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# Policy Brief

## ***Business and Politics In Aboriginal Communities***

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The Institute On Governance (IOG) is a non-profit organization founded in 1990. Its mission is to explore, share and promote good governance in Canada and abroad, and to help governments, the voluntary sector, communities and the private sector put it into practice for the well-being of citizens and society. From our perspective, governance comprises the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.

Our current activities fall within the following broad themes: building policy capacity; Aboriginal governance; technology and governance; board governance; and values, ethics and risk.

In pursuing these themes, we work in Canada and internationally. We provide advice to public organizations on governance matters. We bring people together in a variety of settings, events and professional development activities to promote learning and dialogue on governance issues. We undertake policy-relevant research, and publish results in the form of policy briefs and research papers.

You will find additional information on our themes and current activities on our website, at [www.iog.ca](http://www.iog.ca).

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**Policy Brief No. 12: Rethinking Self-Government Agreements: The Case of Potable Water**, by John Graham (November 2001)

**Policy Brief No. 13: Reinvigorating Democracy: Dealing with September 11<sup>th</sup> through Modern Town Hall Meetings**, by John Graham (September 2002)

**Policy Brief No. 14: Safe Water for First Nations: Charting a Course for Reform**, by John Graham (January 2003)

**Policy Brief No. 15: Principles for Good Governance in the 21<sup>st</sup> Century**, by John Graham (August 2003)

**Policy Brief No. 16: Beyond Bylines: Engaging the News Media in Urban Governance**, by Zachariah Ezekiel (September 2003)

## Introduction

“Economic Development on Indian Reservations is first and foremost a political problem.”<sup>1</sup> This was the principal conclusion of almost a decade of research involving more than 30 tribes across the United States. Under the auspices of the Harvard Project on American Indian Economic Development at the John F. Kennedy School of Government, researchers began with a puzzle. Why do tribes with the most successful economies not always have well-educated citizens, abundant natural resources and access to financial capital? Their answer at the time was stunning. Good governance, while no guarantee of success, appears to trump all of these conventional factors.

The Harvard findings mirror similar conclusions in international settings. For example, researchers in a recent study for the World Bank encompassing empirical evidence from 130 countries concluded that “...governance matters in the sense that there is a strong causal relationship from good governance to better development outcomes”<sup>2</sup>. Kofi Annan, the Secretary General of the United Nations, offers a similar judgement: “Good governance is perhaps the single most important factor in eradicating poverty and promoting development”<sup>3</sup>. And a recent Canadian study found a strong correlation between First Nations in British Columbia with low suicide rates and those with significant interests and activities relating to self-government<sup>4</sup>.

The purpose of this policy brief is to address the following questions:

- Are there universal principles of good governance and if so what are they?
- How have Aboriginal communities with successful commercial opportunities applied these principles in practice?

- What do these principles, when applied, tell us about the relationship between politics and business?

## Five principles for good governance

Building on the work of the United Nations Development Program, the Institute On Governance (IOG) has developed the following five good governance principles to assess commercial operations in First Nations settings.

- Legitimacy and voice
- Accountability
- Performance
- Fairness
- Direction

Their claim to universality rests largely on a body of international law developed under the aegis of the United Nations, beginning with the Universal Declaration of Human Rights adopted in 1948 and followed by a series of UN-adopted conventions with broad support throughout the world. Together these conventions provide a comprehensive body of law on human rights.<sup>5</sup>

We used these principles to examine three ‘real life’ business development cases<sup>6</sup> and sought answers to the following questions summarized in Table 1.

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<sup>1</sup> Stephen Cornell and Joseph Kalt, “Sovereignty and Nation-Building: the Development Challenge in Indian Country Today”, Harvard Project on American Indian Economic Development, 2001

<sup>2</sup> Daniel Kuafmann et al, “Governance Matters, August 1999, [www.worldbank.org](http://www.worldbank.org)

<sup>3</sup> Kofi Annan, [www.unu.edu/p&g/wgs/](http://www.unu.edu/p&g/wgs/)

<sup>4</sup> Michael Chandler and Christopher Lalonde, “Cultural Continuity as a Hedge against Suicide in Canada’s First Nations”, *Transcultural Psychiatry*, V. 35, June 1998

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<sup>5</sup> For a fuller treatment of this argument, see John Graham, Bruce Amos and Tim Plumptre, “Good Governance Principles for the 21<sup>st</sup> Century”, *Policy Brief No.15*, [www.iog.ca](http://www.iog.ca)

<sup>6</sup> More detail on these three cases and others can be found in John Graham and Heather Edwards, “Options for Commercial Enterprises in First Nations”, [www.iog.ca/publications/aboriginal\\_governance](http://www.iog.ca/publications/aboriginal_governance)

**Table 1**

<b>Principles for Good Governance</b>	<b>Questions for Assessing Approaches to Business Development</b>
<b>1. Legitimacy and Voice</b>	<ul style="list-style-type: none"> <li>▪ How will the community be involved in the conception and approval of the project?</li> <li>▪ How will the community be involved in an ongoing manner?</li> <li>▪ Is there a cultural fit between the enterprise and the community? For example, is there a reflection of community values?</li> </ul>
<b>2. Accountability</b>	<ul style="list-style-type: none"> <li>▪ How will the enterprise be structured and why? How will accountability be achieved to the community?</li> <li>▪ To what extent will its operations be transparent?</li> </ul>
<b>3. Performance</b>	<ul style="list-style-type: none"> <li>▪ Will the enterprise have sufficient independence from politics to ensure economic viability?</li> <li>▪ Is management of sufficiently high quality to ensure viability?</li> <li>▪ Is there a connection to industry groups or associations to ensure ongoing learning and influence?</li> </ul>
<b>4. Fairness</b>	<ul style="list-style-type: none"> <li>▪ How will disputes be resolved?</li> <li>▪ How will the interests of individuals and the community be balanced?</li> <li>▪ How will the interests of other stakeholders (neighbours, local governments etc.) be accommodated?</li> </ul>
<b>5. Direction</b>	<ul style="list-style-type: none"> <li>▪ Does the enterprise have a long-term vision or direction?</li> <li>▪ Is this vision compatible with the community's vision?</li> </ul>

### **Case Study #1: Niigon Technologies Ltd.**

Niigon Technologies is an undertaking of the Moose Deer Point First Nation (MDPFN) located on the eastern shore of Georgian Bay. The First Nation has approximately 400 members with a reserve base of some 620 acres. The MDPFN has signed an agreement in principle with respect to self-government and has developed, but not yet approved, a constitution that outlines how self-government will operate. The MDPFN's self-proclaimed goal is to actively pursue economic development that is not just environmentally friendly but also offers the community long-term stability, diversity and prosperity.

Commencing operation in 2001 with 6 employees, Niigon manufactures small plastic parts for the automotive and electronics industries at a plant located on the reserve. Financing in the amount of \$25 million - \$12 million for the building and the remainder for machines and training costs - is being provided in the form of loans and contributions from the First Nation, the Robert Schad Foundation

(‘angel investor’ Robert Schad is President of Husky Injection Molding Systems Ltd.), several federal government agencies and the Province of Ontario.

The enterprise conforms to the community's vision of a sustainable community. On the environmental side, Niigon's building is state-of-the-art: all natural lighting and ventilation, roof-mounted photovoltaic cells, waste energy recovery, radiant floor heating, storm water holding and treatment ponds and a leading-edge bio-filtration wastewater treatment system. To promote a sustainable economy, the MDPFN established the Naadmaadying Community Association (NCA), the members of which are the community's eligible voters. A five-member board governs the NCA and has a mandate to support a broad range of community projects. The Chief and Council appoint one member while the members of the NCA elect the others. The NCA has an agreement with Council to be the recipient of all dividends and other disbursements from Niigon Technologies. Significantly, the Association's

constitution prohibits per capita distribution of funds to members.

**Key governance elements surrounding Niigon's creation and operation included:**

- extensive consultations held within the community (including two referenda) and with neighbouring municipalities and cottagers;
- incorporation under the Ontario Business Corporations Act creating only one share, held by the Chief in trust for the Council;
- a total of seven directors, appointed in a variety of ways for 10 years each - one nominated by the Council, one by the NCA, one by Husky Injection Molding Systems, and the remaining four chosen by the first three;
- an experienced manager hired from outside the community - i.e. hiring based solely on merit;
- transparent channeling of a portion of Niigon's profits to a charitable foundation with a broad mandate for social and cultural undertakings;
- property tax exemption for the first five years of operation (Niigon pays user fees to the First Nation for water, snow removal and similar services); and
- compatibility with a broader community strategy for sustainability.

**Conclusion**

To a significant degree the Moose Deer Point First Nation has put into practice the principles for good governance and in the process created a positive environment for investment. On the one hand, Niigon Industries is meant to operate on solid business principles to maximize long term profits. That said, it conforms to the community's vision for its future development and ensures that the economic benefits of the enterprise are shared in a highly transparent manner through the establishment of a community charity.

**Case study #2: Osoyoos Indian Band**

The Osoyoos Indian Band (OIB) occupies two reserves totaling 13,052 hectares in the South Okanagan Valley of British Columbia. There are 370 on-reserve band members. The OIB has a goal

to be self-sufficient by 2005 and, in order to achieve this, focuses its efforts on numerous business initiatives, education and training. There is virtually no unemployment. Currently, the First Nation operates its own health, social, educational and municipal services.

The First Nation has benefited from the strong leadership of Chief Clarence Louie. In 1988, the Chief established the Osoyoos Indian Band Development Corporation (OIBDC), which now has 10 corporations involved in a variety of activities: a construction company; a campground and RV park; a golf course; vineyards; a convenience store; a sawmill, etc.

Under the OIBDC, these enterprises are one-step-removed from the political activities of the Chief and Council, and from the OIB itself. However, the Chief is, by necessity (small talent pool), president of the Development Corporation. Nonetheless, care is taken to draw distinctions between the organizations even though, or perhaps because, membership overlaps. Business decisions are not made at band council meetings, but solely at the meetings of the Development Corporation.

**Key governance elements surrounding OIB's creation and operation included:**

- a strong Chief committed to running band businesses in a business-like way;
- referenda, usually preceded by a number of band meetings, held by the First Nation regarding major decisions;
- a board of directors - the Chief, three councillors, two former councillors, and five 'outside' advisors including a banker, an accountant and the Chief Operating Officer, who is not a band member - structured to minimize political interference while guaranteeing expertise;
- recognizing what skills it has and doesn't have and, when appropriate, undertaking joint ventures or bringing in outside experts e.g. in establishing a winery, brought in a winemaker and experienced winery architect;
- a long-term, incremental business approach e.g. originally leased First Nations land to others for a golf course but now holds complete control of the golf course; and
- distributing yearly dividends from the band's various commercial enterprises to all

band members on an annual basis thereby heightening accountability and engendering wide community support for operating the businesses according to sound business practices; and

- establishing business enterprises as part of a long term strategy to achieve self-sufficiency.

## **Conclusion**

The OIB has addressed all the good governance principles to one degree or another. In particular, the band has benefited from strong leadership at the top and support from within the community to achieve its goal of independence and economic sustainability. The members shared sense of purpose, attention to detail and rigorous application of business principles have produced results. In 1994, the OIB's chief source of income came from federal transfers. Today, the OIB manages businesses with annual budgets in excess of \$14 million, and generates revenues seven times greater than federal transfers.

## **Case study #3: Ngai Tahu Holding Corporation (NTHC), South Island, Aetearoa (New Zealand)**

The Ngai Tahu, a Maori tribe, has 41,000 members. In 1992, the Maori and Crown reached a final, pan-tribal settlement over ownership of commercial fishing rights in New Zealand. Since then, Maori ownership in the industry has grown from virtually nothing to the point where they now control about one third, by holding and managing quota, and investing in a pan-Maori holding company. The 18 regional assemblies established a three-armed governance structure in 1996.

In 1998, the Ngai Tahu received a NZ\$ 170 million land claim settlement. As of June 2001, their asset base was \$273 million, a phenomenal increase from \$139,000 in June 1990. The goal of Ngai Tahu Holding Corporation is to grow the Tribe's economic base and to fund, on an ongoing basis, the tribe's development and administration activities.

### **Key governance elements surrounding NTHC's creation included:**

- an executive arm providing corporate services and monitoring functions;

- the Ngai Tahu Holding Corporation (NTHC), responsible for managing all commercial activities of the tribe through its subsidiary companies, all of them in the fishing, forestry, tourism and real estate sectors, and for other financial activities of the tribe (provides the earning base for social and policy developments); and
- the Ngai Tahu Development Corporation, responsible for the delivery of educational, cultural and social aspects of the tribe's development.

How NTHC operates in relationship to its subsidiaries is best represented by a typical example, the Ngai Tahu Seafood Group (NTSG). NTSG manages the tribes commercial fishing quota, which is, for the time being, leased from a fisheries commission. The total allowable catch each year is set by the New Zealand Ministry of Fisheries. Quota holders are free to sell or lease their quotas. The NTSG does not own fishing boats but purchases product harvested by approximately 100 independent fishers and fishing companies. Many of the fishers are members of the Ngai Tahu tribe.

NTSG runs a modern processing facility and an extensive marketing operation. It places a high emphasis on producing the highest quality products, protecting the environment and preserving fish species.

### **Key governance elements pertaining to NTHC's operations include:**

- approving the corporation's business plan, making major investment decisions and confirming the appointment or removal of NTSG's directors;
- requiring NTSG to report to the holding company every three months;
- monitoring, through its audit sub-committee, how the NTSG is doing business;
- requiring that at least two board members of each company must be industry experts (they need not be Ngai Tahu tribe members);
- establishing a hiring policy that seeks out the best person for any job, regardless of tribe membership; and
- encouraging joint ventures with existing industry participants when appropriate.

## Conclusion

HTHC scores well in terms of applying good governance principles both to its creation and operations. This has paid dividends for the tribe and bodes well for their economic future. For example, the Ngai Tahu Seafood Group is highly profitable - recording \$9 million in profits on sales of \$45 million in 2002.

## Summary of Business Cases

One of the principal attributes illustrated by these cases is the importance of a firm commitment on behalf of the First Nation to take charge of its own development agenda. In applying the principles, we discovered the following additional common themes.

**Table 2**  
**Turning Principles into Practice**

Principles for Good Governance	Common Themes: Principles into Practice
<b>1. Legitimacy and Voice</b>	<ul style="list-style-type: none"> <li>▪ Ensuring that the commercial operations fit within an overall community-accepted philosophy or long-term plan</li> <li>▪ Engaging community members in key decisions through meetings and, in some cases, referenda</li> </ul>
<b>2. Accountability</b>	<ul style="list-style-type: none"> <li>▪ Having clear lines of accountability back to the members</li> <li>▪ Promoting transparency in reporting results</li> <li>▪ Using mechanisms like regular reporting and audits to ensure accountability</li> <li>▪ Having FN members receive ‘dividends’ from the profits of commercial enterprises</li> </ul>
<b>3. Performance</b>	<ul style="list-style-type: none"> <li>▪ Establishing a clear organizational separation between commercial operations and those devoted to social purposes, with the former supporting the latter through dividends or disbursements</li> <li>▪ Running the commercial operations on a hard-nosed, profit-oriented basis by, in part, insulating the operations of the commercial enterprises from short term, political considerations</li> <li>▪ Stressing the importance of high quality management and employment security</li> </ul>
<b>4. Fairness</b>	<ul style="list-style-type: none"> <li>▪ Using profits from commercial operations for social and cultural purposes</li> <li>▪ Distributing a portion of profits to all members directly</li> <li>▪ Ensuring choice of staff is not subject to political favouritism</li> <li>▪ Having in place a range of policies and laws (e.g. zoning) to govern economic activities</li> </ul>
<b>5. Direction</b>	<ul style="list-style-type: none"> <li>• Developing the commercial operations within a broader movement towards self-government</li> <li>▪ Having in place comprehensive community plans</li> <li>▪ Relying on political stability through long-serving leaders</li> </ul>

## Conclusions

To succeed in a First Nation context, business according to conventional wisdom must be kept completely separate from politics. One colourful summation of this adage is the following: “The mixture of business and politics is as deadly as drinking and driving. It can kill your business.”<sup>7</sup>

The three case studies canvassed in this policy brief along with substantial international research suggest that this ‘wisdom’ needs to be considerably nuanced in at least three ways. First and most important, what emerges is an overriding commitment to run the commercial enterprises in a hard-nosed, business-like manner. In practice this means, among other things, having long term profitability as the principal goal, hiring competent

<sup>7</sup> John Graham and Heather Edwards, op.cit. P. 6

managers and other staff - if necessary from the 'outside' - and developing a governing board structure with expertise from both within and outside the Aboriginal community. In short this 'business' commitment does not mean complete separation from the influence of political leaders. Rather it translates into a buffering of the enterprise from shorter term, political considerations and is critical to meeting the performance principle.

Second, there is a clear 'quid pro quo': operate in a business-like manner but ensure that the community benefits as a whole from the distribution of a portion of the profits. As these cases demonstrate this can occur in a variety of ways – through dividends paid directly to community members; through contributing to governments or other community organizations with cultural, social or educational mandates; or through establishing a community foundation as in the case of Moose Deer Point. This quid pro quo is at the heart of the accountability relationship between the commercial enterprise and the community members and provides an important

contribution to meeting the fairness and legitimacy principles.

Finally, successful commercial enterprises tend to be part of a larger strategy to 'nation-build' or realize some higher level of community self-determination. In other words they achieve a significant degree of legitimacy and direction because they mesh with a broader set of political goals that have wide community support. Community referenda or substantive consultations surrounding a major investment decision are some of the devices employed to verify that this 'meshing' is indeed occurring.

So it is not the clear separation of business from politics that counts. Rather, commercial enterprises should be established and operate in a manner that respects good governance principles – performance, direction, legitimacy and voice, fairness and accountability. While no guarantee of success, paying close attention to these principles appears to produce better odds at achieving long term sustainability.