

APPENDICES



All four carved pieces of art are displayed in the boardroom of the Skeena Native Development Society. We are extremely grateful and acknowledge all the artists for their contribution in keeping our culture alive as well as to their contribution to this publication.

APPENDIX A

Assessing Stakeholder Interests in Prosperity and Cultural Well-being

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Introduction

The identification of pathways to prosperity and cultural well-being is central to the achievement of mastery in one's own house, the objective of economic development for First Nations people. However, the realization of such a success within the constraints of a modern economy is a necessarily socioeconomic process in that the interests of many parties to a transaction must be identified, addressed and satisfied. Especially when considering the issue of on-reserve property rights as a precondition to effective transacting, the inevitable question arises: to what extent do the property rights presently available to First Nations people on-reserve satisfy the interests of the stakeholders in prosperity and cultural well-being within the First Nations community?

This paper summarizes the conceptual tools available to answer the foregoing question, as this answer has been suggested and tested within the field of stakeholder research (Mitchell, Agle, Wood, 1997¹; Agle, Mitchell, Sonnenfeld, 1999). This approach suggests that the identification of "who or what really counts" (Freeman, 1994) with respect to an issue such as on-reserve property rights will rest, first, upon the assumption that people who want to achieve certain objectives pay particular kinds of attention to various classes of stakeholders; second, that peoples' perceptions will dictate stakeholder salience (the degree to which people give priority to competing stakeholder claims); and, third, that the various classes of stakeholders might be identified based upon the possession, or the attributed possession, of one, two

¹ Some of the definitions and logic within are paraphrased or cited from this article.

or all three of the attributes: **power**, **legitimacy** and **urgency**. These three attributes have been shown to be critical to the stakeholder identification process. The discussion that follows focuses on this third assumption: the identification of various classes of stakeholders (and, by extension, the kinds of attention needed to address and satisfy their claims), using power, legitimacy and urgency as the identifying attributes.

Defining Stakeholder Attributes

In this section, power, legitimacy and urgency are defined.

Power. Most current definitions of power define it to be “the probability that one actor within a social relationship would be in a position to carry out his own will despite resistance” (Weber, 1947). Thus, power is “a relationship among social actors in which one social actor, A, can get another social actor, B, to do something that B would not otherwise have done” (Pfeffer, 1981: 3). While at times power can be tricky to define, it is not that difficult to recognize: “power is the ability of those who possess it to bring about the outcomes they desire” (Salancik & Pfeffer, 1974: 3).

Etzioni (1964: 59) suggests a logic for the more precise categorization of the bases of power, centred on three types of resource used to exercise it: (1) *coercive* power, based on physical resources of force, violence, or restraint from same; (2) *utilitarian* power, based on material or financial resources; and (3) *normative* power, based on symbolic resources. Etzioni explains these types of power as follows:

- 1) Control based on application of physical means is described as *coercive power*. The use of or threat to use a gun, a whip or a lock is physical since it affects the body (the threat to use physical sanctions is viewed as physical because the effect on the subject is similar in kind, though not in intensity, to the actual use).
- 2) The use of material means for control purposes constitutes *utilitarian power*. Material rewards consist of goods and services. The granting of symbols (e.g. money), which allow one to acquire goods and services, is classified as material because the effect on the recipient is similar to that of material means.

- 3) The use of symbols for control purposes is referred to as *normative, normative-social or social power*. Pure symbols are those whose use does not constitute a physical threat or a claim on material rewards. These include normative symbols, those of prestige and esteem (e.g. fame or shame), and social symbols such as love and acceptance. (When physical contact is used to symbolize love or material objects to symbolize prestige, such contacts or objects are viewed as symbols because their effect on the recipient is similar to that of “pure” symbols.)

A party to a relationship has power, therefore, to the extent it has or can gain access to coercive, utilitarian or normative means to impose its will in the relationship. Please note, however, that this access to means is a variable, not a steady state, which is one reason why power is transitory—it can be acquired as well as lost.

Legitimacy. Legitimacy is defined to be “. . . a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman, 1995: 574). Suchman’s definition of legitimacy applies to many levels of analysis, the most common of which are the individual, organizational and societal (Wood, 1991). This definition suggests that legitimacy may be socially constructed: a desirable social good that is something larger and more shared than a mere self-perception and that may be defined and negotiated differently at various levels of social organization. Legitimacy can also be normatively constructed: the result of values and norms established within communities or of such self-evident moral force that these values and norms are generally accepted across many communities (Donaldson & Dunfee, 1999).

Urgency. Urgency is defined by the Merriam-Webster Dictionary as “calling for immediate attention” or as “pressing.” Urgency (with synonyms including compelling, driving and imperative) only exists when two conditions are met . . . first, when a relationship or claim is of a time-sensitive nature and, second, when that relationship or claim is important or critical to the stakeholder. Thus, urgency is based on the following two attributes: (1)

time sensitivity – the degree to which delay in attending to the claim or relationship is unacceptable to the stakeholder, and (2) criticality – the importance of the claim or the relationship to the stakeholder. Urgency is the degree to which stakeholder-important claims call for immediate attention. And it is for this reason that, when urgency is present as a stakeholder attribute, the dynamism of that stakeholder’s relationships within the larger stakeholder system is likely to be significantly increased.

Defining Types of Stakeholders

Eight stakeholder classes result from the various combinations of these attributes, as shown in Figure 1.

FIGURE 1
Types of Stakeholders

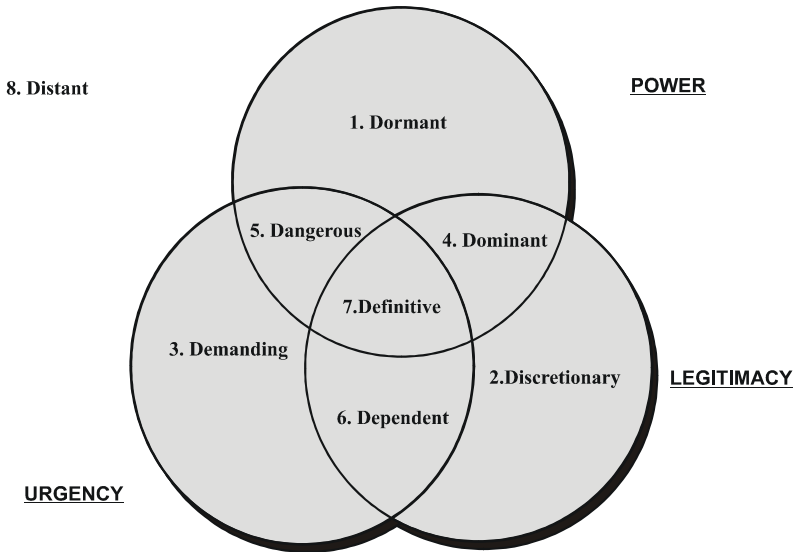


Figure 1 shows the stakeholder types that emerge from various combinations of the attributes of power, legitimacy and urgency. Logically and conceptually

ally, seven types are derived:

- three possessing only one attribute,
- three possessing two attributes, and
- one possessing all three attributes.

According to this model, entities with no power, legitimacy or urgency in relation to the stakeholder system are not stakeholders and will be perceived as having no salience, being “distant” from the issue at hand.

The low salience classes (areas 1, 2 and 3) which are termed “latent” stakeholders are identified by their possession, or attributed possession, of only one of the attributes. The moderately salient stakeholders (areas 4, 5 and 6) are identified by their possession, or attributed possession, of two of the attributes and, because they appear to be stakeholders who “expect something,” are referred to as “expectant” stakeholders. The combination of all three attributes (including the dynamic relations among them) is the defining feature of highly salient stakeholders (area 7).

This section continues with an analysis of the stakeholder classes that the above model identifies, with special attention to the implications of the existence of each stakeholder class for a given issue or stakeholder claim. Each class has been given a descriptive name to facilitate discussion, recognizing that the names are less important than the theoretical types they represent.

As Figure 1 illustrates, latent stakeholders are those possessing only one of the three attributes and include dormant, discretionary and demanding stakeholders. Expectant stakeholders are those possessing two attributes and include dominant, dangerous and dependent stakeholders. Definitive stakeholders are those possessing all three attributes. Finally, individuals or entities possessing none of the attributes are non- or potential-stakeholders which are distant from the stakeholder system related to a given issue or claim.

Latent Stakeholders

With limited time, energy and the other resources needed to track stakeholder behaviour and to manage relationships, people may well do nothing about

stakeholders that they believe possess only one of the identifying attributes, and may not even go so far as to recognize their existence. Similarly, latent stakeholders are not likely to give any attention or acknowledgment to others in the more active portions of the stakeholder system. In the next few paragraphs, the reasoning behind this expectation as it applies to each class of latent stakeholder is explained and the implications are discussed.

Dormant Stakeholders. The relevant attribute of a dormant stakeholder is power. Dormant stakeholders possess power to impose their will on a stakeholder system but, by not having legitimate relationship or an urgent claim, this power remains unused. Examples of dormant stakeholders are plentiful. For example, power is held by those who have a loaded gun (coercive), can spend a lot of money (utilitarian) or who can command the attention of the news media (symbolic). However, dormant stakeholders have little or no need for interaction within the stakeholder system because of the absence of both legitimacy and urgency. Yet because of their potential to acquire one of these as a second attribute, people should remain cognizant of dormant stakeholders because the dynamic nature of stakeholder relationships suggests that dormant stakeholders will become more salient if they acquire either urgency or legitimacy.

Though difficult, it is oftentimes possible to predict which dormant stakeholders may begin moving towards salience. For example, while employees who have been fired or laid off from an organization could be considered to be dormant stakeholders by a firm, experience suggests that these stakeholders can seek to exercise their latent power. The shootings at postal facilities by ex-U.S. mail employees (coercive), the filing of wrongful dismissal suits in the court system (utilitarian) and an increase in “speaking out” on talk radio (symbolic) are all evidence of such combinations.

Discretionary Stakeholders. Discretionary stakeholders possess the attribute of legitimacy, but have no power to influence the stakeholder system and have no urgent claims. The key point regarding discretionary stakeholders is that, in the absence of power and urgent claims, there is absolutely no pressure to engage in an active relationship with such a stakeholder although people can choose to so actively engage. Examples of discretionary stakeholders include the beneficiaries of people’s respect (e.g. due to age or accom-

plishment), or also of philanthropy such as from the agencies funded by the United Way or from church or government welfare programs.

Demanding Stakeholders. Where the sole relevant attribute of a relationship is urgency, the stakeholder is described as demanding. Demanding stakeholders, those with urgent claims but neither power nor legitimacy, are the “mosquitoes buzzing in the ears” of decision-makers: sometimes irksome but not dangerous, perhaps bothersome but not garnering more than passing attention, if any at all. Where stakeholders are unable or unwilling to acquire either the power or the legitimacy necessary to move their claim into a more salient status, the “noise” of urgency is insufficient to project a stakeholder claim beyond ineffective latency. For example, a lone millenarian picketer who marches outside the headquarters with a sign that says, “The end of the world is coming! Acme chemical is the cause!” might be irritating to Acme, but the claims of the picketer are likely to remain largely unconsidered by the other stakeholders of Acme.

Expectant Stakeholders

The potential relationships between other members of a stakeholder system and stakeholders with two of the three identifying stakeholder attributes represent a qualitatively different (more engaged) zone of salience. Thus, in analyzing the situations in which any two of the three attributes: power, legitimacy and urgency, are present, one cannot help but notice the change in momentum that characterizes this condition. Whereas “one-attribute” low-salience stakeholders are anticipated to have a latent status in the stakeholder system, “two-attribute” moderate-salience stakeholders are seen to be “expecting something” because the combination of two attributes leads the stakeholder to an active versus a passive stance, with a corresponding increase in stakeholder system responsiveness to the stakeholder’s interests. The three expectant stakeholder classes (dominant, dependent and dangerous) are described below.

Dominant Stakeholders. In the situation where stakeholders are both powerful and legitimate, their influence in the stakeholder system is assured since, by possessing power with legitimacy, they form a part of the “domi-

nant coalition” in the enterprise (Cyert & March, 1963). These stakeholders are labeled dominant in deference to the legitimate claims they have upon the stakeholder system and their ability to act on these claims (rather than as a forecast of their intentions with respect to the stakeholder system: they may or may not ever choose to act on their claims). It seems clear that the expectations of any stakeholders perceived to have power and legitimacy will “matter” to others within the stakeholder system.

Thus, we might expect that some formal mechanism will be in place to acknowledge dominant stakeholders and the importance of their relationships within the stakeholder system. For example in the private sector, organizational boards of directors generally include representatives of owners, significant creditors and community leaders, and there is normally an investor relations office to handle ongoing relationships with investors. Most corporations have a human resources department which acknowledges the importance of the firm-employee relationship. Public affairs offices are common in stakeholder systems that depend on maintaining good relationships with government and communities. In addition, organizations produce reports for legitimate, powerful stakeholders, including annual reports, proxy statements and, increasingly, environmental and social responsibility reports. Dominant stakeholders, in fact, are just those stakeholders that so many people think of as the *only* stakeholders. But, just because dominant stakeholders expect and receive much attention, they are by no means the full set of stakeholders.

Dependent Stakeholders. Stakeholders who lack power but who have urgent legitimate claims are characterized as dependent because these stakeholders depend upon other stakeholders within the stakeholder system for the power necessary to address their claims. Because power in this relationship is not reciprocal, its exercise is governed either through the advocacy or guardianship of these other stakeholders. However, dependency upon others for advocacy or guardianship can produce a variety of problematic responses, including (non-exhaustively) resentment, disengagement, activism or open hostility. Thus, membership in the dependent class of stakeholders is often non-permanent since dependent stakeholders (possessing urgency) tend to seek the missing definitive element: the power necessary to address their needs.

One such example is the case of the giant oil spill from the Exxon Valdez in Prince William Sound where several stakeholder groups were dependent (had urgent and legitimate claims, but had little or no power to actually satisfy their claims). To be able to satisfy their claims, these dependent stakeholders had to rely on the advocacy of other, powerful stakeholders. Included in this category were local residents, marine mammals and birds and even the natural environment itself (Starik, 1993). For the claims of these dependent stakeholders to be satisfied, it was necessary for “dominant” stakeholders, the Alaska state government and the court system, to provide guardianship of the region’s members, animals and ecosystems. Here a dependent stakeholder moved into the most salient (definitive) stakeholder class by having its urgent claims adopted by dominant stakeholders, illustrating the dynamism that can be effectively modeled using the principles of stakeholder identification and salience suggested herein.

Dangerous Stakeholders. Where urgency and power characterize a stakeholder who lacks legitimacy, this stakeholder is likely to be coercive and possibly violent, making that stakeholder literally “dangerous” to the stakeholder system and its members. “Dangerous” is suggested as a descriptor because the use of coercive power often accompanies illegitimate status.

Examples of unlawful, yet common, attempts at using coercive means to advance stakeholder claims (which may or may not be legitimate) include wildcat strikes, employee sabotage and terrorism. For example, in the 1970s, General Motors’ employees in Lordstown, Ohio, welded pop cans to engine blocks to protest certain company policies. Other examples of stakeholders using coercive tactics include environmentalists’ spiking trees in areas to be logged and religious or political terrorists who use bombings, shootings or kidnappings to call attention to, or to illegitimately enforce, their claims. The actions of these stakeholders are not only outside the bounds of legitimacy; they are often dangerous to all concerned.

(Note: It is important to recognize that many responsible individuals are very uncomfortable with the notion that those whose actions are dangerous, both to stakeholder system relationships as well as to life and well-being, might be accorded some measure of legitimacy by virtue of the typology proposed in this analysis. Notwithstanding this discomfort, however, of even more concern is that failure to

identify dangerous stakeholders would result in missed opportunities for mitigating the dangers and in lower levels of preparedness where no accommodation is possible. Further, to maintain the integrity of this approach to better understand stakeholders, it is essential to “identify” dangerous stakeholders without “acknowledging” them. It is safe to say that most people abhor their practices. However, society’s “refusal to acknowledge” dangerous stakeholders after their “identification” is an effective counteragent in the battle to maintain civility and civilization by counteracting terror in all its forms. Identification of this stakeholder class supports this tactic.)

Definitive Stakeholders

Since “salience” is defined as the degree to which people give priority to competing stakeholder claims, it is to be expected that stakeholder salience will be high where all three of the stakeholder attributes (power, legitimacy and urgency) are perceived by managers to be present. By definition, a stakeholder exhibiting both power and legitimacy will already be a member of a stakeholder system’s dominant coalition. When such a stakeholder’s claim is urgent, then a clear and immediate mandate is created to attend to, and give priority to, that stakeholder’s claim. Hence, the most common occurrence of this phenomenon is likely to be the movement of a dominant stakeholder into the definitive category.

For example, in the private sector in 1993, stockholders (dominant stakeholders) of IBM, General Motors, Kodak, Westinghouse and American Express became active when they felt that the managers of these companies were not serving their legitimate interests. A sense of urgency was engendered when these powerful, legitimate stakeholders saw their stock values plummet. And, because top managers did not respond sufficiently or appropriately to these “definitive” stakeholders, management was removed, thus demonstrating in a general way the importance of an accurate perception of power, legitimacy and urgency, the necessity of acknowledgment and action that salience implies and, more specifically, the consequences of the misperception of, or inattention to, the claims of definitive stakeholders.

Any expectant stakeholder can become a definitive stakeholder by acquiring the missing attribute. As we saw earlier, dependent Alaskan citizens became

definitive stakeholders of Exxon by acquiring a powerful ally in government. Likewise, the formerly dangerous African National Congress became a definitive stakeholder of South African companies when it acquired legitimacy by winning free national elections.

Kinds of Attention Needed

The foregoing discussion suggests a highly practical and conceptually consistent approach to the identification of stakeholders and to the evaluation of their salience within the stakeholder system. The next step is to understand the likely kinds of attention that each class of stakeholder requires². In the following paragraphs, some likely suggestions are offered.

Latent Stakeholders

- 1. Dormant.** The key attribute of a dormant stakeholder is power. Dormant stakeholders possess the power to impose their will on an organization but, by not having (or exercising) legitimate standing or an urgent claim, they remain “sleeping giants.” Dormant stakeholders are expected to have a “latent” relationship with other members within the stakeholder system.

Kinds of attention needed:

Proactive members of a stakeholder system will want to be aware of every dormant stakeholder and to monitor their behaviour in some low-effort way against the day when the acquisition or exercise of legitimate standing or an urgent claim will propel these dormant stakeholders into a more salient stance in their relationships within the stakeholder system.

- 2. Discretionary.** Discretionary stakeholders possess the attribute of legitimacy but have no power to influence the stakeholder system and no reason for urgency in their relationships within the stakeholder system: their claims may be seen by them as a “good cause” but it is likely to be one that is “latent” in the minds of everyone else.

² *Specialized assessment software is available either at the offices of the Skeena Native Development Society, Terrace, BC, or through the International Centre for Venture Expertise at the University of Victoria, Victoria BC.*

In a discretionary stakeholder relationship, there is absolutely no pressure to actively engage in that relationship or to act on discretionary stakeholder claims.

Kinds of attention needed:

The claims of discretionary stakeholders are of two types: involuntary (claims that relate to the mission of an organization or individual) and voluntary (claims unrelated to the mission of an organization or individual that nevertheless constitute respect, social benevolence or philanthropy). In areas of discretionary social responsibility, managers are encouraged to proactively respond to these claims.

- 3. Demanding.** Where the sole relevant attribute of the relationship is urgency without power or legitimacy, the stakeholder may be expected to be “demanding.” Demanding stakeholders can make a lot of “noise” without having much effect. People should be aware that, although demanding, this stakeholder is nevertheless “latent,” meaning that with only the “noise” of urgency, there is little reason to acknowledge and act on these claims.

Kinds of attention needed:

Since, by definition, demanding stakeholders have no right to attention on a particular issue, the most effective stance may be that of tolerant awareness, to ensure that changes in salience can be matched with changes in attention.

Expectant Stakeholders

- 4. Dominant.** Stakeholders that possess both power (the means and capability to impose their will) and legitimacy (a generally accepted or normatively “proper” claim) have great influence in the affairs of a stakeholder system. These stakeholders are members of the “dominant coalition” that “matter” to other members of the stakeholder system because they have legal/contractual or social/contractual authority.

Kinds of attention needed:

People generally pay close attention to the claims of dominant stakeholders, even though these claims are not urgent, because it is generally thought to be preferable, or at least prudent, to satisfy dominant stakeholders in a non-urgent setting. Thus, the wishes of dominant stakeholders are often included in formal planning.

- 5. Dangerous.** Illegitimate stakeholders who have power and urgency can be “dangerous” because, with the means and capability to act on their urgent claim, these stakeholders are expected to be coercive and sometimes even violent. It is exactly the lack of legitimate standing that can propel a powerful stakeholder with urgent claims into a violent or coercive stance.

Kinds of attention needed:

It is in the best interest of the members of a stakeholder system to carefully avoid attracting the attention, or in other ways receiving the urgent focus, of those that possess the power to materially affect the stakeholder system while lacking the moral, legal or social legitimacy to do so. In short, prudence suggests the avoidance of actions that give rise to the claims of dangerous stakeholders. When faced with the claims of apparently dangerous stakeholders, such claims should be evaluated to determine possible areas where legitimacy might exist but be previously unrecognized since the recognition of legitimacy is one means for diffusing dangerous stakeholder situations before a damaging level of power is brought into play. However, when the recognition of legitimacy involves capitulation to claims that offend the values and assumptions of stakeholders with legitimate claims, an opposite course of action should be considered: resisting through all legitimate means the claims of coercive or violent stakeholders.

- 6. Dependent.** Stakeholders that lack power but have urgent, legitimate claims are “dependent” because these stakeholders lack the control necessary to satisfy their claims and, as a result, must depend

upon other stakeholders within the system for the resources necessary to obtain the satisfaction of their claim.

Kinds of attention needed:

It is expected that dependent stakeholders will act to acquire power in their relationships within the stakeholder system. Thus, proactive members of the stakeholder system will attempt to empower dependent stakeholders whose interests coincide with, for example, an organization's mission or the mission of members of the dominant coalition within a stakeholder system and then to conscientiously assist dependent stakeholders to achieve salience. (The alternative is expected to be the rise of a definitive but hostile stakeholder class within the system.)

Definitive Stakeholders

Definitive stakeholders have “salience” in the minds of the members of the stakeholder system. Since it is the job of decision-makers within such systems to reconcile the competing claims of stakeholders, these decision makers are expected to act first on claims that most clearly or “definitively” warrant their attention. The claims of legitimate stakeholders that possess both power and urgency “define” action priorities.

Kinds of attention needed:

By definition, attending first to definitive stakeholder claims is in the best interest of all concerned. These claims should be top priority to both the proactive and the reactive decision maker because the relationship with definitive stakeholders “defines” survival prospects for the stakeholder system from which its members receive benefits. In this sense, definitive stakeholders are “primary” stakeholders—stakeholders without whose continued support the system would cease to exist (Clarkson, 1995). Therefore, the kind of attention needed is to attend to the claims of definitive stakeholders—now if possible! (Note: Where at any point in time there is more than one

“definitive” stakeholder, an assessment of the “degree” of power, legitimacy and urgency is warranted and can be accomplished using the technology developed to assist in this process (see footnote 2.)

Distant Stakeholders

Practically speaking, there are some individuals and entities that are neither materially affected by, nor are they able to materially affect, a stakeholder system. Such stakeholders are “distant,” and may, for practical purposes, be considered to be non-stakeholders.

Kinds of attention needed:

Though some stakeholders are “distant” at the moment, the dynamic nature of relationships suggests that this condition is subject to change without notice. Those decision makers who are proactive will attempt to foresee the impact of their actions on all stakeholders, realizing that the distant stakeholder of today can sometimes become the definitive, dominant or dangerous stakeholder of tomorrow.

Application of the Model to On-reserve Property Rights

As noted in Chapter 3, these deliberations have produced an extensive list of stakeholders (which it is recognized may not be exhaustive but which is nevertheless illustrative) that has been listed alphabetically as follows:

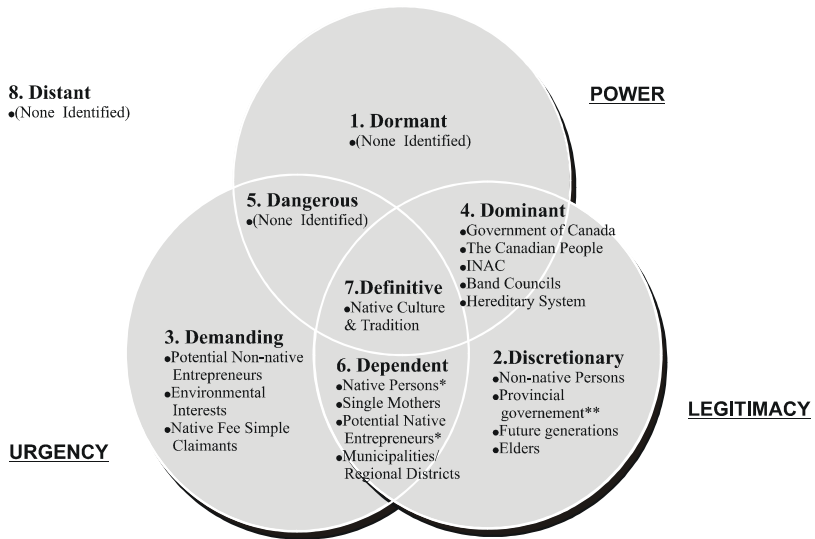
- Band councils
- Canadian people
- Department of Indian Affairs (INAC)
- Disadvantaged groups (e.g. single mothers)
- Elders
- Environmental interests
- Financial institutions
- Future generations
- Government of Canada (CMHC etc.)
- Hereditary system

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- First Nations entrepreneurs (on reserve)
- First Nations fee simple claimants
- First Nations persons (on reserve)
- Non-First Nations entrepreneurs
- Non-First Nations persons
- First Nations culture/tradition
- Provincial government
- Municipalities and Regional districts.

Through an application of the foregoing framework and definitions to this list of stakeholders that exist within the on-reserve property rights stakeholder system, the Think Tank members produced the preliminary assessment that classifies on-reserve property rights stakeholders according to the stakeholder salience model described herein, as illustrated in Figure 2.

FIGURE 2
Preliminary Classification of On-reserve Property Rights Stakeholders



* On-reserve

** With regard to On-reserve Property rights (Excluding treaty matters)

Of course, as indicated, these assessments should be viewed as preliminary: essentially as propositions that are advanced to stimulate discussion and an increased understanding among all stakeholders who affect, or are affected by, the on-reserve property rights system. As shown, each individual property right may be analyzed to ascertain the extent to which it accommodates the listed interests (i.e. the extent to which the interests of each member of the stakeholder system is salient to the property rights discussion).

It may be observed that: (1) No known participant within the on-reserve property rights stakeholder system at present can be classified as distant, dormant or dangerous, (2) Both “First Nations persons” and “First Nations entrepreneurs” are classified by the Think Tank analysis as dependent stakeholders which provides a clear rationale for the present impetus towards “Mastery in our own house,” the key focus of Think Tank deliberations, and (3) While almost all stakeholders possess legitimacy and many possess urgency, only a few have power and even fewer—only one actually: First Nations culture and tradition—has all three (due primarily, it appears, to the vigilance and activism of the past and present generations who have refused to allow First Nations culture and tradition to be disenfranchised). It is for this reason that the primary assertion of the Think Tank regarding on-reserve property rights is that a workable system of on-reserve property rights is an essential prerequisite to the achievement of prosperity and cultural well-being (Chapters 3 and 4). Whether individual or collective and whether available through the mortgaging of only leasehold interests v. through new land tenure provisions, it is clear from the foregoing analysis that, only through a process that respectfully addresses the claims of each class of on-reserve property rights stakeholder, can such rights be gained. This has suggested the thorough examination of on-reserve governance which has been addressed in Chapter 2.

Conclusion

The discussion in this paper began with the question: to what extent do the property rights presently available to First Nations people on-reserve satisfy the interests of the stakeholders in prosperity and cultural well-being within the First Nations community? The answer as it arises from the foregoing analysis is: they do not as yet. But it seems to be likely that, through uti-

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lization of the conceptual machinery of stakeholder identification and salience analysis as it applies to this issue of on-reserve property rights, the pathway to prosperity and cultural well-being that is central to the achievement of mastery in the Native House can be more effectively followed and the objective of economic development for First Nations people can more likely be achieved.

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APPENDIX A

APPENDIX B

Model First Nation Strategic Plan

(Please note: The Model Plan that follows has been provided as a template for an actual Strategic Plan to be adopted by a First Nation after due deliberation and consideration by its members. The content of this Model Plan is therefore illustrative and IS NOT PRESCRIPTIVE—“if you don’t want to use this, you don’t have to.”)

INTRODUCTION

Preamble

The strategic document presented below has been created by (insert the name of) First Nation to ensure that governance institutions created as a result of the adoption of the Prosperity Code are consistent with and continuously support “cultural well-being” as defined by this/ these community(ies).

Suggested Actions

- a) Develop a strategic plan that serves to focus economic activities and integrate them within the fabric of the community(ies).
- b) Advocate increased use of the market system and entrepreneurship and promote knowledge of and sensitivity towards the essential elements of First Nations culture (as we define them within our community(ies)).
- c) Make effective use of educational institutions to increase and maintain at a high level both the language of this First Nation and the lan-

guage of the market system and entrepreneurship.

- d) Offer every interested member of the First Nation the opportunity to gain an effective understanding of the principles of business and First Nations culture.
- e) Assure appropriate support services for those engaged both directly and indirectly in achieving the objective of prosperity and cultural well-being.

Vision

The (insert the name of) First Nation envisions a society where prosperity and cultural well-being are the tangible evidence that we are masters in our own house; and where the knowledge and encouragement necessary to create and sustain the market system and entrepreneurship on-reserve are transmitted free of borders and boundaries, and are increasingly accessible to each member of our Nation. To accomplish this, we seek to address the challenges and opportunities of the newly evolving knowledge-based economy through infusing elements of market- and entrepreneurial-thinking into appropriate aspects of education, economic life (including the natural resource economy) and the democratic governance process in a way that is consistent with and honours our culture.

Economic and Cultural Mission

Our economic and cultural mission is to offer our members the incentives and relevant skills needed to function effectively in an increasingly diverse and interdependent market system- and economic-environment. Our strategy is a process directed at providing our members the means to participate fully and successfully in a diverse and interdependent global economy, while maintaining and contributing to the cultural well-being of our Nation. Through a continued commitment to the culturally appropriate creation and healthy maintenance of the market system and entrepreneurship and the provision of resources and funding, our mission will be promoted through innovative arrangements in the following areas^A: opportunity identification

including study and exchange programs, institutional linkages, research and development projects, new business incubation and the economic and cultural professional development of entrepreneurs and on-reserve administrators.

^A *This is a sample list to be generated through the “bottom-up” consultation process.*

Essential Values

Historical background of (insert name of) First Nation

It is essential to present here a summary of the history of the First Nation that reviews its historical economy and skills, its past practices for economic development and the recent changes that have been, or are intended to be, made in governance to adopt this strategic plan.

Quality

This First Nation values quality in economic and cultural life that enhances its prosperity and cultural well-being through developing the reputation for excellence and reliability of products and services both at home and abroad, that is founded in and supported by our culture (e.g. the teachings of our elders).

Accessibility and Diversity

This First Nation values a policy where every qualified member has access to the educational and resource opportunities offered based upon performance, within the parameters of the existing policies and resources of this First Nation. This First Nation also values diversity among ideas and people where economic, gender and other structural barriers that hinder the achievement of prosperity and cultural well-being are removed.

Inclusivity and Empowerment

This First Nation values an inclusive economic and cultural process that exposes its members to different approaches to knowledge, traditions and practices from the First Nation and from around the world and encourages its members to become aware and attuned to the diversity of human experiences and outlooks. In this way, its members will widen their economic and cultural perspectives. For some, new opportunities for interaction abroad should provoke and encourage transnational collaboration and partnerships in less-advantaged as well as economically well-off countries.

Lifelong Commitment

This First Nation encourages its members to maintain their associations with and commitment to the sustainability of prosperity and cultural well-being of the First Nation throughout their lives, whether on- or off-reserve. As part of this commitment we will be sensitive to the intergenerational impacts of our economic decisions and actions.

STRATEGIC PLAN COMPONENTS¹

Opportunity Identification

Goals

- To identify the key areas of interest where our members would have or would like to acquire expertise so that “works” of value in the global marketplace can be produced.
- To locate and validate markets—pockets of “others”—in the exchange relationship who will value our products/services and be willing to enter into mutually beneficial transaction relationships.
- To be selective in our opportunity choices and focus on quality and fit with the First Nation’s cultural values.

¹ The headings within this section come from the “Economic and Cultural Mission” statement. For illustration purposes only, we have completed a sample of one such heading.

- To advocate increased international opportunity search, to encourage acquisition of different languages and to promote knowledge of and sensitivity towards foreign cultures and their political, social and national environments such that markets can be opened as suggested above.
- To strengthen and expand the delivery of the products and services of our First Nation both within and outside Canada, including twinning programs, domestic and international cooperative education placements, including apprenticeships.
- To ensure that highly skilled and qualified members of our First Nation consider the highest quality of life to exist when living on our traditional lands.

Rationale

An important indicator of the quality of First Nation's opportunities is the extent of the contribution these opportunities make to prosperity and cultural well-being. This First Nation may, for instance, collaborate to gain access to high quality opportunities in other countries, seek out the best and most interested of its members and respond to opportunities to become globally relevant. It may also seek advice and counsel from the elders to ensure that key elements of individual talent or First Nation capabilities are not overlooked in the opportunity search and identify ways that the opportunities under consideration can be undertaken without damage to, and with additional support for, the culture of this First Nation.

Strategic Direction

- For its members, this First Nation aims to expand high quality opportunities, both on-reserve and abroad.

Presently there are _____ members of this First Nation who are involved in opportunity searches that have the potential to employ at least _____ other members.

Barriers preventing more members of this First Nation from becoming involved in opportunity search include:

APPENDIX B

- Lack of understanding the market system and entrepreneurial thinking;
- Poor fit between _____ and _____;
- Its members' inadequate _____ proficiency;
- _____ problems and
- Financial barriers for its members who are prepared, but without the economic means, to undertake the search process.

Over the next (insert here a number above five and up to ten) years, the First Nation aims to overcome these barriers and increase the number of its members who are actively searching for and implementing economic opportunities for themselves and the Nation by (insert a percentage). This goal will be realized through a variety of means, including the following:

- Streamlining existing economic development processes;
- Identifying quality partners that have opportunities that will attract our members;
- Making scholarship and bursary funds available to qualified members so that they can more easily take advantage of exchange and other learning opportunities;
- Establishing a simplified *Business Startup System* to eliminate delays in bringing an opportunity from identification to fruition (e.g. the Skeena Native Development Society Small Business Development Department);
- Increasing our members' proficiency in business and entrepreneurship.

Thus, support services for our members participating in opportunity search activities need to be expanded.

The First Nation should also encourage the development of additional international cooperative education placements.

Cultural and international education opportunities for our members should likewise be enhanced in order for them to gain exposure to our traditional culture as well as for the diversity of the world's cultures. Periodic workshops on culture, market and entrepreneurship additions to the curriculum should also be held.

Recommendations

- Streamline existing economic development processes and identify a limited number of additional quality partners that will attract our members;
- Create ___ scholarships of \$_____ each to assist First Nation members to go on an “opportunity exchange” for one year.
- Facilitate a simplified *Business Startup System* to eliminate delays in bringing an opportunity from identification to fruition (e.g. the Skeena Native Development Society Small Business Development Department).
- Promote domestic and international co-operative education, particularly as a means of acquiring a second language and new job skill competence.
- Offer cultural and international education workshops for our members in order for them to gain exposure to our traditional culture as well as for the diversity of the world's cultures

APPENDIX B

Institutional Linkages

Goals

Rationale

Strategic Direction

Recommendations

Research and Development Projects

Goals

Rationale

Strategic Direction

Recommendations

New Business Incubation

Goals

Rationale

Strategic Direction

Recommendations

Economic and Cultural Professional Development of Entrepreneurs and On-Reserve Administrators

Goals

Rationale

Strategic Direction

Recommendations

GOVERNANCE PLANNING FOR PROSPERITY AND CULTURAL WELL-BEING

Making the Case

While there does not as yet appear to be any published analysis of the cost or benefits of creating a strategic plan that ensures consonance between economic development initiatives and the culture of a First Nation, significant advocacy for such planning has been suggested by the Harvard Project on American Indian Economic Development, and there is growing acceptance in governance circles that a mature and globally effective economy needs to have such planning in place. Some of the advantages for undertaking and maintaining the community strategic planning process are as follows (suggested as examples only):

- The presence of such a plan enriches the economic environment for members by bringing a greater diversity of thinking and perspectives to communities, thus providing more relevant knowledge and intercultural experiences to members who do not have the opportunity to have such experiences elsewhere.
- The existence of such a plan, with the explicit identification of cultural priorities, promotes diversity. Exposure to a diversity of cultures not only promotes greater understanding of different approaches and perspectives in on-reserve young people – the leaders of tomorrow – but also in all communities where the planning process is implemented.
- When strategic planning can set culturally and community-consistent goals that can inspire and engage the best and brightest minds in the First Nation, the Nation is better placed to develop innovative solutions to its social challenges such as improving the health care system and enhancing its economic competitiveness through technological, social, environmental stewardship, etc., breakthroughs.
- The strategic plan itself, and the processes that lead to creating it, can give both an immediate and a longer-term boost to the on-reserve economy. As consumers, for example, on-reserve members can inject a significant amount of money into their economies through their regular

spending if desired goods and services are available. Strategically planned investments in on-reserve businesses that enable more on-reserve spending thus can provide an immediate boost to the on-reserve economy. In the longer term, a strategic plan can identify and enable First Nation members to pursue opportunities both on- and off-reserve. As these members succeed, it then becomes possible for them to become a network of important economic contacts for the Nation. Further, a well-founded strategic plan and strategic planning process can boost the on-reserve economy as increasing numbers of First Nation members become entrepreneurs or gain positions of influence in the larger society and, as a result of their high-level support and engagement in the strategic future of the First Nation, can open the windows of opportunity for members even wider.

(Each First Nation, upon due consideration, will have its own reasons that “make the case” for engagement in the strategic planning process.)

The First Nation: The Present Case

Profile of present First Nation Members

Present Private Sector Processes

A The First Nation Future Case

Possible Opportunity Search Management

Goals and Directions for Increased Skills, Products and Services

Resources Required for the Implementation of this Strategic Plan in our First Nation

Required Infrastructure

The Politics of A New First Nations Economy

Allocation of Existing INAC Resources

Allocation of Local Resources

Action Recommendations

-
-
- etc.

APPENDIX C

SAMPLE

Questions used by Transparency International To Compute The Corruption Perceptions Index

NOTE:

The following questions are samples of the types of questions asked by various well-recognized entities which are then used to compile the Corruption Perceptions Index for a country (please see www.transparency.ca for additional information). These sample questions have been drawn from the *Productivity and the Investment Climate Survey (PICS)*, compiled by the Investment Climate Unit of the World Bank Group, and from the *O-Factor Survey*, compiled by the auditing firm of PricewaterhouseCoopers.

For additional examples, other such surveys used to compute the Corruption Perceptions Index include the following:

- *State Capacity Survey*, Columbia University
- *Asian Intelligence Issue*, Political & Economic Risk Consultancy
- *World Competitiveness Yearbook*, Institute for Management Development, IMD, Switzerland
- *Bribe Payers Index*, Gallup International
- *Country Risk Service and Country Forecast*, Economist Intelligence Unit
- *Nations in Transit*, Freedom House
- *Africa Competitiveness Report*, World Economic Forum.

EXAMPLES FROM QUESTIONNAIRE #1:

Productivity and the Investment Climate Survey (PICS)

Investment Climate Unit, World Bank Group

Sample Question 1:

Please tell us if any of the following issues are a problem for the operation and growth of your business. If an issue poses a problem, please judge its severity as an obstacle on a four-point scale where:

0 = No obstacle 1 = Minor obstacle 2 = Moderate obstacle

3 = Major obstacle 4 = Very Severe Obstacle

Corruption	<u>No Problem</u>	<u>Degree of Obstacle</u>			
	0	1	2	3	4

Sample Question 2:

On average, how many **days last year** were spent in contact (e.g. in inspections, meetings) with each of the following agencies in the context of regulation of your business? And what were the costs associated with these interactions?

	Total number of days spent in contact with agency dealing with regulation of the business.	Total Cost of Fines or seized goods	Total Gifts, Bribes Required
Tax Inspectorate			
Labour and Social Security			
Fire and Building Safety			
Sanitation/Epidemiology			
All Others			

Sample Question 3:

In many situations, firms are said to give unofficial, private payments or other benefits to public officials to gain advantages in the drafting of laws, decrees, regulations and other binding government decisions. To what extent have the following practices had a direct impact on business?

0 = No impact 1 = Minor impact 2 = Moderate impact 3 = Major impact 4 = Decisive Impact NA= Not Applicable, DK=Don't know

Degree of Impact

- a) Private payments or other benefits to legislature (e.g., council) members to affect their votes: 0 1 2 3 4 NA DK

- b) Private payments or other benefits to government employees to affect the content of government decisions: 0 1 2 3 4 NA DK

Sample Question 4:

“I am confident that the legal system will uphold my contract and property rights in business disputes.” To what degree do you agree with this statement? Do you (read 1-6)

- 1 Fully agree
- 2 Agree in most cases
- 3 Tend to agree
- 4 Tend to disagree
- 5 Disagree in most cases
- 6 Fully disagree

Sample Question 5:

Please estimate your establishment’s costs (as a percent of its total sales) of providing:

- a) Security (equipment, personnel, etc., excluding “protection payments”? _____
%
- b) Protection payments? _____
%

Sample Question 6:

- a) Please estimate the losses (as a percent of total sales) of theft, robbery, vandalism or arson against your establishment in the last year? _____
%
- b) What share of the incidents did you report to the police? _____
%
- c) Of these reported incidents, what share were solved (the perpetrator was caught, etc.)?
_____ %

EXAMPLES FROM QUESTIONNAIRE #2:

O-Factor Survey: Exploring the Impact of Opacity on the Cost of Capital
PricewaterhouseCoopers

Sample Question 1:

On a scale from 1 to 10, where “1” means never and “10” means always, how often do you estimate that the following transactions require bribes or other special payments for the transaction to occur?

a) Obtaining subsidies from government

- 1 NEVER
- 2...
- 10 ALWAYS

b) Obtaining loans from banks

- 1 NEVER
- 2...
- 10 ALWAYS

c) Registering a company

- 1 NEVER
- 2...
- 10 ALWAYS

d) Obtaining a licence or permit

- 1 NEVER
- 2...
- 10 ALWAYS

Sample Question 2:

In making business and investment decisions, how concerned are firms in your country (e.g. on-reserve) that government corruption may interfere with their business plans? Would you say they are very concerned, somewhat concerned, not very concerned or not at all concerned?

- 1. Very concerned
- 2. Somewhat concerned
- 3. Not very concerned
- 4. Not at all concerned

Sample Question 3:

In the last five years, has corruption in your country (e.g. on-reserve) increased, stayed about the same or decreased?

- 1. Increased —————→ GO TO 3-I
- 2. Stayed about the same
- 3. Decreased —————→ GO TO 3-D

3-I. To which of the following do you attribute this increase in corruption?

1. New laws
2. Deterioration of enforcement of existing laws
3. Change in judicial practices
4. Regime change or other major changes in political process

3-D. To which of the following do you attribute this decrease in corruption?
[PLEASE CHECK ALL THAT APPLY]

1. New laws
2. New enforcement initiatives
3. Change in judicial practices
4. Regime change or other major changes in political process
5. Pressure from the international community
6. Free press
7. Civil society activism.

APPENDIX C

APPENDIX D

FIRST NATIONS LAND MANAGEMENT CODES

CHIPPEWAS OF GEORGINA ISLAND FIRST NATION LAND MANAGEMENT CODE

(Ratified March 11, 1997)

- the allocation of land to a member does not require the consent of the eligible voters at a community meeting (s. 13.3)
- the consent of the eligible voters must be obtained for any grant or disposition of an interest or licence in Georgina Island First Nation lands exceeding a term of 50 years (s. 13.5(a))
- the written consent of the Council must be obtained for any grant or disposition of an interest or licence in Georgina Island First Nation lands to a person who is not a member (s. 13.6)
- the Council may, by resolution, establish a Lands Advisory Committee to advise the Council on land matters (s. 14.1)
- the allocation of available residential lots to members shall be decided upon by the Council (s. 16.1)
- the resources on a lot and any revenue arising from the sale of those resources belong to the members holding the lot (s. 16.2)
- no consent of the Council or of the eligible voters at a community meeting is required for an assignment or transfer of a member's right to use and occupy a lot to another member (s. 17.1(a)) or a grant or disposition of an interest or licence in a member's allocation of Georgina Island First Nation land to another member (s. 17.1(b))
- subject to s. 17.1, the written consent of the Council must be obtained for any transfer or assignment of an interest or licence in Georgina Island First Nation lands (s. 17.3)

APPENDIX D

- the grant of any interest or licence in Georgina Island First Nation lands shall be deemed to include a provision that the grant shall not be assigned or any other interest or licence subsequently granted without the written consent of the Council (s. 17.4)
- the written consent of the Council must be obtained for any charge or mortgage of a leasehold interest to a person who is not a member (s. 18.2)
- no leasehold interest is subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or sale unless a reasonable opportunity to redeem the charge or mortgage is given to the lessor (s. 18.4(c))
- a community meeting shall be held to discuss and make a decision on a land use plan (s. 22.1(a))
- there shall be no expropriation of Georgina Island First Nation land by the Council (s. 28.1)

MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION LAND MANAGEMENT CODE

(Approved February 5, 1997)

- s. 13.3: as for Georgina Island
- s. 13.5(a): as for Georgina Island except the consent is required where the term exceeds 25 years
- s. 13.6: as for Georgina Island
- s. 14.1: as for Georgina Island
- s. 16.1: as for Georgina Island
- the allocation of a residential lot to a member confers the exclusive use and control of that lot for residential purposes subject to applicable land laws (s. 16.3)
- the rights of a member to use and occupy a residential lot, and

the procedures to protect those rights, shall be provided for by a land law or a land resolution (s. 16.4)

- s. 16.5: as for Georgina Island s. 16.2
- a member may transfer, devise or otherwise dispose of the member's right to use and occupy a residential lot to another member (s. 16.6)
- s. 17.1: as for Georgina Island
- s. 17.3: as for Georgina Island
- s. 17.4: as for Georgina Island
- s. 18.2: as for Georgina Island
- s. 18.4(c): as for Georgina Island
- s. 23.1(a): as for Georgina Island s. 22.1(a)
- s. 29.1: as for Georgina Island s. 28.1

MUSKODAY FIRST NATION LAND CODE

(Ratified January 21, 1998)

- s. 14.2: as for Georgina Island s. 13.3
- s. 14.3(a): as for Georgina Island s. 13.5(a) except the consent is required where the term exceeds 35 years
- s. 14.4: as for Georgina Island s. 13.6
- s. 15.1: as for Georgina Island s. 14.1
- there shall be no transfer or assignment of an interest in Muskoday land without the written consent of the Council (s. 18.1)
- s. 18.2: as for Georgina Island s. 17.4
- no leasehold interest is subject to possession by the chargee or

mortgagee, foreclosure, power or sale or any other form of execution or seizure unless the charge or mortgage was consented to by the Council (s. 19.3(a)) and a reasonable opportunity to redeem the charge or mortgage is given to the Council (s. 19.3(c))

- s. 20.1: as for Georgina Island s. 16.1
- the allocation of an interest in a residential lot does not entitle the member to benefit from the resources arising from the interest (s. 20.2)
- a member's interest can be expropriated but this must receive community approval by a ratification vote (s. 21.7)
- a ratification vote shall be held by the Muskoday First Nation to decide whether to approve a land use plan (s. 28.1(a))

LHEIDLI T'ENNEH FIRST NATION LAND CODE

(Ratified October 25, 2000)

This is the only land code approved to date in this Province, and we thought we should commend this achievement by citing the beginning of its rather inspiring Preamble:

WHEREAS the Lheidli T'enneh aspire to move ahead as an organized, highly-motivated, determined and self-reliant nation;

AND WHEREAS the Lheidli T'enneh are proud, united people whose purpose is to establish a future that will ensure a high quality of life while flourishing with the environment;

AND WHEREAS the Lheidli T'enneh traditions and cultural beliefs are the driving force of our success and destiny;

We continue by highlighting from the code as previously:

- Community approval at a meeting of members must be obtained

for any land use plan or amendment to a land use plan (s. 12.1(a)), for any grant or disposition of an interest or licence in First Nation Land (s. 12.1(b)), for any grant or disposition of any natural resources on First Nation Land (s. 12.1(d)), and for a charge or mortgage of a leasehold interest (s. 12.1(e))

- An expropriation of a member's interest has no effect unless the proposed expropriation first receives community approval by ratification vote (s. 15.7)
- A Lands Authority is established to assist with the development of the land administration system and to advise and make recommendations to Council on land issues (s. 24.1)
- Council shall, in consultation with the community and the Lands Authority, establish rules and procedures to address such matters as the process and criteria for granting interests in First Nation Land (s. 24.2(a)) and land use planning and zoning (s. 24.2(e))
- the written consent of Council must be obtained for any grant or disposition of a lease, licence or permit in First Nation Land to a person who is not a member (s. 30.5)
- subject to community approval, Council may enact laws providing for an interest in First Nation Land that entitles a member holding First Nation Land to:
 - “(a) permanent possession of the land;
 - (b) benefit from the resources arising from the land;
 - (c) grant subsidiary interests and licences in the land, including leases, permits, easements and rights-of-way;
 - (d) transfer, devise or otherwise dispose of the land to another member; and
 - (e) any other rights, consistent with this *Land Code*, that are attached to Certificates of Possession under the *Indian Act*.” (s. 33.1)
- Council may, by lease or rental arrangement, allocate lots of available land to members in accordance with procedures established by Council (s. 34.1) and no community approval will be required (s. 34.2)

- Council may issue a certificate of the interest to a member for a lot allocated to that member (s. 34.4)
- a member may transfer or assign an interest in First Nation Land to another member without the need for community approval or consent of Council (s. 35.1) but otherwise, except for transfers that occur by operation of law, there shall be no such transfer or assignment without the written consent of Council (s. 35.2 (a))
- the interest of a member in First Nation land may be subject to a mortgage or charge only to the First Nation (s. 36.2)
- the leasehold interest is not subject to possession by the chargee or mortgagee, foreclosure, power of sale or any other form of execution or seizure unless the charge or mortgage received the written consent of Council (s. 36.5 (a)) and a reasonable opportunity to redeem the charge or mortgage was given to Council (s. 36.5 (d))

DRAFT N'QUATQUA LAND CODE

(August 24, 2001)

- community approval must be obtained for any grant or disposition of an interest or licence in N'Quatqua Lands for longer than 15 years (s. 12.1(b))
- A Lands Committee is established (s. 24.1) and, in consultation with the community, it has to recommend to Council rules and procedures (s. 24.2) addressing such matters as:
 - (a) the process and criteria for granting interests or licences in N'Quatqua Lands;
 - (c) resolution of disputes in relation to N'Quatqua Lands.
- Council may grant an interest in N'Quatqua Lands to a member, entitling that member to exclusive possession, the benefit of the resources and the right to grant leases and other interests (s. 28.1)
- Council may allocate a portion of Community Land for mem-

bers' housing purposes, to be carried out by rental arrangement (s. 29.1)

- the interest of a member in N'Quatqua Lands, other than a leasehold interest, may only be mortgaged to N'Quatqua (s. 31.2)
- the leasehold interest of a member may be mortgaged with consent by resolution of Council (s. 32.1)
- the Minister of Indian Affairs retains jurisdiction to approve the claim of a member to possession or occupation of N'Quatqua Lands by devise or descent (s. 33.1)
- a member claiming an interest in N'Quatqua Lands based on traditional occupancy or any unregistered or undocumented interest may request the prescribed dispute resolution process (s. 36.3 (a))
- the above member may also file a written claim with the Lands Committee (s. 42.1)
- upon receipt of the written claim, the Lands committee shall convene a meeting of the members to consider it, and the Eligible Voters at the meeting may determine in favour of the claim (s. 42.5)
- notwithstanding s. 42.5, the Lands Committee may, by unanimous vote, still determine that the claim has no merit

APPENDIX D

APPENDIX E

BIOGRAPHIES

THINK TANK MEMBERSHIP

Allen, Graham

Graham Allen is a Partner in the Vancouver based law firm of Snarch and Allen, a firm that practices in business, real estate and securities law with a particular emphasis on native matters. Graham has worked with the First Nations People of British Columbia for over thirty years. With a strong background in land appraisal, including a M.Sc. degree, he originally worked as a land management consultant, assisting many Bands and native organizations. Then, with law degrees from both London, England, and the University of British Columbia, he was called to the bar in 1979.

Graham is best known for his long involvement with the Sechelt Indian Band, including the achievement of self-government in 1986 and the signing of the Treaty Agreement in Principle in 1999. His most recent achievements are the legal work on the Osoyoos Band winery expansion with Vincor International and the negotiation of a property taxation agreement with CP Rail where he represented the Cook's Ferry, Seabird Island, and Skuppah Bands.

Fregin, Cliff G.

Cliff Fregin, a Haida from Old Massett, has been associated with the field of First Nations community economic development for sixteen years on the pacific north coast of British Columbia. For the past seven years, Cliff has worked with the Haida and non-Haida residents of Haida Gwaii (Queen Charlotte Islands) in the capacity of Executive Director of Gwaii Trust, a sixty-three million dollar trust fund socio-economic development initiatives program. Most recently, Cliff has been appointed to the position of Director of Operations for the National Aboriginal Capital Corporation Association,

which is a partnership between Aboriginal Business Canada and Indian and Northern Affairs Canada and is based out of the nations capital. Cliff is serving his third consecutive term as an elected councilor for the Old Massett Village Government, and serves on various boards and committees locally, regionally, and nationally.

Krekic, Zeno

Zeno Krekic is a graduate of Ryerson University's Urban Planning School, and member of the Canadian Institute of Planners. Zeno's experience includes work with municipalities, private developers and First Nations. Since 1979, Zeno has worked in both the public and private sectors, primarily within the context of community planning, land development, and economic development. This experience includes many years working with First Nations organizations and communities. Zeno immigrated from Yugoslavia in 1970, and is formally adopted into the Haisla Nation of Kitamaat Village, and belongs to the Fish Clan.

Martin, Clarence A.

Clarence Martin, Nisga'a from Lakalzap, currently serves in the capacity of Chief Executive Officer of a northern-based radio station, Northern Native Broadcasting. Clarence was part of a team effort that assisted in establishing the *Pathways to Success* model, which has since led to the current and nationally H.R.D.C. funded Aboriginal Human Resources Development Associations. Clarence has served as a BC Native Court Worker, and also as a Local Government Advisor with the North Coast Tribal Council for several years prior to moving to private industry.

McKay, Kevin

Kevin McKay, Nisga'a from Lakalzap, currently serves as the Speaker of the House for the Nisga'a Lisims Government. With an extensive public service record with the Nisga'a Lisims Government in the capacities of Trustee, Executive Chair of the Nisga'a Tribal Council, Chair of the Economics/Finance and Negotiating Team, Kevin also served for eleven

years in his community as the Village Social Worker.

Mercer, Arthur

Arthur Mercer, Nisga'a from Gitlakdamix, is the Economic Development Coordinator for the Nisga'a Lisims Government. Arthur has served on the Board for Tribal Resources Investment Corporation, Northern Native [radio] Broadcasting, and the National Aboriginal Economic Development Board. He currently serves as a Director to the BC's Native Economic Development Advisory Board. Arthur has extensive experience in providing economic development guidance to individual entrepreneurs and the Nisga'a Lisims Government, and has worked with both the private and public sectors in various capacities.

Mitchell, Dave

Dave Mitchell, is a Chartered Accountant and Partner in the White Rock based accounting firm of Kirstein, Neidig and Vance. Having articulated with Arthur Anderson & Company in 1988, and after achieving his C.A. designation, Dave took on the role of Partner in 1991 and now specializes in entrepreneurial business. Dave has many First Nations accounts, including various advisory roles to several economic development initiatives, and is very active in community volunteer activities.

Mitchell, Dr. Ronald K.

Dr. Ronald Mitchell is currently an Associate Professor of Entrepreneurship with the University of Victoria Faculty of Business, and is Head of the Entrepreneurship Program. Dr. Mitchell served in various private sector capacities as a Certified Public Accountant in the U.S. Having co-designed the University of Victoria's Entrepreneurship Program, Dr. Mitchell continues to spend considerable time in Greater China where he is assisting to establish and develop economic structures for the Government of China.

Nyce, Clarence

Clarence Nyce, a Haisla from Kitamaat, is the Chief Executive Officer of the Skeena Native Development Society, and has been the Chair of the Think Tank on Wealth Creation since inception. Clarence received his formal post secondary education from University of Calgary and Brigham Young University in the U.S. Clarence has both public sector and private sector experience, most notably as former Executive Director of Kitamaat Village Council, and in Human Resources with Alcan Primary Metals, BC. Clarence was part of a team effort that assisted in establishing the *Pathways to Success* model, which has since led to the current and nationally funded H.R.D.C. Aboriginal Human Resources Development Associations. Clarence sits as a Director with the Terrace and District Chamber of Commerce.

Tolmie, Frederic

Frederic Tolmie, Tsimshian from Kitkatla, is a Chartered Accountant and serves as the Chief Financial Officer of the Assembly of First Nations based in Ottawa. Degreed in Business Administration from Simon Fraser University, Frederic also received his C.A. designation. Frederic notably remains one of a small group of First Nations to achieve this designation. Frederic has served in the capacity with an international C.A. firm, Industry Canada, Bank of Montreal, and Tribal Resources Investment Corporation.



Front Row: Dave Mitchell, Greg Smith, Ronald Mitchell, Clarence Nyce, Frank Parnell, Clarence Martin, Kevin McKay
Back Row: Cliff Fregin, Arthur Mercer, Graham Allen, Frederic Tolmie, Zeno Krekic

Special Acknowledgements

Special acknowledgements go to other individuals who served in various capacities throughout the Think Tank process. These people include Barbara Haldane, Diane Lukaser and Phyllis Adams, who held the process together administratively. Our sincere gratitude also goes out to others who, from time to time, joined us and sat as Think Tank members. These include Greg Smith, Geri Budden, Dianne Shanoss, John Webster, Willard Martin, and Bert Mercer. We also give recognition to Frank Parnell who sat with the Think Tank on Wealth Creation for the first two years and assisted in adding initial focus to the discussions.

Without the support of Canada, this sort of research would not have been possible. We acknowledge and thank Human Resources Development Canada, through the flexibility and foresight of the AHRDA process, for this support.

APPENDIX E