



**BRITISH COLUMBIA
ASSEMBLY OF FIRST NATIONS**

**PUGLAAS (JODY WILSON-RAYBOULD)
REGIONAL CHIEF**

Relationship Building – Discovering Solutions to Complex Issues

***AFOA Conference
Westin Harbour Castle – Toronto, Ontario
February 13, 2013***

CHECK AGAINST DELIVERY

Gilakas'la - Greetings, Elders, Chiefs, ladies and gentlemen; My traditional name is 'Puglaas'. 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.

I am pleased to have been asked to give the opening plenary at this year's AFOA National conference and to provide some context for this year's theme: *Relationship Building – Discovering Solutions to Complex Issues*. This is a timely conversation in light of Idle No More, Chief Spence, and the testing of the relationships between ourselves as Indigenous peoples as we confront our evolving relationship with the Crown and the ongoing search for solutions to the so called "Indian Problem" – still the most complex and challenging public policy issue facing Canada today.

As Indigenous peoples, we, of course, have many relationships – both personal and collective - within and between families – between and among our nations, tribes or bands - within our institutions of government whether *Indian Act* or beyond – with domestic governments at all levels (local, provincial, federal) – within our political organizations – with corporations (whether large or small) and so on.

Our relationships have evolved and changed with the passage of time. We need to understand how and why they have changed if we are going to discover solutions to the complex issues we now face.

Looking back...

During the so-called "Age of Discovery" from the 15th to 17th century, the European colonizers of the Americas were forced to develop a framework in which to relate to our peoples. Principles of discovery reflected in the doctrine of "terra nullius" had to be modified because we were, in fact, here and the lands were not, of course, vacant. They argued, therefore, that because our peoples were not Christians and, in the eyes of the newcomers, had inferior social systems, that the lands of the Americas could be settled and acquired without regard for our presence or our occupation of the land. In declaring this so, justified to them a relationship where the Indigenous peoples were ultimately subjugated to the will of the colonizer.

In Canada, the relationship with the settler government was somewhat different by the time the British arrived. The Crown, rather than simply dismissing our presence out of hand through theological and other arguments, recognized our existence and required that before its subjects could settle our land, the lands would need to be acquired lawfully from us by an official representative of the Crown. Through this process of treaty making lands were identified as ours, based upon the historical occupation of our peoples' traditional territories with the balance of the lands continuing to have certain ongoing rights attached to them – the right to hunt, fish and so on. I am of course talking about the process of treaty making as set out in King George III's Royal Proclamation of 1763.

It is the principles of the enduring treaty relationship that to this day continues to underpin how many of our peoples view their current relationship with the Crown and therefore Canada – where their ancestors entered into relations based upon what they understood to be mutual respect and understanding. In some cases the symbolic expression of treaty making is reflected in the wampum belt.

Although not a part of my culture, wampum, as I am sure most of you are aware, is made of white and purple seashells from the Atlantic that is woven into belts. Particular patterns symbolize events, alliances and people. Wampum was used to form relationships, propose marriage, atone for murder or even ransom captives.

Before Confederation some of our Nations indicated their assent to treaty by presenting wampum to officials of the Crown. I understand the Two Row Wampum Belt of the Iroquois symbolizes an agreement of mutual respect and peace between the Iroquois and European newcomers. The principles embodied in the belt are a set of rules governing the behaviour of the two groups. The wampum belt tells us that neither group will force their laws, traditions, customs or language on each other, but will coexist peacefully.

Now fast forward to January 24th last year and the Crown-First Nations Gathering in Ottawa during which some First Nation leaders from

Ontario, presented to the Prime Minister a replica wampum belt to that originally given during the time of treaty making. For these Nations the expression of that original relationship as understood by their ancestors was, once again, conveyed formally to the Crown.

Fast forward again one more year to January 10th 2013, in the Delta Hotel in Ottawa (only a few weeks ago) and some of those same leaders that presented the wampum to the Prime Minister the year before stood in front of their Indigenous colleagues, namely the National Chief, myself, members of the AFN executive and other Chiefs and leaders, holding a wampum belt. At the time our leadership was debating whether or not to meet with the Prime Minister – a meeting which had been arranged for the next day, January 11th, in an effort to satisfy the requests of Chief Theresa Spence so she could end her hunger strike – the debate was about whether or not we should go because the Governor General would not be attending at the same meeting as the PM.

As I stood there listening to the impassioned dialogue, the complexity of the relationship challenges we face as Indigenous peoples sunk in. I reflected on our past and on our current moment in time, and how as our relationship with the Crown has evolved so too have our relationships amongst ourselves. I further thought about how our Citizens through the use of social media were participating in 'Idle No More' events and how the solutions to our plight have been slow in coming and not broadly implemented. I asked myself, "what can we do today that has not been tried before and what can we do better?"

And then I reminded myself just how far we have actually come in the recognition of our title and rights, including treaty rights – after all we have section 35 in the *Constitution Act* and now the UNDRIP – and we have won over 170 court cases. So today our challenge is not to refight the fights from 40 years ago – our challenge today is to actually translate hard fought rights into practical and meaningful benefits on the ground in our communities to improve the lives of our people. And to ensure no community is left out or behind.

To accomplish this vision, each of our citizens and in turn each of our Nations, if not already doing so, needs to deal with the colonial legacy of what occurred during the intervening years between when the first wampum belt was offered to the Crown and our reality today.

Between the time the wampum belt was first given to the Crown and then re-presented last year, the original spirit and intent of the treaties has been over shadowed and diminished by the public policy of the federal government that was designed to assimilate and remove the Indian from his or her culture to become, in the eyes of the settler government, full and contributing citizens of Canada. Of course the most insidious of tools used to propagate this policy was the 1876 *Indian Act* – a law that applied to all Indians who under section 91(24) of Canada's Constitution are the responsibility of the federal government. Rather than being citizens or members of a Nation or Tribes of Indians recognized in the treaty relationship as symbolized by

the wampum belt, under the *Indian Act* all Indians were made wards of the state with the government being our trustee. As *Indian Act* Indians, we were considered legally incompetent until such time as we enfranchised and became full citizens of Canada, at which point we were no longer recognized as Indigenous and, consequently, lost our political voice within our Nations, lost access to, or ownership of, any lands we shared an interest in on-reserve and so on.

Indian Act government is, accordingly not self-government and is certainly not an expression of self-determination – it is an impoverished notion of government where the Chief and Council are for the most part, glorified Indian Agents delivering federal programs and services on behalf of Canada – where Band councils have limited recognized legal authority to enact laws or make important decisions and where accountability is primarily to Canada and not to our citizens.

So as I stood there listening to my colleagues a few short weeks ago on that January 10th, I could also not help but to think that with the exception of a few people in the room, all of those leaders, including myself, were somehow a product of that very *Indian Act* system that we now need to become decolonized from. While I come from a society that has hereditary Chiefs on the west coast, I am, in fact, an elected Councillor of an *Indian Act* band – albeit that we have our own election code – and that as a member of the AFN executive, of the 203 First Nations in BC that are eligible to vote for Regional Chief – only 12 of those Chiefs did not represent an *Indian Act* band or were governed by that Act. In other words, only 12 were self-governing. The same is true

of my friends who stood in front of me holding the wampum belt which symbolically represented the antithesis of what we all represented as *Indian Act* Chiefs or products of the *Indian Act* system. This irony was not lost to me. So why am I telling you this?...

In my own province of BC for the most part our Nations and tribes have never entered into treaties. But the reality is, whether your Nation or tribe has a treaty or not, for all intents and purposes due to Canadian public policy we are all in the same boat – treaty or no treaty – and practically speaking, and even legally, it really makes little difference as the same policies and same *Indian Act* has applied to us all, and for the most part still does.

I was also thinking to myself as we debated whether or not to meet with the Prime Minister – with the wampum belt clearly in my sights – how do we get actually get back to the original treaty relationship as represented by that belt? – both for those Nations that actually have treaties and for those Nations that do not? How do we rebuild our Nations and re-establish legitimate institutions of government with appropriate jurisdiction and thereby establish healthier relationships – both among ourselves within and between communities as rebuilt Nations, and in turn with Canada?

When we met with the Prime Minister on January 11th we did, in fact, talk about this from the perspective of creating new machinery of government in Canada and dealing, once and for all, with implementing

the original treaty relationship for those Nations with treaties and to deal with the comprehensive claims process for those Nations that do not have treaties. At some point, ultimately, this work becomes one and the same.

It is in this context that I want to talk briefly about some of the solutions our Nations have found or are working towards in order to decolonize and move beyond the *Indian Act* and what we are doing to share our stories. But before I do, I want each of you who are First Nations – many of you who live on a reserve, as I do, or come from a band somewhere in Canada – to ask yourself this question; if tomorrow there was a vote to be held in your community on whether or not your community should become self-governing and move beyond the *Indian Act*, would the vote pass or fail and why? And how would you vote?

As Indigenous people living in Canada we all need to consider these questions, because ultimately these are the questions each and every one of our citizens – including you if your nation is still under the *Indian Act* – will have to answer if we are to truly turn Indigenous rights into political and social change on the ground – to make widespread progress and to move beyond our debilitating colonial past.

This is because, as perverse as it may sound, short of a court case declaring all or part of the *Indian Act* ultra vires (illegal) it continues to apply until our citizens vote the colonizer out. As wards of the state the

government of Canada will not release us from their fiduciary grip until they are confident that we actually agree to be released.

Through my office of Regional Chief, I have the privilege to visit many communities and have had this conversation and asked these questions to many of our leaders and to our citizens – and not just to the political leaders, but also to elders, teachers, parents and so on – and while our people support our political and legal claims to self-determination and us, as leaders, advocating for their rights – in fact many of them have been carrying placards and going to demonstrations and protests as part of the Idle No More movement to make this very point – they are, nevertheless, often anxious and fearful of change and fearful of self-government.

Disturbingly, it is in this space of fear and uncertainty that the federal government and its bureaucracy looks to enact new laws to govern our people and to create the legal framework moving beyond the *Indian Act* by continuing to decide what policies should apply to us and what is in our best interests. This is, of course, not acceptable and will not work.

If we are to stop Canada's neo-colonial legislative agenda we have to first understand that we must decolonize ourselves – starting in our communities where we must engage our citizens so that there is enough strength locally to direct and support the change and to

implement our rights on the ground. We have no other option – we all have to be Idle No More.

So how do our people move beyond what I call the 'fiduciary gridlock' of life under the *Indian Act* where there is a dependency on the Crown...to a place where we are self-determining in what I truly believe is the spirit of the wampum belts that are held in such high esteem by those Nations that have them?

It is not easy to make the transition as a subjugated people living day to day in a colonial reality 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, apathy and unhealthy relationships that still plague many of our communities – basically the crippling legal and economic dependency. But the good news is that despite this reality for many we are having success and we are moving away from dysfunction and dependency through empowerment. We need to build on this success.

We need to intensify the level of conversation, share our stories about the solutions that are already well underway and develop additional solutions and in the process rebuild our Nations one relationship at a time.

To help inform this work at the BC Assembly of First Nations, we developed the *BCAFN Governance Toolkit: A Guide to Nation Building* – to stimulate the conversation about confronting, then opening and ultimately walking through the post colonial door. Part One is the *Governance Report* which, from a governance perspective, looks at all the solutions that are being developed or used by our Nations in BC along a continuum of governance reform, including sectoral self-government initiatives and through work undertaken by bodies such as yours, the AFOA, and others – we also consider where more policy or legal work is required.

Part Two is a *Governance Self-assessment* so a community can assess the effectiveness of its current governing and administrative structures. Part Three, which I think is the most important part, is a *Guide to Community Engagement: Navigating Our Way Through the Post-Colonial Door* – our approach takes a classic community development perspective. [The three parts of the BCAFN Governance Toolkit can be found in its entirety on the BCAFN website (www.bcafn.ca)].

Interestingly, at the January 11th meeting with the Prime Minister, he asked if we had solutions. Indeed he challenged us that he wanted to hear solutions. And, of course, we gave him some. Not all, and certainly not all worked though, but solutions were discussed. And will continue to be discussed and acted upon.

Today, there are now in fact, over 40 former *Indian Act* bands that are self-governing within Canada and dozens more involved in some form of governance reform – whether sectoral or comprehensive. In BC, over 70% of our Nations are involved in governance reform based on the solutions they have found or are developing.

As previously mentioned, it is troubling that during this transition period as we move away from governance under the *Indian Act*, and despite the Prime Minister asking for solutions, Canada seems insistent on redesigning our governance for us. This, also despite the fact, we need to undertake this work ourselves for it to be legitimate. Here, I am, of course, talking about the recent government sponsored legislation dealing with matters such as accountability and transparency, safe drinking water, matrimonial real property and so on. To be clear, any solution that purports to design or impose governance structures on our Nations will ultimately fail if they are not seen as legitimate in the eyes of our people.

In my own community of We Wai Kai, when the federal accountability legislation was first introduced almost two years ago as a private member's bill [now Bill C-27], we discussed how this piece of legislation only addressed one small aspect of political accountability and financial administration and really highlighted the need for our own community to take back control of the agenda and establish our own laws with respect to financial administration and accountability to our citizens. Something many of you will certainly appreciate.

From working in my own community, though, it was clear that it was 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 citizens 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 or nothing governing our own sources of revenues unless we take control.

As a result of this conversation in my community we decided to develop a financial administration law, under the *First Nations Fiscal and Statistical Management Act* (one of the sectoral governance initiatives now available to our Nations, developed by our Nations) – a financial administration law far more comprehensive and useful than what the proposed accountability act will achieve and, more to the point, legitimate in the eyes of my community.

Moving forward with governance reform, each of the 590 plus communities that are still *Indian Act* bands, either individually or in tribal groupings, will need to go through a local process of deconstructing their own *Indian Act* reality and rebuild their community

and government collectively. In short, we need to complete the process of decolonization.

As leaders it is our challenge and responsibility to work to ensure that when our citizens direct change and when our Nations are ready, that Canada does not act as gatekeeper to our liberation and restrict opening up that post colonial door – so commensurate with our human and Aboriginal rights – we may walk through it – not as assimilated but as self-determining peoples. Canada, the provinces and Canadians generally must be willing partners and support our individual healing and Nation rebuilding agenda.

It is, of course, not realistic to expect that each of our small communities, for the most part *Indian Act* bands, would be able to reinvent themselves and assume jurisdiction over the full range of subject matters that ultimately need to be governed or administered. Nation rebuilding, therefore is, and will, continue to occur at a level also beyond the band – typically as an aggregation of bands at the tribal level.

In some cases it may involve Nations opting to use existing institutions and structures of government within Canada – whether federal, provincial or Aboriginal. In other cases new institutions will probably need to be established.

For example, it is probably not feasible that each community will design curricula, certify teachers or set standards for education and that some form of broader institutional support is required. In BC, we are doing this work through a First Nations Education Steering Committee. Likewise, with respect to health we are doing this work through our First Nations Health Council and the First Nations Health Authority. These institutions are all governed by our Nations working collectively together.

What is important from these examples is that as our individual Nations take on governance responsibility and exercise their rights, commensurate with their size and capacity, that there is institutional support and, where so desired, the ability to delegate authority to these bodies and aggregate. There are, in fact, in addition to provincial First Nation institutions, now a number of national First Nations' institutions providing support to our Nations and in some cases even providing regulatory functions. For example, the Financial Management Board – an institution that many of you are intimately familiar with – being a shared governance body where your organization, the AFOA, appoints three of the Board members.

In developing the Governance Report as part of the BCAFN Governance toolkit, it became clear to us – although it may come as a surprise to some Canadians – that we still need a simple legal mechanism in Canada for an *Indian Act* band to re-constitute itself as a self-governing nation that is both legitimate in the eyes of its citizens and recognized by other governments. Developing such a mechanism was

recommended by the Royal Commission on Aboriginal Peoples and in numerous other reports and studies. There have even been attempts at legislative reforms – either Constitutional or otherwise – all failed for a variety of reasons. Finding a practical mechanism to facilitate our exit from the *Indian Act* is long overdue and an idea whose time has come.

This is why as one of our proposed solutions we have, through the BCAFN, developed with our friends in the Senate, private member's Bill S- 212 – *An Act providing for the recognition of Self-governing First Nations of Canada*. The Bill is currently at second reading in the Senate.

Bill S-212 provides that where, at their choice, a First Nation, or group of First Nations, develops its own Constitution that has been ratified by its citizens, Canada would be required legally to "recognize" that Nation as "self-governing." Following recognition Canada would then be required to enter into inter-government negotiations with respect to that Nation's law-making powers and a new fiscal relationship.

Developing S-212 was no small undertaking. However, it cannot be considered to be in its final form and there is still work needed to improve it and ensure that the Bill satisfies the needs of our Nations – this will be a requirement for more concentrated discussion. Bill S-212 should now be studied thoroughly, debated across the country, and as required amended.

When we developed the Bill we were, of course, under no illusion that the government would actually support it. It is not, after all, a

government sponsored initiative. We also expected opposition from some First Nations. For me, because S-212 was drafted taking into consideration our Nations' experiences with self-government, it represents our best collective thinking on the issues at this time and an important step in the right direction. Regardless, and whether or not, as amended, it ultimately becomes law in this, or a future Parliament, it stands out today, at this time, as a legitimate challenge to the federal government's current neo-colonial legislative agenda for our peoples that seeks to tinker around the edges of the *Indian Act* and design our post-*Indian Act* governance for us.

Ultimately, it is my hope that self-government recognition legislation will support, in a meaningful way, the extraordinary efforts of our First Nations across the country to build strong and appropriate governance and support their efforts to move through the post-colonial door.

To move our Nation rebuilding agenda forward for all First Nations will take leadership, by both Canada and by our Nations. And we can no longer simply say it is too difficult or too big a task if we are serious about improving the lives of our people.

In conclusion, our relationships are many and operate at many different levels – this morning I have only really focused on our political relationships – both amongst ourselves and with Canada.

The challenge though I want to leave all of you with, regardless of what official role you may have in your community, and regardless if you

answered "yes" or "no" to whether you would vote in favour or against self-government in your community and moving beyond the *Indian Act*, is to ask yourself "what can I do to make a difference and to take action locally and regionally to advance the cause of Nation rebuilding?"

Ask yourself, what role can I play? It could be as simple and significant as making a point of informing yourself and your family about the issues and the options for change, to perhaps even taking the lead in being part of that change? Not simply as part of *Indian Act* band politics – but to engage in the deep conversations and relationship building with community on something that to take place in each and every one of our villages, across the kitchen table and in our band halls.

For me this is what Idle No More really means. Not simply a protest movement of disaffected angry young men and women – but people who want to build – the true 'grass roots' whose voices for far too long have been ignored or overpowered – the voices of yours and my neighbour next door back home. Or perhaps the person who moved away from home because they could not stand the band politics or could not get a job or house? Or the woman who was not welcome because she married a non-native and was no longer considered an *Indian Act* Indian by the government and consequently her own people?

If Idle No More is to have a lasting influence, achieve tangible results and be an effective movement for change its focus must shift from

simply protesting government to actually rebuilding our Nations. We need to harness this moment and the energy of our people and support the hard work we all know needs to be undertaken back home. We need to embrace the call for change and build on it by focussing the energy where it is most needed.

Ultimately it is only our citizens that can bring us back as close as possible to the relationship that was envisioned by the wampum belt. While this may be the greatest challenge we face, it also our greatest opportunity.

Gilakas'la.