



BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

**PRESENTATION TO THE ABORIGINAL FINANCIAL OFFICERS'
ASSOCIATION (AFOA) 11th ANNUAL NATIONAL CONFERENCE, 2011:
"NATION BUILDING – KEYS TO SUCCESS FOR THE NEXT DECADE"**

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Gilakas'la, Greetings, Elders, Chiefs, ladies and gentlemen; I would like to thank you for this opportunity to speak to you today at the 11th Annual AFOA National Conference, this year entitled *Nation Building – Keys to Success for the Next Decade*.

My traditional name is 'Puglaas' and I come from the Musgamagw-Tsawateineuk/Laich-Kwil-Tach people of Northern Vancouver Island where I live, with my husband, at Cape Mudge, and where I also serve on Council.

First Nations are entering an amazing period of Nation building or rebuilding. For years suppressed under colonial administration our peoples are beginning to re-establish ourselves as we move towards self-determination – to true self-government. After years of litigation, negotiations and lobbying, we now find ourselves with the legal and political space to actually begin to define our own future as strong Nations – Nations reborn from the ashes of colonialism.

Witness most recently in December of last year the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) – a document that has been in the works for some 20 years – finally being endorsed by all Nation States – including Canada and the US – the last two hold outs.

Many of our Nations are also now beginning to generate their own revenues through emerging economies that, increasingly are, and will, support the transformation from despair and poverty to a time of empowerment and prosperity.

While the opportunities are truly here, there are huge challenges. Change is never easy and translating rights so hard fought for into practical and meaningful benefits on the ground in all our communities, not just some – and where no community is left out or behind – is now the challenge and the task.

In support of Nation building or rebuilding I ran for Regional Chief on a ‘four-pillar’ platform that recognized, firstly, the need for strong and appropriate governance. Secondly, the need for fair land and resource settlements – particularly important in our province where there are, for the most part, no treaties. Thirdly and fourthly – focussing on the individual – the need for improved individual health and education. And at the BCAFN we have developed an Action Plan.

Most of you here today work for a band, First Nation or tribal organization and are all too well aware that there is a lot of work that has to be undertaken in order to ensure the promise of a better future for our peoples is actually realized. We can plan and dream all we want but real change – and the real work – has to happen in each and every band office across this country.

In this regard, there is great admiration for the work of the members of the AFOA and the Association itself. You represent an important part of building our better future and where we are going in terms of our journey in translating our rights to self-determination into strong and appropriate institutions of First Nations’ government, on the ground and across Canada.

It is not easy to make the transition as a subjugated and to walk through, what I like to call, the post-colonial door. The colonial legacy is a heavy burden: the poverty, the health and social issues, the breakdown of our institutions of social order and the general dysfunction that still plagues many of our communities...basically the crippling legal and economic dependency. But despite this reality we are having success and we are moving away from dysfunction and dependency through empowerment and success and ultimately independence. And it is the success that we must celebrate and build upon and your organization is a success and is providing valuable networking, tools and supports for our Nations - not only in the area of financial management, but also with respect to developing strong public administrations and effective government generally.

In the case of AFOA, you are the financial officers working in each of our Nations and as such are a fundamental delivery mechanism for good governance, an incredible responsibility in the time of transformation.

On Saturday I attended a band meeting in my own community to discuss the development of our own We Wai Kai Financial Administration Law. At the meeting our members asked about the federal accountability legislation – a private member’s Bill, Bill-575 that is currently before Parliament and which addresses the disclosure of Chief and Council’s salaries. We discussed how this politically motivated legislation only addresses one small aspect of financial administration and really highlights the need for our own communities – our own Nations – to take control of the agenda and establish our

own laws with respect to financial administration including accountability to our members.

From my experience, it is clear it is not well understood among our citizens that...in the absence of our Nations taking control of our own financial administration and establishing our own rules, there is very little, if anything, legally governing the financial administration of our Nations. There is nothing in the *Indian Act* which speaks to a First Nation government's budgeting process, accountability and/or reporting to its members on how we invest or borrow using our monies. For sure, when our communities sign funding agreements with Canada to receive monies to deliver federal programs and services, we contractually agree to audits and reports and so forth, but there is nothing above this and nothing governing the use of our own sources of revenues unless we take control.

As our communities generate more own source revenues, for instances from benefit agreements or First Nation enterprises, our citizens are, not surprisingly, asking what governs this money. The answer is 'nothing' except for policy until we put into place our own rules and govern our own affairs under our own laws. I raise this point in the context of the renewed calls to get rid of the *Indian Act*.

There has been a lot of talk in recent months among First Nations leaders about getting rid of the *Indian Act*. Not just as political rhetoric but as a real possibility as we cannot fully implement the UN Declaration without accomplishing this.

Therefore we must develop a strategy for dismantling the *Indian Act* in a planned way where the transition is guided by each communities own 'exit-strategy'.

As result of First Nation led initiatives there are today a number of opportunities for Nations to engage in sectoral governance initiatives that strategically begin to remove the application of parts of the *Indian Act* and that are moving some Nations towards implementing the UN Declaration. For instance, 25% of the *Indian Act* can be removed through the Framework Agreement on Land Management where a First Nation makes its own land codes in respect of land management. Or with respect to the gaps in financial administration these can be plugged through a First Nation making its own financial administration laws as recognized under the *First Nations Fiscal and Statistical Management Act*. My community has made a land code and is making a Financial Administration Code. Or another example from this province is the First Nations, BC and Canada education initiative where a First Nation can make laws in relation to education and again remove parts of the *Indian Act*.

There are also opportunities for Nations to negotiate more comprehensive governance arrangements beyond the *Indian Act* although these are still limited. There is more work that needs to be undertaken to establish an effective and legally appropriate framework for the more comprehensive transition from the *Indian Act*. We need to develop with Canada an appropriate federal legislative framework for Canada to back out of our affairs in a controlled way and in a way that recognizes the process for change must be First Nations' driven.

Ultimately each Nation really needs to deconstruct its current governance reality and establish its own community Constitution. There is currently no easy way for a community to focus on its Nation building that does not involve significant expenditure of time and money in complex negotiations with Canada which, may or may not, ultimately be successful.

Somewhat troubling during this transition period as we move away from governance under the *Indian Act*, is that Canada is beginning to fill the legislative gaps for us despite the need for us to undertake this work ourselves. This is problematic and counter-productive – however, well intentioned. It is why we must stand up and take control – take responsibility for – Nation by Nation - our own Nation building - and speed up the transition from the *Indian Act* in accordance with the principles of the UNDRIP and other documents on our own terms.

There are a number of pieces of government supported legislation that are not First Nations' led and that have been recently passed or are currently before Parliament, such Bill S-4 (*An Act respecting family homes situated on First Nations reserves and matrimonial interests or rights in or to structure and lands situated on those*), Bill S-11 (*An Act respecting the safety of drinking water on first nation lands*) and recently enacted Bill C-3 (*Gender Equity in Indian Registration Act*). While there is no question there is a need to address the governance of water systems on our reserve, the governance of matrimonial real property and governance over citizenship, we need to find the solution ourselves and within our own self-government arrangements.

Communities that have moved beyond the *Indian Act* and are self-governing have, in fact, addressed all these issues one way or another and this process of transition needs to be accelerated and supported for all communities. The federal government needs to support our Nations' effort and we need to continue the fight to increase the political and legal space for each Nation to undertake fundamental Nation building work when they are ready to do so Canada should not act as a gatekeeper to self-determination.

At the BCAFN, to assist each of our communities in moving forward and assessing their current and evolving options for governance, we are developing a governance toolkit. The toolkit is in two parts.

The first part is a self-assessment tool that any community - wherever it may be along the continuum of governance – can undertake to assess the effectiveness of both its governing body, i.e., the Chief and Council, as well as the effectiveness of its administration, i.e., its public service.

The second part of the tool is a guide to the sometimes scary journey of moving beyond the *Indian Act* and sets out the range of issues a Nation will encounter in establishing and running its own institutions of government as well as the powers of law-making its government may be considering. It provides information on the resources that are available to assist our Nations. Not surprisingly your organization, as a resource, features heavily in the guide.

When looking at building or re-building our Nations we all have a role to play – in many cases multiple roles. That role might be as an elected

representative of the community as part of its governing body, or as an employee with specific tasks, an employee of the federal or provincial or, most importantly, as a citizen of our Nation participating in community meetings and ultimately voting on whether or not to move beyond the *Indian Act* and to effect change.

The real work is, of course, at home in each of our communities. To ensure there is the confidence and the trust to walk through the post-colonial door and end decades of dependency. And I am sure I do not need to tell you how much fear there is out there. In some ways it was actually easier for our leaders to fight the ‘good fight’ and to send our lawyers into court or our politicians to the United Nations to argue for self-determination than to actually govern. When the lawyers made our case for self-determination in the mega title and rights cases such as *Calder*, on behalf of the Nisga’a, or *Delgamuukw* on behalf of the Gitksan and Wet’suwet’en, and most recently and ongoing in *William* on behalf of the Xenigwetin and Tsilqhot’in, our lawyers basically were telling the world that we own our lands “lock, stock, and barrel” and that we have the right to govern ourselves.

Recently, travelling around BC introducing the BCAFN Governance toolkit, a Chief made the analogy of the *Indian Act* being like a balloon and sticking a pin into it and the balloon bursting. It struck me that when we say we are self-determining in Court before a judge, and therefore to the world, we are, in fact, asking the judge to stick the pin into the *Indian Act* balloon for us. The point the Chief (Chief Geronimo Squinas) was making, however, was not in the context of our going to court or championing our rights and title but rather implementing

governance beyond the *Indian Act* on the ground and he was asking “are we ready” and what comes next. And the answer is we have to be ready and we need to be prepared. It’s what we have been asking for.

And of course, we have been getting ready and we are developing initiatives to gradually let the air slowly out of the *Indian Act* balloon and replace it with our own strong and appropriate governance.

So in keeping with the conference’s agenda of Nation building it is important for all of us to be reflective on what role we are playing or can play in letting the air out of the balloon and building on the political and legal space we have created and that is evolving as we implement our rights and title.

We need to consider the type of public service each of our Nations will need to develop to effectively govern and how we can ensure that there is a trained and qualified civil service to support our developing institutions of government. All existing self-governing Nations are developing a strong public service...they needed to.

As an organization the AFOA is already informing this debate and each of us will to some degree or another no doubt be called upon during the conversations that are taking place in every band office across the country and, if not yet, will take place in the near future.

I will conclude by saying this. Solutions to ending poverty will not be found by trying to find solutions or build government within the *Indian Act* system but will only, at the end of the day, be found by moving

beyond it despite how hard this is to accomplish. By having fair access to our land and resources... By having strong and appropriate government and by having healthy and educated citizens that can participate in the economy. This is the promise of the UN Declaration and the promise of a better future for our people living in stronger and healthier communities with thriving and practicing cultures.

Gilakas'la