



Coast Salish Development Corporation

"Power in Numbers 2013"

**Unlocking Our Economic Potential:
Moving Beyond the *Indian Act***

**Regional Chief Jody Wilson-Raybould
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Check against delivery.

Gilakas'la. Greetings to each of you. My name is Jody Wilson-Raybould. My traditional name is Puglaas. I come from the Musgamagw-Tsawateneuk/Laich Kwil Tach people, part of the Kwakwaka'wakw, the Kwakwala speaking people from just north of here on Vancouver Island. I live in my community of Cape Mudge on Quadra Island with my husband Tim.

I am pleased to be participating in the 2nd Power in Numbers event put on by the Coast Salish Economic Development Corporation and thank you all for coming here today.

Our people are in a profound period of transition and of Nation-building or rebuilding and we are, in fact, making economic progress as witnessed by many of your achievements, opportunities and by virtue of the fact you are hosting this gathering.

It is not widely known but a significant economic transformation has already begun. The economists at TD with the support of the Canadian Council of Aboriginal Business, estimates that the combined income of Aboriginal households, business and government sectors reached \$24 billion in 2011. Double the \$12 billion tally recorded in 2001. By 2016, they estimate this overall economic pie could eclipse \$32 billion – or

roughly 50% above the estimate in 2012. If achieved, the total Aboriginal income would be greater than the GDP of Newfoundland and Prince Edward Island combined. This is good news. We are trending in the right direction.

Of course though, there is still much more that we can and must do. Any optimism and progress is overshadowed by the deplorable conditions faced in many of our Nations – particularly in the north – where such encouraging growth numbers mean nothing to people living with crippling poverty and facing desperation. This is totally unacceptable in a country as rich such as Canada. We need to find ways to ensure no Nation is left out or behind and that all our peoples are supported – including those that are already on the path to a more prosperous future but aspire to do even better.

Taking action to strengthening First Nation economies will certainly help. It will strengthen the Canadian economy and provide opportunities for not only our people but also for other Canadians – opportunities for First Nations' businesses and non-Aboriginal businesses – locally, regionally, nationally and, indeed, internationally.

While all orders of government in Canada have important roles to play in helping rebuild First Nations' economies, it is our governments, First Nations' governments, who arguably have the greatest role – and not just with respect to our reserve based economies, but beyond. But we need the tools to do it.

While Canada is still emerging out of one of the worst global recessions in modern history and as Countries brought in so called "stimulus packages" many of our Chiefs have reflected that their Nation's economies had been in a state of recession for years and in need of stimulus. This was a statement about the health of the majority of First Nations' economies and the lack of participation by our own people in our own economies and within the broader Canadian economy generally.

For our peoples, however, stimulus is not just about the need for money. One of the biggest stimuluses' for us must be governance reform.

All the evidence shows that societies that govern well simply do better economically, socially and politically than those that do not. Good governance increases societies' chances of meeting the needs of its

peoples and developing sustainable long-term economic development. Ours are no different.

Economic health and creating the right environment to support and attract investment is significantly impacted by the type of policies and the laws made by governments and the politics of that government. Something, I am sure, you all appreciate.

Your businesses and companies no doubt support a government that understands what is needed for your companies to compete in a global marketplace. You support and donate to the political parties of your choice and you can influence public policy in many ways. Within this world of politics and economics non-Aboriginal government is already well-established with a legal framework that has been developed over hundreds of years reflecting the will of the people and the policy and priorities of those who influence and control the government. Today Canadians often take for granted our modern market economy and the legal and political framework that underpins and supports it.

Turning now to the governments of the people whom I represent...

First Nations' governments are not like other governments in Canada. Our system of government is in a state of transition. For years we have been under federal administrative authority and tutelage and our people and our economies have been governed separate and apart from non-Aboriginal Canada through the *Indian Act*; neither an appropriate framework for First Nation's people – nor for any people for that matter. The rules are antiquated or non-existent and our peoples are basically wards of the state unable to make basic decisions without federal oversight – either collectively through the band councils or individually as private citizens.

Thankfully, however, this, too, is all changing – but not fast enough. And why is this changing? Because there are people – Aboriginal leaders, federal and provincial politicians, business people – that have supported legislative initiatives to replace the *Indian Act*. They have supported the negotiation of governance as part of modern land claims or in the context of pre-existing treaties to facilitate the transition from *Indian Act* government to appropriate government for today's world. Government, where a First Nation so chooses, that is supportive to private sector investment.

Of course, I could tell you stories about how non-Aboriginal government was dragged, kicking and screaming, to the negotiation table, either through political lobbying or litigation. However, today there is a general consensus that supporting First Nations' developing strong and appropriate governance is simply the right thing to do. And why is it the right thing to do? Because Canada's economy and First Nations, and our collective futures, are intertwined.

In order for First Nations' people to make the most of untapped opportunities on existing reserve lands and contribute to the broader economy the system of government and the legal framework needs to be changed from the ground up. But this is also true for off-reserve and within the traditional territories of our First Nations – within a treaty territory or a territory of un-extinguished Aboriginal title.

The Courts have established a principle that the Crown must consult and accommodate First Nations where Aboriginal title and rights, including treaty rights, are impacted. This is changing the way non-Aboriginal governments, and by implication, industry deals with First Nations. Here in BC, it is almost next to impossible for a significant development to take place within the traditional territory of a First Nation without meaningful involvement with the First Nations. So for

government and industry it begs the question "With whom do you consult and perhaps enter into a reconciliation or accommodation agreement?" And when business or industry so desire, "With whom do you enter into a business relationship or perhaps a benefits agreement?"

In the absence of appropriate governance at the First Nations or tribal level it is not only difficult to know with whom you are expected to do business but also whether the political and legal structure of the group you are dealing with has the authority and/or political legitimacy to engage with you. A serious problem for First Nations if we are to take advantage of opportunities and develop our economies on-reserve, but also now, a serious problem for the Crown and industry that want to engage in development generally within our traditional territories.

To put it another way, the very limitations of *Indian Act* reserve based government that hindered the ability of our Nations to develop economies on our reserve lands are now the same impediments to engaging with industry and businesses off reserve within our broader traditional territories and therefore impacting the broader economy.

So what are we doing about this?

In our province, I was re-elected last November to a second term as BC Regional Chief of the AFN on a "*Building on OUR Success*" platform that focuses on four interrelated areas: (1) the establishment of strong and appropriate governance; (2) fair land and resources settlements (a huge issue in BC where we do not have settlements); (3) Education; and, (4) individual health. The last two are in recognition that we cannot take advantage of opportunities if we do not have a healthy and well educated citizenry.

My focus here today is on the first pillar "strong and appropriate" governance. For real change to occur in a meaningful and broad way, all our communities must go through their own process of local transformation, healing, rebuilding, call it what you may. Our colonial period must officially end.

This is a process that cannot be dictated by the federal government or any other external organization. Change will not be initiated through federal civil servants or bureaucrats however well meaning. At its core this is a political process of change that starts with us, First Nations. Change will come from the people who are directly and significantly affected. This means the citizens of our communities, the business

leaders who have a mutual interest in seeing stable and appropriate government and other Canadians.

It will, of course, require continued federal government and where appropriate provincial government support. And there will be need for future legislation. This is a mammoth task and not one to be undertaken lightly. There are 633 First Nations or Bands in Canada and 203 in B.C.

Although it has been recommended in numerous reports, commissions and studies there is, you may be surprised to discover, no simple mechanism in Canada for the citizens of a First Nation to remove themselves from being governed under the *Indian Act* when they are ready, willing and able to do so. Where its citizens want to take back responsibility for the accountability of their own government and have designed their own institutions of that government.

Today, outside of a successful court challenge, if a First Nation wants to be recognized as self-governing outside of the *Indian Act* and re-establish its core institutions of governance and exercise jurisdiction (make laws), it has to ask, and then be accepted, by Canada to negotiate its post-*Indian Act* world. While there are a number of

sectoral governance initiatives along a governance continuum – dealing with the exercise of a particular jurisdiction such as lands or our regional educational initiative in BC – there is no simple mechanism available to support a First Nation governing outside of the restraints of the *Indian Act*.

To fill this gap, with the help of our friends in the Senate, we have developed such a mechanism, Bill S-212 *An Act providing for the recognition of self-governing First Nations of Canada* – a public member's bill which builds on previous proposals that have been introduced into parliament in the past but for many reasons failed to become law. While there is little chance our Bill will become law this Parliament – it is not a government sponsored Bill and, in any case, the current Parliament will probably perogue in June – we hold out hope that it will become law in the future.

The Act would provide that, at their option, individual bands, either individually or in aggregations, would develop their own self-government proposal which would include the Nation's constitution and, once ratified by their citizens, would require Canada to recognize that Nation's post-*Indian Act* government.

The powers of a 'recognized First Nation' would be similar to the powers of the current self-governing First Nations where the law-making powers or jurisdictions could be drawn down by the Nation over time. The legislation would also establish a new fiscal relationship between the recognized First Nation and the Crown.

With the foundation of good governance in place, including an accountability framework, sorting out the more complex questions of inter-governmental relations and concurrent jurisdiction would be on-going for the recognized First Nation. But the basis for this on-going work would be grounded in the knowledge that the institutions of good governance are in place and, most importantly, legitimate in the eyes of their citizens.

How to engage citizens and deconstruct the current *Indian Act* reality to move forward and become self-governing whether recognized or not, is no easy task. This is why at the BCAFN we have developed a "Governance Toolkit" that includes a comprehensive report on the current options for our Nations to move beyond the *Indian Act* and what our Nations are actually doing in BC on the ground – sharing our stories. Our toolkit also includes a self-assessment tool and a guide to community engagement. Our approach is classic community

development and addresses how to deal with the symptoms of colonization – dependency, alienation, apathy and powerlessness – and the fear that our citizens have of change and the lack of trust in their own government and the governments of others. This approach, in my opinion, is, in my opinion, the only proven way forward and any top-down approach by Canada, or in fact our own First Nation institutions, to impose solutions will continue to be rejected.

While our peoples still have many hurdles to surmount – both as individual Nations and collectively to create the space for governance reform – I am optimistic and confident in the knowledge that we are well on our way. Self-government recognition legislation would, I believe, focus the energy on community development work and decolonization and not on negotiating self-government with the Crown. So our people can undertake the much harder and more difficult work of building community trust and consensus and rebuilding governance where the citizens themselves are empowered to work through their own issues, find the solutions and take responsibility for implementing them.

My hope is that all our Nations will undertake a self-assessment and that in doing so help communities begin the process of transformation

if they have not already started, or if they have, refine their plan. So that our leaders and our citizens with the support of their staff, can begin the process of deconstructing their current *Indian Act* reality and begin laying a path for post-*Indian Act* governance building the institutions they need to govern and make decisions. It is my vision that every community will be able to have this conversation and begin moving forward with their own post-colonial "exit" strategy.

This will take work – it will take leadership. It will also take financial resources. And it is here that the business community can help us with an opportunity to invest in the rebuilding of our governments where doing so will undoubtedly create a better business climate on-reserve, and provide certainty off-reserve.

So I would ask all of you here today, if not already doing so, to look at ways that your companies and your organization can support the establishment of strong and appropriate governance in our communities in addition to simply looking at going into business with us. Of course I know many of you already do and are helping in many different ways. Thank you.

This is also a call to our First Nation business leaders. You too, of course, have a continued role to play in ensuring our governments – your government – are properly constituted and run well. Whether you are a private citizen either conducting business within your own Nation or another Nation, or whether you work for a Nation-owned business.

In closing we all have a role to play and an interest in supporting First Nations during this transition period and to help ensure the conversations that are needed in our communities take place. To me this is what Idle No More truly means – not simply a protest movement against the actions of the federal government, or indeed our own governments, but rather a call to action for our people to direct the change and support their communities to move through what I like to call the post-colonial door.

And finally, in moving forward with governance reform to support economic development, we must never lose sight of the underlying objective. Economic development and business success is not the end in itself but is rather a means to an end. That end being healthier and more prosperous First Nations' communities with our people enjoying an improved quality of living with practicing and thriving cultures.