project a 32% return rate which is high. Of those returned, the highest number were persons in the 41-55 year age bracket and they made up 37% of the returned survey rate. Twenty-nine percent (29%) were between the ages of 25 – 40 years, 13% between 16 – 24 years, 19% over 56 years, and 2% of respondents didn't want anyone to know how old they were! One respondent was under 16 years old. The results, in terms of age, provide a wide cross-section of our community.

What is interesting is that in the community meetings, although women did speak out strongly, they were not as vocal as men. This is most likely due to historic and cultural realities in some of our communities, and the fact that many women raised issues of discrimination. In the survey, however, women represent 57% of those who responded to the gender question (191 women) and men completed the survey representing 43% (143)¹⁷. Thus, the views of women in our communities are well represented through the questionnaire process. A significant number of people did not indicate a gender and they represented 14% of the total respondents (52).

In terms of residency, the majority of respondents (61% or 236) indicated they lived in their own community (presumably on-reserve). Consequently, the questionnaire results are primarily a reflection of the views of those of our people living in their own communities. The next largest grouping was those respondents living in a large urban area (24% or 94). Five percent (5%) of respondents indicated they were living in another First Nations community; likely due to marriage or employment. And, 3% indicated they lived in a smaller urban center. Six percent (6%) of respondents did not indicate residency.

Question # 1 asked people what the most important issue to them was in their communities. Remembering that women made up the majority of respondents, **Education and Economic Development/Jobs were both the number one issue** at 22% (61/278).¹⁸ The next significant groupings were: Accountability of Chief & Council, Youth & Children, and Health & Healing, all at 12% (34/278). What follows is a list of the issues in order of priority as represented through the questionnaire process:

1. Education/Jobs/Economic Development (22%)
2. Accountability of Chief & Council/Youth & Children/Health & Healing (12%)
3. Unity & Communication/ Housing (9%)
4. Community Development/Capacity Building/Poverty (8%)
5. Protection of Lands & Resources/Self-Determination/Self-Government (6%)
6. Treaty (5%)
7. Language & Culture (3%)
8. Family/Fishing/Elders/Off-Reserve Issues (2%)
9. Membership (1%)

The following is an alphabetical listing of issues only mentioned once or twice.

1. Bill C-31 (1)
2. Government Cuts (1)
3. Hereditary Chief System (2)
4. Hydro (2)
5. *Indian Act* (1)
6. Isolation (1)

¹⁷ Those who did not indicate gender were excluded from the percentage calculation of male and female respondent figures.

¹⁸ 278 people or 72% of respondents answered this question and very few people only listed one issue. Each time an issue was mentioned it was grouped, counted and then divided by the total # of respondents. In this case 61/278 or 22%.

May 27, 2002

7. Justice (1)
8. Suicide
9. Wills & Estates
10. Women's Issues

What is most significant is that while Bill C-31 and the Hereditary Chief System were clearly not identified as the most important issue to people through this question, these issues were front and center in the community meeting discussions. The discrepancy could be a result of people seeing both Bill C-31 and the Hereditary Chief System as a part of governance, which was the 5th priority based on the questionnaire results. Also significant is that women (50% of the respondents) did not raise their issues as separate "women's" issues; they simply raised issues that were important to them. Finally, people did not specifically indicate that "justice" was a priority for them. They did, however, raise justice related issues such as accountability, healing, unity and communication and within the community meetings there was consensus that "fairness" was an issue.

Questions #2 asked people to prioritize a predetermined list of issues on a scale of 1 to 5 with 5 being low. The following list summarizes the response to these questions in terms of the top priority issue.

1. Economic Development (41%)
2. Lands & Resources (39%)
3. Self-Government (30%)
4. Justice (25%)
5. Treaty Negotiations (24%)

What is interesting to note here is that when you compare the responses of Question # 1 with those of #2, where the list was predetermined, you see that the number one issue when people were asked to identify the issues on their own is Education **and** economic development. Education was not a choice within the predetermined list of issue choices in Question #2 and, consequently, the respondent did not have the option of identifying that issue.

Questions #3 also asked people to prioritize a predetermined list of issues on a scale of 1 to 5 with 5 being low. The following list summarizes the response to these questions in terms of the top priority issue.

1. Health & Education (both at 47%)
2. Employment (38%)
3. Housing (31%)

From questions 1, 2 and 3, it is clear that, in terms of broad issues, **health, education, economic development and housing** are the most important issues to the people in the communities of the Northwest. This response from our communities clearly indicates that **the basic needs of our citizens are not being met**. When given no choice in identifying the broader issues themselves (Question #2), people ranked self-government as their third priority and treaty negotiations as their lowest priority.

May 27, 2002

XII. SELF-GOVERNMENT

The first questions within the Self-Government section of the questionnaire asked people to prioritize a predetermined list of self-government related issues on a scale of 1 to 5 with 5 being low. The following list summarizes the response to these questions in terms of the top priority issue.

1. Financial Accountability (49%)
2. Communications (39%)
3. Membership (29%)
4. Voting Rights (24%)
5. Elections Process (21%)

Similarly, the second question within the Self-Government section of the questionnaire asked people to prioritize a predetermined list of self-government related issues on a scale of 1 to 5 with 5 being low. The following list summarizes the response to these questions in terms of the top priority issue.

1. More money for Social Programs (45%)
2. Leadership (44%)
3. Independence from government (29%)
4. Greater self-government powers (27%)
5. Legal Status of your First Nation government (25%)

Many people do not realize that the average monthly social assistance rate for one person on-reserve breaks down as follows: Food - \$175; Clothing - \$56; Incidentals - \$45; Rent – maximum of \$390; and Utilities (heat/hydro/water & sewer) – maximum of \$375. Rent and utilities are typically paid directly by the First Nation, so ***our people actually receives only \$276 cash per person to live on for the whole month!***¹⁹

Given that unemployment rates are so high in our communities, forcing our people to try and survive on social assistance rates that are criminally low, it is no wonder that ***financial accountability and more money for social programs*** are the peoples' top priority. Complicating matters is that fact that, in most First Nation communities, the First Nation is the main source of employment. Thus, the dynamic of the "Have and Have nots" and the "Us and Them" mentality is perpetuated amongst relatives where one brother is employed at the First Nation earning a relatively decent living, driving a new truck, and the other brother is trying to survive on \$276 per month always looking for a ride.

This adversarial dynamic, which is ***created by INAC*** through providing us band funding to hire staff and administer social assistance, is the economic reality of our communities and is keeping us divided. Instead of holding INAC accountable for our economic reality, or not realizing INAC is responsible, we fight each other. The lofty discussion of self-government is not relevant while we fight each other to survive. Those employed do not want to loose their jobs and fight to protect them while resenting the "unfair" criticisms of those unemployed, and those unemployed resent the standard of living enjoyed by those employed and are suspicious of their own staff and leadership misusing "band" money which they see as "rightfully theirs".

¹⁹ INAC Area 2 Rates (Outlying Communities), McGill, Linda, TRTFN Social Assistance Administrator, Atlin, April 16, 2002.

May 27, 2002

This reality in our communities begs the questions – who will be served by the proposed changes to the *Indian Act*? The people, in the meantime, ask will these changes give me a job, house, education and better health? ***Self-government is only relevant if it will enable us to create equality of opportunity in our communities; economic or otherwise.***

XIII. LAW-MAKING

The first question within the law-making section of the questionnaire asked people to prioritize a predetermined list of related issues on a scale of 1 to 5 with 5 being low. The following list summarizes the response to these questions in terms of the top priority issue.

1. Management of Environment on Traditional Territory (51%)
2. Management of Reserve Lands (34%)
3. Enforcement of Band By-laws (32%)
4. Labour & Management of Environment on Reserve (both 25%)
5. Policing (22%)

Question #2, within the Law-Making section, asked “Who do you believe should have the authority for the ***creation and control of business on reserve?***” A resounding 86% of respondents indicated that First Nation governments should be in control of creating and controlling businesses on-reserve.

When asked if First Nation governments should have the authority to impose fines and penalties to enforce by-laws, 80% of the people said “Yes”. When asked if they thought the federal government should be allowed to say no to First Nation by-laws, 78% said “no”. In both questions, a significant number of respondents (10 – 12%) said they didn’t know and this identifies a need for education regarding by-laws.

XIV. GOVERNANCE

a) Term of Office

Sixty percent (60%) of the respondents said they wanted 3 – 5 year terms of office for Chief & Council; 3 years – 26%, 4 years – 23% and 5 years – 11%. However, 41% said they wanted only a two-year term. If operating in accordance with a simple majority rule, clearly the statistics show a call for changing terms from anywhere to 3 – 5 years. The reality of the social dynamic within our communities, however, begs caution when 41% of the people don’t want to change. The safest thing to do may be to increase the term of office to 3.

b) Eligibility Requirements to hold Office

Practically everyone (79%) agreed that people holding office should be required to meet eligibility requirements. The majority of the remaining (11%) said they didn’t know, which identifies a governance educational issue.

Sixty-nine percent (69%) of the 79% who said there should be eligibility requirements listed preferred requirements as follows:

1. Education (24%)
2. Criminal record check (14%)

May 27, 2002

3. Prior Experience and Financial Accountability (both 8%)
4. Knowledge of Traditions (7%)
5. Sobriety (6%)
6. Membership (5%)²⁰

c) Non-Resident Seat on Council

When asked if there should be a special seat on Council to represent the interests of non-resident band members, 69% responded yes, while a significant number responded no (18%). Once again, ignoring a significant portion of the population (18%) in “Indian Country” is typically disastrous and caution should be exercised. Again this is an area of governance where there is a clear need for education and discussion regarding the concept of inclusion as it relates to governance.

d) Non-Member Voting Rights

A very significant portion of our population (52%) does not think non-members should be allowed to vote even when decisions made by Chief & Council affect them directly. A just as significant number (39%), however, do think non-members should be able to vote on decisions affecting them. Assuming the issue were resolved in favor of allowing non-members to vote on issues which “impact their lives directly”, the question would remain which issues and how do we decide whether or not a decision of Chief & Council had a direct impact on their lives?

The entire framing of this question presumes that Chief & Councils do include members now in the decision-making that affect them directly. Given the call for accountability and inclusion in our communities, as evidenced throughout this process, inclusive decision-making by leadership is relatively non-existent in our communities. It should be remembered, however, that representative democracy does not require citizens to be involved in leadership decision-making. This is one of the major problems with imposing this type of democracy within our communities where everyone expects to have the right to be involved in everything, even if they never exercise that right. That said, the question results remain useful in terms of guiding a governance educational discussion regarding the issue that needs to take place.

For example, when asked to select from a predetermined list of possible areas of inclusion, the results were as follows:

1. Any matter that affects them (27%)
2. Financial Matters (23%)
3. By-laws (21%)
4. Land purchase, sale or lease (16%)
5. Sale of Resources or Royalty Agreements (13%)

Remembering that 57% of the respondents were women, one cannot help but wonder how the issue of gender affects our response to inclusion of non-members?

²⁰ Suggestions receiving less than 5% support are not listed.

May 27, 2002

e) Non-Members Holding Office

When asked if non-members should be able to hold office as Chief, 79% of the people said “no”, while 18% said “Yes” and 3% did not respond. In terms of non-members holding office as Councilors, 71% said “no” and 26% said “yes”. While there is a clear majority in favor of excluding non-members from holding office, there is also a clear desire to include them as well.

The next question within the survey asked if there should be a “special seat on Council” and a simple majority (52%) said “Yes”, while 31% said “no” and 15% said they didn’t know (2% did not respond).

The questionnaire shows that we want to include non-members, perhaps with a special seat on council designated specifically for them, but we are not in agreement. In the first question we say “no” and in the second question, we say “yes”. Again this is an area where there is a need to facilitate the discussion of inclusion as it relates to governance in our communities.

f) Off-Reserve Members Holding Office

Since off-reserve members can now vote in elections, people were asked what kind of election system would work best for them. What follows is a prioritized list of the types of systems identified from a predetermined listing.

1. Special seat for off-reserve members on council (27%)
2. Special voting rules that would allow on and off reserve voting (20%)
3. Equal number of seats for on and off reserve members (17%)
4. Two or more “special” interest seats on Council and Seat based on Per Capita Formula (both 16%)

Once again, we are undecided but are open to including off-reserve members on council somehow. Here again, there is the need to facilitate the discussion of inclusion within our communities as it relates to governance.

g) Chief & Council Dismissal or Resignation

Eighty-six percent (86%) said there should be rules calling for Chief & Council to be dismissed or to resign in certain situations. Only 5% said there should be no rules and 6% said they didn’t know, while 2% left the question unanswered.

When asked what type of situations, people selected from a predetermined listing and the priority was as follows:

1. Breach of a Code of Conduct or Ethics (31%)
2. Criminal Prosecution (28%)
3. Lack of community support (26%)
4. Poor Health

There was no overwhelming support for one situation or another, what was overwhelming was the fact that the people clearly want the ability to remove their leaders from office in between elections. This desire is not surprising given that our traditional governance systems operate on a high standard of immediate accountability to those served.

May 27, 2002

h) Conduct of Elections & Appeals

When asked to indicate from a predetermined list what type of organization should be responsible for band elections and appeals, 71% said they wanted an independent First Nation organization to be responsible. Fifteen percent (15%) checked Elections Canada, 10% checked INAC and 3% listed Community Members under the “Other” category.

When asked if they wanted rules to help communities switch to Custom Elections, 60% of the respondents said “Yes”, 10% said “no” and 27% said they didn’t know; which indicates that a lot of people do not understand what is meant by Custom Elections.

XV. ACCOUNTABILITY

When asked to whom the First Nation government should be accountable to, 49% said their government should be responsible to them. Twenty-one percent (21%) said their government should be responsible to their Hereditary Chiefs, 12% to funding agencies, 10% to the general public and 8% said their government should be accountable to INAC.

Eighty-three percent (83%) of the people agreed that there should be Conflict of Interest Guidelines for each First Nation community. Twelve percent (12%) didn’t know, 3% said “no”, and 2% did not respond. Similarly, when asked who should develop and enforce the guidelines, 36% said they as members should develop and enforce conflict of interest guidelines. Thirty-four percent (34%) said their First Nation government should be responsible for the task and 18% said it should be done through a Community Constitution. Only 5% thought this should be done through the *Indian Act* and 6% thought it should be done through an Aboriginal Financial Officers Association²¹.

XVI. LEGAL CAPACITY & AUTHORITY

The first question within the legal capacity and authority section of the questionnaire asked people whether or not First Nations governments, independent of INAC, should be able to borrow money, set up own business, sue and be sued, enter into contracts, or invest community monies. The following list summarizes the response to these questions in terms of the top priority issue.

1. Set up own business (28%)
2. Borrow money; Enter into Contracts; and Invest Community monies (all at 19%)
3. Sue and be sued (15%)

It is likely that the priority given to setting up own businesses relates to the high unemployment and need for economic development and jobs. From this question, it is not clear whether or not people supported First Nation owned businesses or individually owned businesses. Within the Community Meetings, however, participants made a clear distinction between the two types of business and there was a preference for supporting individually owned businesses.

²¹ An “Aboriginal Financial Officers Association” was listed as a predetermined choice.

May 27, 2002

The second question asks if respondents think First Nation governments should have more, less or the same authority in relation to a predetermined list of 32 categories. Generally speaking, almost everyone thought our governments should have more authority in every area listed (average of 75%), while the remaining 25% either wanted less authority or the same authority for their leadership.

The following table shows the Areas of Authority in terms of the percentage of people that supported an increase of authority for First Nation governments. For example, 83% of the respondents wanted an increase in the capacity of First Nation governments to deal with Child Welfare.

80% plus	70 to 80 %	60 – 70%
Child Welfare	Language	Who can open a business
Child Custody	Health Services	Establishing Honoraria
Nursery	Distribution of Education \$	Payment of Councils
Social Services	Hiring & Firing	Expenditure of Funds
Food Fishing Permits	Fisheries	
Education	Citizenship	
Patient Travel & Transport	Allocation of Lots	
Forestry	Culture	
Wildlife	Zoning	
Teachers	Expropriation	
	Land Title	
	Traffic	
	Post Secondary	
	Wills & Estates	
	Labour Relations	
	Drugs & Alcohol	
	Land Use	
	Business Licenses	

May 27, 2002

XVII. NORTHWEST TRIBAL TREATY NATIONS INPUT

a) Aboriginal & Treaty Rights, including Self-government

INAC has publicly stated that the amendment of the *Indian Act* will not infringe upon our aboriginal and treaty rights, including our inherent right of self-government. That said, it is arguable that the entire *Indian Act*, as it exists, is a current infringement and any amendments will simply represent further a infringement. Nonetheless, the federal government is proceeding.

The legal argument becomes one of whether or on the infringement is justified, and then justification turns on whether or not there has been meaningful consultation. In our case, the question will then become “Can the NWTT Nations Governance Project be considered meaningful consultation?” It is unlikely that this process can be considered meaningful consultation for a number of reasons.

First, and most important, is the fact that the NWTT Nations Governance Project is not seen as “consultation” by those affected. In community after community, while the participants appreciated the opportunity to participate in the NWTT Nations Governance Project, they were clear that their participation was not to be viewed as consultation.

Secondly, the recent *Tlingit* and *Haida* court cases have clarified that consultation is now legally a matter of accommodating our interests. In this situation, the NWTT Nations has taken the position from the outset that accommodation would mean the NWTT Nations being substantially involved in identifying the areas to be changed and in drafting the changes. To date, this has not happened, nor is it likely to happen.

So, if NWTT Nations participation is not consultation, what is it? The NWTT Nations has made it clear that its’ participation in the INAC Governance Initiative has been for the primary purpose of doing its best to ensure that the voice of the people of the northwest is heard within the process. Without accommodation of our interests, hearing our voice does not amount to consultation.

b) Removal or Reduction of the Fiduciary Duty

Again, from the outset, the NWTT Nations, as an organization, has raised concern that the amendments to the *Indian Act* may remove or reduce the fiduciary duty of the federal government in certain areas. Again, INAC has publicly stated that it is not the goal of the INAC Governance Initiative to affect their fiduciary responsibility to us in any way. While it may not be the goal, the NWTT Nations remains concerned that it may be the effect.

This is because the fiduciary relationship is interwoven with the discretion Canada exercises in relation to Indian assets, as well as the relationship between Indian Bands, Band Councils and the Crown. Changing the authority for decision-making or restructuring the relationship in any way between the Band Council, the Band and the Crown could affect the fiduciary relationship.²²

The NWTT Nations has sought legal opinion on this matter that will be presented and discussed with participants during the presentation of this report and the subsequent Regional Governance Symposiums; which are dependant upon the availability of funding.

²² Mark Stevenson, *Memo to: Gerald Wesley and Justa Monk – Co-Chairs, NWTTG: Re: Key Legal Issues related to the First Nations Governance Process*, March 31, 2002, pg. 1.

May 27, 2002

c) Status & Capacity

It is important to recognize that the *Indian Act* currently distinguishes between Bands and Band Councils. The Band, for example, beneficial ownership of the reserve lands and only the band can surrender reserve land. The Band Council, on the other hand, is empowered through the *Indian Act* to govern the band and manage band affairs. The Band Council, thus, has a fiduciary to act in the best interests of the band.

It is important that any amendments to the *Indian Act* recognize the distinctions between decisions being made by the Band Council qua fiduciary of the Band and decisions related to the Band Council's municipal like functions.²³

In terms of suing or being sued Band Councils can do this now because “. . . an Indian Band Council is a legal entity with rights and obligations under the *Indian Act*, . . . [and] must be empowered to sue to enforce those rights and should be subject to being sued on those obligations. Any other conclusion would render the Band Council's rights and obligations.²⁴

The other area of discussion involves contracting. Case law to date has established that Band Councils can contract, otherwise how would the business, for example, of construction get done on reserve? The court have, however, held that contracts must be authorized through a Band Council Resolution which was approved at a properly conducted Band Council meeting.²⁵

d) Leadership Selection

Generally speaking, elections on-reserve are conducted either in accordance with section 74(1) of the *Indian Act*, or in accordance with Custom Elections. The *Corbiere* decision has given rise for the need to change the *Indian Act* so that members off-reserve are able to vote. “The court went on to say that it would be preferable to develop an electoral system that would balance the rights of the on-reserve and off-reserve populations, *recognizing that the on-reserve population is most impacted by decisions of the Chief and Council.*²⁶ (Emphasis added) Any changes to the *Indian Act* should not eliminate the difference in effect that the decisions of Council have on both on and off reserve members.

Many people commented through the NWTT Nations community meetings that it was going to be difficult to balance these interests when one group of people feel they should have more say because they are present and another group of people feel they should have just as much say because decision affect their children and future generations as well.

e) Accountability

Clearly, the NWTT Nations Governance Project has determined that community members believe that the problem with accountability is INAC and they expect INAC to be accountable to them. The INAC Governance Initiative, however, focuses only on the accountability of Band Councils to INAC and their people. Participant within the NWTT Nations Governance Project wanted to know how they could hold INAC accountable in relation to the fiduciary duty they are owed.

²³ *Ibid.*, pg. 3.

²⁴ *Ibid.*, pg. 4.

²⁵ *Ibid.*, pg. 6.

²⁶ *Ibid.*, pg. 10.

May 27, 2002

Unless there is an attempt to address the entire accountability framework [including INAC accountability], problems arising from a lack of accountability will remain unresolved and any new accountability framework will remain incomplete.²⁷

f) **Legislative, Executive & Administrative Functions**

Under the *Indian Act*, there is no required public process required to formalize a by-law. By-laws may be enacted during the normal course of business of a Band Council. This tends to blur both the executive and legislative functions of the Council. In addition, as there is no requirement for a public process around the exercise of these legislative functions, **communities often feel left out of key decisions that affect community resources**. As a result, issues such as accountability and transparency begin to emerge. Amendments to the *Indian Act* should consider separating the differing roles or differing functions [of governance], that is the executive function [passing a BCR], the legislative function [passing a by-law] and the administrative function [program delivery].²⁸

What Stevenson politely points out in legal terms is that it is the present *Indian Act* structure, once again, which is causing much of the dissention in our communities. The *Indian Act* gives Councils power to make practically all the decisions without substantive input from the people affected by those decisions. **Within the NWTT Nations community meetings people clearly saw themselves as the lawmakers and their leaders as those entrusted with implementing the law.**

XVIII. Next Steps?

Out of the community meetings, questionnaires, and Governance Symposiums in Prince George, it is clear that there is a great need for “Governance Education Process” of some kind. There is also a great need to facilitate the discussion of “Economic Development” in the northwest.

Finally, the following are four specific recommendations received from the people through the NWTT Nations community meetings.

- A Corbiere Conference
- Orientation on *Indian Act*
- First Nations Governance Act
- First Nations Human Rights Act

The NWTT has submitted a proposal to INAC for funding Stage Two, which will involve further presentation and discussion of this Stage One report at four additional regional governance information sessions. It is intended that Stage Two will begin the development NWTT input into a legislative proposal.

²⁷ *ibid.*, pg. 12.

²⁸ *ibid.*, pg. 17.