

special report / On Nation Building

First Nations from throughout BC gathered in Vancouver in November 2008 at the invitation of the Treaty Commission to discuss governance, economic development and capacity building.

The conference, Forging Linkages and Finding Solutions, provided a forum for dialogue among First Nations, both inside and outside the treaty process, on fundamental issues essential to their future governance and development. In essence it was about nation building or nation re-building. Conference attendees heard from a number of guest speakers and panelists and participated in facilitated workshops on these three topic areas. The following article provides an overview of some of the conference highlights as well as some insights into the challenges First Nations aired at the conference as they seek to reconcile their title and rights with that of the Crown.

Treaty Making Is About Nation Building



Stephen Cornell, a co-founder of the Harvard Project on American Indian Economic Development who has studied First Nations governance for over 20 years, observed that First Nations in the BC treaty process are engaged, most fundamentally, in nation building.

He said treaty making is about rebuilding nations that once exercised governance over lands and peoples and did so superbly well.

Traditionally, many First Nations organized their societies through houses or clans, which preserved their authority through complex variations of matrilineal or patrilineal systems. These traditional governments exercised control over vast territories. They also formed the basis for larger political units, often referred to as tribes or nations.

After British Columbia entered Confederation in 1871, Canada began to impose the band council system. The traditional governments and their ability to exercise authority over territories were discouraged and, at times, outlawed. Today, these traditional governments survive side-by-side with the band council system.

“This treaty process, I would think from a First Nations point of view, is about bringing that kind of world back to life again. It seems to me you are engaged in a profound and colossal effort to rescue your nations from the legacies of colonialism; to reclaim your place on this land; and to reinsert your voice in the major decisions that affect your lives.”

Cornell said the treaty process represents an opportunity not only to make a treaty, but to put in place the

kinds of tools that First Nations need to exercise their rights effectively.

At the end of the struggle for rights there is a prize for the winners which Cornell refers to as the governance challenge.

“The rights challenge has an end point. It is the point where you’ve either got them in your hand or you don’t. You have a treaty in hand that specifies your rights; or you have a court decision that specifies your rights; or you have an agreement that specifies your rights.”

Cornell said that is not true for governance because governance doesn’t come to an end.

“In the governance challenge the focus of the work isn’t on some opposition out there, or some ‘them’ — the federal government, the province, somebody who has been leaning on you for decades, generations. Now the focus is on you; it is on what you do.”

Governance is a critical piece of defending aboriginal rights, according to Cornell, because if the First Nation cannot govern well then eventually somebody is going to step in and take those rights away.

“What good is it to have a right to the land if you can’t make and implement good decisions about what happens on the land? What good is it to have

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the right to decide what happens in your community if your community is in such disarray that it can't decide what to do?"

Cornell said it is not the assets that determine the success of a First Nation, it is whether or not the First Nation can take whatever assets it has — generous assets or minimal assets — and put them to work in effective ways.

He said First Nations need governance tools that are robust, that are capable of realizing their dreams.

"To me, governance refers to a set of principles and mechanisms that enable you to translate your vision, the will of the people, into action. The principles are the fundamental understandings of the community that come out of your own experience and culture, of what the community is about, what its purposes are, the basis of authority in the community and the appropriate use of that authority."

Cornell said good governance means having a constitution, separations of powers and limits on the abilities of politicians to disrupt enterprises and programs; provisions for continuity instead of upheaval when there are elections; and sound management practices and the like.

"But, if these are going to be successful nations, they have to respect their own ideas of governance and find ways to make them work in the contemporary world."

Planning And Preparation Key To Treaty Implementation



Tsawwassen First Nation Chief Kim Baird understands well the challenges Cornell describes. The challenges are daunting for this small First Nation that must be prepared for self government by April 3, 2009, the effective date of their treaty.

The First Nation has no special funding to prepare for the effective date. When the treaty was approved Treaty Commission loan funding stopped and no treaty payments are made before the effective date.

So far, Tsawwassen has identified 18 laws that will be required on the effective date and 39 separate projects that must be completed by then. All the projects can be categorized under governance, economic development and capacity building.

"We felt strongly we needed to go beyond the bare minimum for it to be a true expression of self government while staying within our limited capacity as a small First Nation," said Baird.

She said that to go from an *Indian Act* band with INAC-based policies and bylaws approved by ministers, which are very limited, to a self-governing First Nation is difficult.

"We never really had policy capacity in Tsawwassen let alone lawmaking capacity. Suddenly, we will have ultimate responsibility."

Chief Baird said Tsawwassen will need people who can understand program policy, develop and present positions for the decision-makers and who understand the impacts of external changes.

"We must be able to stand behind the decisions we make and ensure that those decisions are respected by everyone, member and non-member. Without good enforcement that treats everyone on the same basis, we will not be able to make decisions because we won't have the trust of the people we act for."

Chief Baird said finding the right balance between the needs of CP holders (First Nation land owners with Certificates of Possession) and the needs of the community in land use planning is challenging — balancing the livability of the community with economic activities.

Tsawwassen held more than two dozen consultations including community and family meetings to get feedback on their land use plan which was approved in July.

"I believe this is as critical as the treaty vote," she said.

Rebuilding Economies Essential To Sustain Communities



St. Mary's Indian Band chief and Ktunaxa Nation Council Tribal Chair Sophie Pierre has come to understand that good government, and good governance, is essential to economic success.

The vision statement for the Ktunaxa Nation ends with the words "as a self-sufficient, self-governing First Nation."

The Ktunaxa made a commitment to creating wealth, and to do that, they had to re-embrace the idea of rebuilding their economy.

"Every one of our nations had thriving economies that over the years have been broken down just like everything else," said Pierre. "My mother used to call this little reserve where we lived 'living inside the corral'."

It is almost impossible to sustain First Nation economies "within the tiny little corrals in which we live.

"Well, now we have an opportunity through the BC treaty process where we are going to get beyond those corrals. Now we can recreate the economies in our communities but

we need real strong governance to do that. It is very hard to attract good business to our communities if we don't have good governance in place."

The Ktunaxa also have to take care of social development; protect lands and resource; protect language and culture; and develop ecosystem-based land use planning, and not just resource development.

"If a young person wants to set up a business... we are not prepared to deal with that. If that same young person went into the City of Cranbrook they can obtain licences, they can hook into water, power and sewer. There is an infrastructure that we don't have."

Pierre said all First Nations have opportunities. Some have opportunities for large-scale commercial and residential developments like Westbank First Nation and Squamish First Nation; others have potential for independent power projects; while others have opportunities in mining, oil and gas.

To rebuild economies Pierre said First Nations need access to capital and credit. To attract capital, First Nations need to have infrastructure. But to borrow money to build infrastructure a First Nation needs equity.

For some First Nations annual tax revenues will be a source of equity. Revenue sharing in the resource sector is a source of equity and Pierre is hoping gaming revenue will become a new source of income. Gaming revenue is not currently shared with First

Nations in BC although it is shared in other jurisdictions in Canada. It is an issue that BC First Nations, through their gaming revenue-sharing initiative, are lobbying the BC government for.

Economic Success Is Achievable With Good Governance



Westbank First Nation is enjoying tremendous economic success, said Chief Robert Louie. Their financial achievement is due, in part, to their ideal location in the booming Okanagan. But it's also about good management, managing growth and change.

Westbank's success, according to Louie, can also be attributed to the Self Government Agreement negotiated by Westbank with the federal government, which came into effect on April 1, 2005, and the accompanying constitution that describes how the government operates and how it relates to its citizens.

"In Westbank we have governance over our lands and peoples within our lands," said Louie. "So, we have that recognition and understanding by our membership... residents on reserve... the federal, provincial and local governments, third parties, First