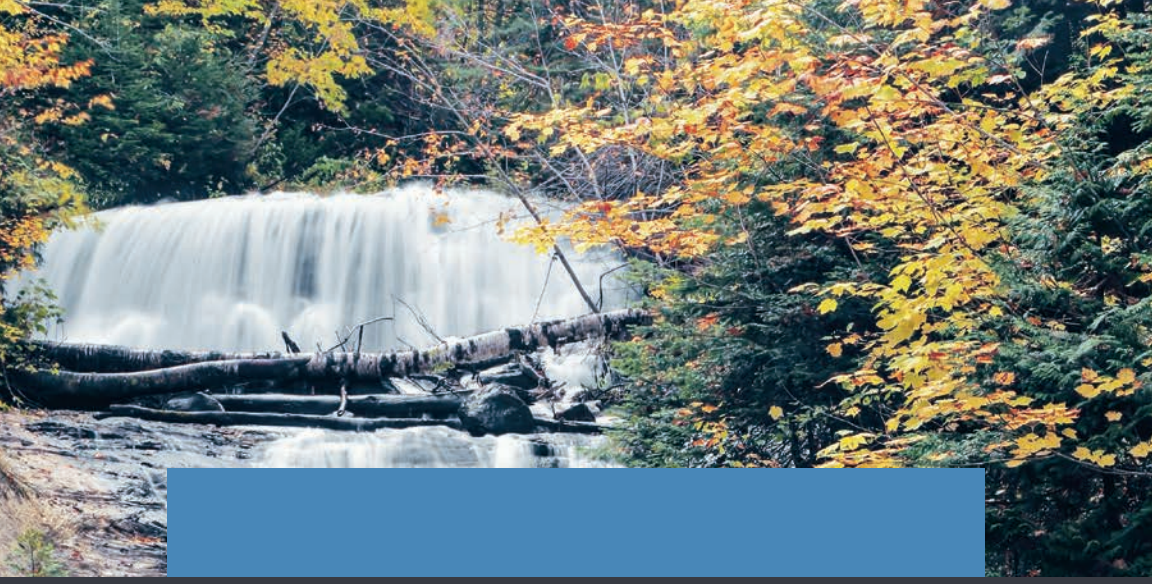

FIRST NATIONS IN QUEBEC HEALTH AND SOCIAL SERVICES GOVERNANCE PROJECT

INDIGENOUS GOVERNANCE MODELS AND INITIATIVES ACROSS CANADA

Report produced by the First Nations of Quebec and Labrador Health and Social Services Commission

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Report produced by the First Nations of Quebec and Labrador
Health and Social Services Commission

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1
ABSTRACT

The Health and Social Services Governance Project for the First Nations of Québec is an initiative through the First Nations of Québec and Labrador Health and Social Services Commission. Part of the mandate of the project is to examine the governance initiatives and models underway or existing in other regions and countries. The following report summarizes the findings of a literature review of governance initiatives and models underway or existing (primarily in the area of health and social service delivery). Findings present governance models at the aggregate level, principles of First Nations governance, predictors of development success, and examples of different governance models. Selected models within three areas of jurisdiction: health, natural resource management, and economic development are also presented, as is a list of Aboriginal governance initiatives in Canada. Aboriginal health and social services governance research is difficult to access because of the breadth of information.

2
INTRODUCTION

Prior to colonialism, Indigenous groups in North America had systems of governance that reflected the traditions, cultures and worldviews of Indigenous peoples (Royal Commission on Aboriginal Peoples, 1996) (one estimate of the pre-Columbian indigenous peoples at ten million living in the Americas (Taylor, 2001). According to the Royal Commission on Aboriginal Peoples, the Royal Proclamation of 1763, acknowledged in section 25 of the Canadian Charter of Rights and Freedoms, and the Canadian Constitution formed the base of securing of Aboriginal-colonial relations; the colonial government acknowledged "Indian nations as autonomous political entities, living under the protection of the Crown but retaining their own internal political authority" (Introduction). The foundation of the Canadian political system is based on a union between federal, provincial, territorial and Aboriginal governments. The notion of Aboriginal self-governance is central to the continuation of Aboriginal cultures and traditions (Alfred, 1999). Self-governance in Aboriginal research is most often equated with self-determination (British Columbia Assembly of First Nations, 2010; Royal Commission on Aboriginal Peoples, 1996; UN, 2007; von der Porten, 2012), and used synonymously with the term self-government. It is clear that Aboriginal self-governance is an important subject yet the details of executing Aboriginal self-governance are difficult (Alfred, 1999; Royal Commission on Aboriginal Peoples, 1996; U.N., 2007). Some obstacles to the achievement of self-determination for Aboriginal communities include:

- A history of colonialism:

  The link between colonialism and social issues among Aboriginal peoples in Canada has been well documented (Kirmayer, Simpson, & Cargo, 2003). Nutton and Fast (in press) have referred to colonialism as a "big event" that has impacted and continues to impact Indigenous peoples in North America.

- A neo-colonial relationship between the Canadian state and Aboriginal peoples:

  The social issues with Aboriginal communities considered a part of the ongoing presence of colonialism among Aboriginal peoples. In addition, Alfred (1999) states that the movement for Aboriginal self-determination is "an uneven process of re-establishing systems that promote the goals and reinforce the values of indigenous cultures against ongoing efforts by the Canadian and United States governments to maintain the systems of dominance imposed on Native communities in the last century" (p. 26). For example, within the context of Aboriginal child welfare, Aboriginal communities have since the 1960s developed Aboriginal child welfare agencies as an attempt to re-gain control over child welfare service provision for Aboriginal children and families (Armitage, 1995). Since then there has been an expansion of Aboriginal child welfare agencies.

Agencies receive funding from the federal government (except in Ontario where agencies receive funding from the provincial government that is then reimbursed by the federal government 93 cents for every dollar spent) (Sinha & Kozlowski, 2013). First Nations Child & Family Caring Society of Canada and Assembly of First Nations have filed a human rights complaint against the federal government charging the government of systematically underfunding on-reserve child welfare services that amount to discrimination against Aboriginal peoples (Blackstock, 2011).

- Governance systems are complicate.
- The possibility of complete autonomy is limited i.e. communities may be influenced by factors beyond their control and outside of their communities.

There are also issues with the literature on Aboriginal self-governance that make access to research and information less helpful for work towards increased Aboriginal self-governance. Issues with Aboriginal self-governance literature include:

- There is very limited research on models of governance, particularly Aboriginal models of governance, including within the area of Indigenous health service delivery (Coombe, Haswell-Elkins, & Hill, 2008).
- Definitions of self-governance, self-determination, and self-government (these terms are rarely made distinct from one another and frequently not clearly defined). For example Harris-Short (2012) in her book on Aboriginal self-determination in child welfare interchangeably uses the terms self-determination and self-government.
- Definitions of governance are also vague and confusing.

The literature on governance is very broad. The term governance is usually used as a descriptive term to refer to the interactions and decisions made by state and non-state actors oriented at the public realm (Kooiman, 2003). It is also used to denote the increasing importance that non-state actors play in the public domain (Mayntz, 2003). Still the term governance is employed differently by different actors in different contexts (Weiss, 2000).

3
METHODOLOGY

This report summarizes six reports related to First Nations governance models. The reports were chosen based on their relevance to the topic of First Nations health and social service delivery models, the quality of the information, and/or the recognition within the field of Aboriginal governance research. The six reports were chosen from a list of studies and reports on the topic of Aboriginal governance collected by entering relevant search words into various well known search engines (Google scholar, Academic search complete, expanded academic ASAP, Scopus, Web of Science, ProQuest Central, OmniFile etc.).

The report is divided into three main parts the first summaries the six reports selected for in depth description and the second lists existing models within three areas of jurisdiction (health, natural resources, and economic development) and the last section consists of a lists initiatives that were mentioned within the six reports and other reports excluded from the six. The second section outlines models within three areas of jurisdiction: health, natural resources, and economic development – these areas were chosen because there was information about models within literature in each domain. It was more difficult to find research on governance models in other domains of jurisdiction that may be important to Aboriginal community governance. The last section of the report is meant to serve as a small inventory of initiatives that were mentioned among the literature we found in our search.

There are several limitations to this report:

1. The literature search was not conducted in a systematic way especially for this report. As mentioned above, the report drew on previous research conducted on Aboriginal governance and built on the work done by authors considered leaders in the field of Aboriginal governance. Keyword searches in several databases did generate some findings but this process was not conducted systematically.
2. There is an abundance of information on governance models within an Aboriginal context. Sorting through this information is difficult. This report is not comprehensive in that it does not include all that is written about the topic.

4
PART 1:
SUMMARY OF REPORTSS

4.1
GRAHAM, J. (2003). AGGREGATION AND FIRST NATIONS GOVERNANCE: LITERATURE REVIEW AND CONCLUSION. INSTITUTION ON GOVERNANCE.

Graham (2003) presents five main aggregation First Nations governance models. He builds on work done by the Royal Commission on Aboriginal Peoples that presented three main models of Aboriginal self-governance. The five models presented by Graham (2003) include:

1. single tier;
2. two tier;
3. power sharing treaties;
4. special purpose bodies – no specific legislated powers;
5. special purpose bodies – specific legislated powers.

MODEL 1
SINGLE TIER AGGREGATION

Definition

"Taking two or more governments and merging them into one." (p. 5)

This type of aggregation can happen at various levels for example two municipal governments can merge into one (**horizontal aggregation**) or a local government and a regional government can merge into one (**vertical aggregation**).

The Royal Commission on Aboriginal Peoples (RCAP) presented a single-tier nation-based government model.

Defines an Aboriginal Nation as having 3 characteristics:

1. It has a collective national identity;
2. It is of sufficient size and capacity (it can assume and exercise power);
3. The majority of the population is permanent of a certain territory (the territorial base is clearly defined).

RCAP also states that "Aboriginal people are entitled to identify their own national units for the purpose of exercising their rights to self-government" (p. 6).

The Aboriginal nation should have law-making authority and the capacity to develop policy. The responsibilities for government function should be at four main levels:

1. The local community: responsibilities include "politicians and officials would be responsible for among other things, implementing nation policy in local Aboriginal institutions and making decisions on the instruction of local students";
2. The Aboriginal Nation: responsibilities include "law-making and policy functions", and "receiving and distributing revenues";
3. The multinational level: "multi-nation organizations at the regional or provincial level, on the other hand, would have responsibility for negotiating policy frameworks with the province, developing curriculum, and monitoring academic standards, advising provincial ministers of education and provide training";
4. The Canadian-wide level: this involves "Canada-wide networks" who's responsibilities include education, including " an international university, electronic clearing house, statistical clearing house, a documentation centre and associations for stand-setting and accrediting post-secondary programs and institutions" (p. 6).

The author notes there are no significant analyses of the governance model proposed by RCAP. One author, David Newhouse, argued that the RCAP governance model does not fit with the principles of Cree, Ojibway, Dakota, Saultuex and Dene society.

The author notes the following as potential **benefits of the RCAP model**:

- Legal reasons: the right to self-determination and to self-government rest with the Nation rather than the community;
- Capacity to govern reasons – the scarcity and cost of skilled personnel demand this level of aggregation;
- Economic reasons – having the size and financial strength to act effectively in the global economy; and
- Integrity reasons – a larger governing unit will reduce the prevalence of nepotism and corruption.

Another example of a single tier system = one-tier **municipal** amalgamation.

In New Brunswick and Ontario several municipalities have amalgamated into one. In New Brunswick reasons for such a decision include argument that it would increase administrative efficiency, coordination and integrated service delivery, and enhance the equity of the existing tax system (p. 10). The New Brunswick provincial government supported the amalgamation proportion it would be good for making urban centered regions more self-sufficient and increase accountability.

Arguments against single tier governance models include:

- No evidence to support effectiveness, at least one study suggesting local government systems vs amalgamation is more efficient and less costly (George (1992) see Graham p. 12 footnote);
- Argument that costs (expenditures for policy harmonization and service levelling) outweigh the benefits (savings through efficiency and effectiveness due to amalgamation);
    - Expensive to cut out service duplication because of "upward migration of wages and service standards that occurs when different wages and service structures are combined" (p. 11 quote from Task Force of the Greater Toronto Area).
- Other issues may include: los of community, perceived distance from government, and inaccessibility of government, and reduced political power of the polity.

MODEL 2
TWO-TIER AGGREGATION

Definition

"involves a number of governments coming together and forming a second level, "regional" government, to deal with those issues that are beyond the capacity of any of them to handle individually" (p. 13).

There are **delegated models** and **non-delegated models** of two-tier aggregation model. A delegated model involves governments voluntarily taking powers that could eventually be given back, while a non-delegated model involves a power transfer where "the regional government is established in its own right and its powers cannot be 'taken back' by the second tier" (p. 13). The author examines 5 cases that used a two-tier aggregation model.

1. **Nisga'a Agreement (a non-delegated two-tier aggregation model)**
    - The Nisga'a Final Agreement defines two levels of government: Nisga'a Central Government (aka Nisga'a Lisms Government) and Nisga'a Village Governments (of which there were initially 4)
    - Majority of responsibility is with the central government including:
        - Management of: forest, fisheries, and wildlife;
        - Environmental assessment and protection;
        - Administration of justice (policing, the establishment of a court system and correctional services);

- Conferring citizenship, culture and language, marriage, health and social services, education, intergovernmental relations and direct taxation of Nisga'a citizens.

- Public works is shared between two levels of government (both levels of government can make laws related to the design, construction, maintenance and demolition of buildings, structures and public works). Other shared responsibilities include: management, planning, zoning and development of their respective lands.
- Rules around when Nisga'a law vs. provincial/federal laws prevail are detailed (ex. Nisga'a central government has exclusive jurisdiction over village governments whereas federal/provincial laws of general application would prevail in the event of a conflict).

2. United Anishnabeg Councils (UAC)
(a delegated two-tier aggregation model)

- Seven First Nations in Southern Ontario (Beausoleil, Hiawatha, Georgina Island, Curve Lake, Moose Dear Point, Alderville, and Scugog) make up the United Anishnabeg Councils.
- Signed an agreement that outlines significant law making jurisdiction including: education environmental protection and a range of public works (ex. Potable water and solid waste, transportation etc.).
- First Nations can delegate any of their powers to a regional government that is governed by a council of chiefs from the individual First Nations. This council may use regulations to as an instrument used to govern.
- Important to keep the regulator separate from the operator.

3. Two tier municipal governments of Ontario, Quebec and BC

- **Ontario** – counties are formed with the upper tier of the two tier structure (the count council is made of elected officials).
- **Quebec** – two-tier system of municipalities and counties (municipalités régionales de comté [MRCs]). MRC councils are made up of locally elected municipal councillors votes are weighed according to municipality population membership.
- **British Columbia** – regional district system is the most easily adaptable of the different Canadian municipal models. Characteristics include "local government structure that is both flexible and well-suited to dealing with issues where large, relatively low density, rural areas surround urban centres". Regional districts supply inter-municipal services, they do not levy taxes, and have separate requisition for each service, share administrative costs.

4. **Local government in Sweden: non-hierarchal two-tier system**
   - Within a unitary states – no provincial level government.
   - Local government is constitutionally protected and has wider spending and taxation power than local governments in Canada.
   - Intergovernmental transfers based on revenue and expenditure equalization. Significant expenditure responsibilities lay with the local governments especially education, health and social services.
   - There is an Act that outlines governance structure including rules around: organization, decision-making roles, referendums, redress and financial management. Large level activities are based on special legislation.
   - Three primary forms of revenue for local governments: taxes (67%), grants from central government (20%), and user fees (7%). There is no local property tax, the primary tax is a flat rate tax on personal income which is determined by the central government plus whatever the local government determines to adds.

5. **First Nations Province Proposal**
   - Courchene and Powell (1992) proposed in "First Nations Province" the creation of a First Nations Province
   - Territorially based, made of existing land reserves, crown lands and settlements, and other territory arising from land-claims settlements
   - The FNP province powers would include:
     - Constitutional powers over education, justice, lands and resources, health care and use of the notwithstanding clause (same as provincial powers);
     - Federal representation in parliament;
     - The power to determine internal political structure, within Constitutional parameters;
     - A seat at all constitutional and First Minister deliberations;
     - Resources and economics of scale to provide services to citizens.

MODEL 3
POWER-SHARING
(AGGREGATION THROUGH POWER-SHARING TREATIES)

Definition

"Power sharing treaties are essentially agreements between nations to aggregate portions of their governance structures, processes and/or functions" (p. 24). This type of arrangement can only occur between "sovereign" nations, for instance they

cannot occur between municipalities because the municipalities are vested within larger political structures that created them (provinces).

Example: European Union.

- Basic principles were established through the 1997 Amsterdam Treaty (the treaty made it so that "the institutions of the EU" could not usurp "powers and responsibilities not formerly delegated to it by its member states" (p. 25)
- Unifying institutions:
  - European Commission: administrative body;
  - European Parliament: political body that develops legislation, budget, and regulations;
  - The Council of the European Union: (no equivalent in the world), "is a body with the characteristics of both a supranational and intergovernmental organization, deciding some matters by qualified majority and others by unanimity" (p. 27). It enacts legislation and directs intergovernmental cooperation.
  - Other Institutions:
    - Court of Justice;
    - Court of Auditors;
    - Economic and Social Committee (representative of employers, employees and other economic parties like farmers).

MODELS 4 AND 5 SPECIAL PURPOSE BODIES WITH AND WITHOUT LEGISLATIVE POWERS

Definition

Special purpose bodies have the following characteristics: "they usually focus on one area of public concern such as education, policing, child and family services etc., unlike governments, they do not have the power to legislate. Further any powers they do have are established in legislation of some level of government; and the leadership of the body is not necessarily elected by citizens at large" (p. 30).

The author divides special purpose bodies into two categories: those **without specific legislated powers** and those with **specific powers established by legislation**.

MODEL 4
SPECIAL PURPOSE BODIES
WITHOUT SPECIFIC LEGISLATED POWERS

a. Sectorial Self-Government Agreements calling for a Central Services Body

There have been 2 such agreements:

1. **The Framework Agreement on First Nation Land Management:**
   signed between INAC and 13 First Nations across Canada (5 in BC, 1 in Alberta, 2 in Saskatchewan, 1 in Manitoba, 4 in Ontario, and 1 in New Brunswick).
   - The agreement was passed in 1999.
   - It provides First Nations with a land code ("a kind of Constitution adopted by the First nations in a referendum process").
   - First Nations have the power to make laws in accordance with the land code that respects "the development, conservation, protection, management, use and possession of First Nation land and interests and licences in relation to that land" (p. 30).
   - Power includes ability to "collect and manage revenue from the First Nation lands with the exception of revenues and royalties from oil and gas" (p. 30).
   - Agreements require the establishment of a Lands Advisory Board that provide services to First Nations (such as developing and management land codes, training programs and environmental regimes), advocate for First Nations interests, and serve as a central repository for land codes – funding agreements are also set out by the board and the federal government.

2. **Mi'kmaq education agreement:**
   signed in 1997 involving 9 First Nations.
   - The agreement gives administrative laws to education on reserve for participating First Nations in accordance to community constitutions.
   - Established a body corporate – Mi'kmaw Kina'masuti that is governed by a constitution.
   - The central service body provides the following services: helps First Nations exercise jurisdiction over education, assists in administration and management of education, provides a facility for research, development and implementation of education for Mi'kmaq peoples, and helps develop short and long term policies.

Both agreements are based on a two level approach to legislation, policy and resource management – a central board under an agreement that represents communities.

b. Northwestern Ontario's School Boards' Cooperative Services Program

- Created to make education in northern western Ontario more efficient and less expensive.
- Purpose of the Cooperative Services Program (CSP) is to: "provide a variety of administrative curriculum services for members and clients, in northwestern Ontario who, because of their small size, cannot economically meet all needs internally on their own" (p. 32). Services include business/financial/accounting, educational consultation, primary and special education etc.
- School boards purchase some or all of the services from the CSP by either a price of cost plus 30 per cent or a 3 year service agreement (equal to pay cost plus 20 per cent). A service agreement allows a school board to have a representative sit on the board of directors.

The benefits of special purpose bodies without specific legislated powers are that they can promote political accountability and responsiveness. They are ideal for "rural areas where services are limited and there is economic and demographic stability" and "where a second tier of municipal government takes responsibility for them" (p. 35).

MODEL 5
SPECIAL PURPOSE BODIES WITH SPECIFIC LEGISLATED POWERS

Definition

Special purpose bodies with specific legislated powers have direct impact on citizens and arise from self-government agreements, existing legislation, or new legislation. Examples include:

1. **Cree School Board**
   - Part of the James Bay and Northern Quebec Agreement (JBNQA) signed in 1975 and the Northern Quebec Agreement (NEQA), signed in 1978 (the first modern day self-government and claims agreements).
     - The JBNQA: consists of 31 sections and 12 supplement agreements and concerns the Quebec Cree and Inuit of Northern Quebec.
     - The NEQA: consists of 20 sections and concerns the Naskapi Nation.
   - The federal government passed 2 laws that (a) approved the JBNQA; and (b) established a local self-government regime for the Cree and Naskapi and "the administration and control of certain categories of land under the agreement" (p. 36).

- For the 8 Cree First Nations that signed the JBNQA the "regime established a form of self-government in which most powers were vested with them rather than the Cree nation as a whole" (p. 36). Education is not included as one of the powers vested to the regime.
- The Quebec government amended the Education Act that provides the Cree the ability to establish, organize and operate a Cree school municipality and a Cree school board.
- The Cree school board has jurisdiction over elementary, secondary and adult education and has "all of the powers and responsibilities of a school board within the province and was granted additional powers such as the capacity to enter into agreements with the federal government, determine the school year, make agreements for post-secondary education, hire Native persons as teachers and select courses and teaching materials designed to preserve and transmit the language and culture of the Cree" (p. 36).
- The author describes this model as a "hybrid", whereby, "most law-making jurisdiction is vested at the community level but this approach is supplemented by a number of special bodies" (p. 36).

2. Aggregation through Co-Management

- Used mainly to resolve "outstanding" jurisdictional disputes that is less costly than litigation.
- Example: management of off shore oil and gas resources by the federal and provincial government established by the Atlantic Accord (signed by Newfoundland and Labrador in 1985) and the Nova Scotia Accord (signed by Nova Scotia in 1986) – both were Supreme Court judgements.
    - The Acts established the Canada-Newfoundland Offshore Petroleum Board and the Canada-Nova Scotia Offshore Petroleum Board as regulatory boards that award licenses, prove plans, monitor and enforce oil and gas operations, and management assessments.

3. First Nations Policing

- The First Nations Policing Policy is meant to:
    - Provide First Nations with professional, effective and culturally responsive First Nations police services;
    - Improve the safety and security in on –reserve communities;
    - Ensure that First Nations police services are accountable to the communities they serve;
    - Give First Nations a "voice" in the administration of justice (p. 38).

- There are many options that First Nations communities can use: stand-alone police services, arrangement meant to smooth transition from one type of policing to another, and "special contingent of First Nations officers within an existing provincial or municipal polices services" (p. 38).
- Funding is provided through a cost-sharing agreement between the federal government (who pays 52%) and the provincial government (who pays 48%).
- Example: Dakota Ojibway Police Services: established in 1977, the longest operating First Nations police service in Canada.
    - A stand-alone police agency in southwestern Manitoba serves 4 First Nations communities.
    - 12 police officers stationed in 4 detachments and 3 administrative officers located in Brandon, Manitoba.
    - The police officers are sworn peace officers within Manitoba i.e. they have jurisdiction throughout Manitoba.
    - The police commissioner was established by the Council of Chiefs of the Dakota Ojibway Tribal Council in 1997.

4. First Nations Child and Family Services Agencies

- 1991 the federal program was established – included a program manual and a funding formula.
- Meant to support and encourage the development of First Nations child welfare agencies that serve at least 1,000 children.
- "Many of the FNCFS agencies are special purpose bodies that serve more than one First Nation" (p. 40).
- One benefit of an aggregated model in child welfare service delivery is the potential to decrease the potential for conflict of interest between social workers and the families they serve but potentially at the expense of a loss of cultural sensitivity.
- Example: The Mi'kmaq Family and Child Services serves 13 First Nations communities in Nova Scotia, it is the sole First Nations child welfare agency in Nova Scotia and is "to other provincial agencies" however "a common criticism of centralized models is that their administrative structures mirror provincial agencies" (p. 41).
- The Meadow Lake Child and Family Services agency: is highly decentralized with one central agency that supports agencies in each community.

5. Municipal Finance Authority of British Columbia

- The Municipal Financial Authority of British Columbia (MFA) is the "central borrowing agency for municipalities, regional districts" and other authorities (p. 41).
- Created through provincial legislation in 1970 to assist mostly rural municipalities obtain capital financing.
- The municipalities and regions gathered together to credit from each other, following provincial standards (contributing to the debt reserve).
- The MFA has the power to levy province wide taxes to replenish funds (has never occurred).
- The First Nations Financial Authority (FNFA), established in BC in 1995, operates through the MFA (on a contract).
- "the MFA and a charter of investment policies, objectives and guidelines governs the investment activities of the FNFA's fund" (p. 42) First Nations participate by requesting funds for capital financing to the FNFA.
- Debt and user charges apply to borrowed funds.
- "The total indebtedness which a First Nation would be able to contract would be limited to a percentage of the assessed value for general government purposes of the taxable land and improvements within their First Nation and the value of the utility system and other First Nation government enterprise" (p. 42).

Table 1
Summary of Models of Aggregation
(Graham, 2003, p. viii)

Model	*Key Characteristics*
1. One-Tier (eg. Royal Commission proposal)	► Two or more separate governments are merged into one ► All governance functions are shared ► Can involve shifting responsibilities among levels of government ► Requires legislative change
2. Two-Tier (e.g. Nisga'a)	► Certain governance functions from two or more local governments are given to a new regional government body ► Governance functions transferred to regional ody are generally those with high overhead (e.g. public works) or those perceived as being quite complex (e.g. economic planning) ► Requires legislative change
3. Power Sharing [1] (e.g. European Union)	► Two or more autonomous nations agree, through an international treaty, to establish an organization to exercise power over delegated areas of responsibility within their respective jurisdictions ► Requires legislative change

Potential Benefits	*Potential Costs*	*Other Observations*
► Increased capacity to provide more and better services to everyone ► Cost savings ► More straightforward accountability ► Better performance in the world economy	► Implementation and other costs of aggregation are typically underestimated and the benefits overestimated ► Decreased citizen influence over local government	► No evidence of an optimum size of government ► No evidence that single-tier aggregation saves money ► Few examples of voluntary "one-tier" aggregation
► Greater accountability than special purpose bodies ► Provides a framework for local governments to work together and make joint decisions ► Increased capacity to deal with regional issues while leaving non-regional issues to local municipalities	► Inefficient and costly to run ► Complicated structures reduce the ability of citizens to hold governments accountable ► Competition between lower tiers impedes their international competitiveness	► Long duration in Canada and abroad attests to its viability ► Recent trend in Canada is to move away from this model in large urban settings ► Where this model continues to be used, the trend is to directly elect the regional tier
► Has impressive track record ► Have been no wards between the participating nations ► That 11 states are applying for entry into the European Union (EU) attests to its effectiveness	► "Democratic deficit" ► Remoteness of the "bureaucrats in Brussels" ► Loss of national sovereignty	► EU having legislative powers is unique among international agreements ► No consensus among member states on the Union's future direction ► EU is "voluntary", but it has taken 5 decades for it to evolve

[1] Note: European Union has not always been included in other descriptions of power sharing models. Some have referred to the European Union as a post-nationalist arrangement. Karalekas (2011) for instance uses the term power sharing in reference to some self-government agreements among First Nations in Canada (e.g. Yukon First Nations).

Model	*Key Characteristics*
4. Special Purpose Bodies without specific Legislated Powers (e.g. First Nations Lands Advisory Board, Tribal Councils)	► Two or more governments agree to establish an organization to provide the governments ► Requires no legislative change
5. Special Purpose Bodies with Specific Legislated Powers (e.g. First Nations Regional Police Services)	► Two or more governments agree to establish an organization to exercise power over delegated areas of responsibility within their respective jurisdictions ► May require legislative change

4.2 NATIONAL CENTRE FOR FIRST NATIONS GOVERNANCE. (2009). GOVERNANCE BEST PRACTICE REPORT

National Centre for First Nations Governance. (2008). Principles of Supportive Effective Governance *Disccussion Document*. Ottawa, ON.: National Centre for First Nations Governance.

National Centre for First Nations Governance. (2009). Governance Best Practices Report (pp. 62). Ottawa, ON.: National Centre for First Nations Governance.

National Centre for First Nations Governance. (n.d.). The Five Pillars of Effective Governance. Retrieved from http://fngovernance.org//publication_docs/Five_Pillars_EN_web.pdf

The National Centre for First Nations Governance (NCFNG) (n.d.) defines effective First Nations governance as comprised of five pillars: **(1)** the people, requiring strategic vision, meaningful information sharing, and participation in decision making; **(2)** the land, requiring territorial integrity, economic realization and respect for the Spirit of the Land; **(3)** laws and jurisdiction, requiring expansion of jurisdiction beyond the Indian Act, and rule of law; **(4)** institutions, requiring transparency and fairness, results-based organizations including governance measurements, cultural alignment of institutions, and effective inter-governmental relations; **(5)** resources, requiring human resource capacity,

Potential Benefits	*Potential Costs*	*Other Observations*
► This type of aggregation is the easiest to create and modify ► Economies of scale lead to an increased capacity to provide services in the area of aggregation	► Limited accountability to the electorate ► Arrangements can easily be abrogated, making them potentially unstable ► As quasi-monopolies, continued service quality can be an issue	► Popular option among Aboriginal and non-Aboriginal governments
► This is the next easiest model of aggregation to create and modify ► It is more stable because its legislative base makes it more difficult for governments to leave an arrangement ► Economies of scale lead to an increased capacity for services	► It is more difficult to create and modify these arrangements because of their legislative base ► Limited accountability to the electorate ► As quasi-monopolies, continued service quality may become an issue	► Another popular option among Aboriginal and non-Aboriginal governments

financial management capacity, performance evaluation, accountability and reporting and diversity of revenue sources. The NCFNG (2008) defines effective First Nations governance as "the traditions (norms, values, culture, language) and institutions (formal structures, organization, practices) that a community uses to make decisions and accomplish its goals. At the heart of the concept of governance is the creation of effective, accountable and legitimate systems and processes where citizens articulate their interests, exercise their rights and responsibilities and reconcile their differences" (p. 1). The NCFNG's effective governance definition is based on that used by the Harvard Project on American Indian Economic Development, the United Nations Permanent Forum on Indigenous Issues, the Native Nations Institute, and the Institute on Governance and has been used to develop a Governance Capacity Assessment (GCA) tool. The GCA has been used to evaluate and support First Nations in Canada in developing effective governance. In 2009 the NCFNG published a report illustrating the development of aspects of effective governance in twenty-four First Nations, examples of successful governance included increased community engagement and participation in planning, both in terms of community members and non-community members, creation of youth councils, land and resource use agreements with corporations and other nations, strategies and initiatives meant to protect natural resources including investment in research on effective resource

use and sustainability, legislative reviews, creation of laws to preserve language, improved agreements with the gaming commission, creation of a legislative branch meant to provide oversight in the development of laws, agreements on improved Band electoral processes and transparency, an examination of alternative legislative processes within the context of current Canadian legal frameworks, and initiatives to promote inter-governmental cooperation on land development (National Centre for First Nations Governance, 2009). The Canadian government announced in 2012 that funding for the NCFNG would no longer continue and according to the executive director the centre is likely to close (Hui, 2012).

4.3 DURST, D. & ZWART, L., (1996). FIRST NATIONS SELF-GOVERNMENT OF SOCIAL SERVICES: AN ANNOTATED BIBLIOGRAPHY. SOCIAL ADMINISTRATION RESEARCH UNIT, FACULTY OF SOCIAL WORK. UNIVERSITY OF REGINA.

First Nations Self-Government of Social Services is a report (literature review and annotated bibliography) that synthesizes information on Aboriginal self-government initiatives in 1996 and maps out models of Aboriginal self-government. The author uses a framework, he identifies as the circle of self-government.

The Circle of Self-Government is comprised of five points arranged in a circle which signify varying degrees of self-determination: **(1)** Autonomy: Historical/Federalis, **(2)** "Benevlolent" Colonialism, **(3)** Integrated, **(4)** Co-management/Delegated, and **(5)** Co-jurisdiction.

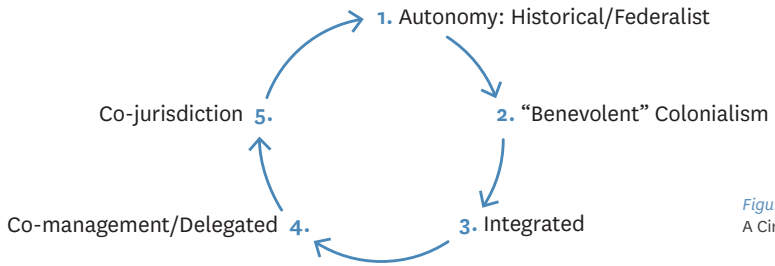

Figure 1
A Circle of Self-Government

1. **Autonomy: Historical/Federalist**
   - "it is possible to establish Aboriginal government of social services which has complete and absolute control over agreed upon jurisdictions. The arrangement is congruent with the federal system and a part of the federal structure. It is this model of "Federalist Autonomy" that the Federation of Saskatchewan Indian Nations is pursing as it plans to approach to child welfare" (p. 8).
   - Prior to colonialism the model that was used is referred to as "historical autonomy"

2. **"Benevolent" Colonialism**
   - spectrum from policies and programs intended to assimilate Aboriginal peoples to programs based on racist assumptions of benevolent colonizer.

3. **Integrated**
   - Aboriginal input into existing structures, without drastically changing the structure of the system. Examples of such a model include: Aboriginal foster homes, Aboriginal probation officers, and community based social assistance appeal committees.
   - Yukon Territory for instance used this type of model in the First Nation Justice Council child welfare intervention plans and in the Native Child Welfare Unit in Vancouver..

4. **Co-management/Delegation**
   - Programs are negotiated by Aboriginal agency.
   - "Delegation is authority bestowing authority. Any authority can delegate its authority to another" (p. 9). This is a model that is typically used in child welfare to establish First Nations and other Aboriginal child welfare agencies. FNCWs operate within the child welfare system similar to non-Aboriginal child welfare agencies, whereby they are given the right to enforce the provincial child welfare legislation. The federal government funds FNCWs and so many enter into tripartite agreements with the provincial and federal government that gives them the right to provide the full range of child welfare services.
   - "The final liability and responsibility remain with the province but are co-managed and delegate to the local level permitting greater local control and decisions making" (p. 9).
   - The co-management/delegation model does not permit First Nations to fully actualize their inherent right to self-determination but may serve as an interim model towards achieving self-determination.

5. **Co-jurisdiction**
   - "It is possible and feasible within the Canadian system to negotiate and implement a co-jurisdictional arrangement in an identified area" (p. 10). In this model First Nations are equal partners to another government or organization.
   - Examples include: Canadian health care system, Canadian Pension Program and the Unemployment Insurance Program. The programs are at the federal level but under provincial responsibility.
   - Aboriginal examples include: the wildlife agreement in the Northwest Territories, whereby the territorial government has powers, usually held by the federal

government, that supersede federal rights. Another example is the Spalumcheen Band Council (in BC) band by law that gives the Nation co-jurisdictional authority in the area of child welfare (this is the only such case in Canada). The author includes the James Bay and Northern Quebec Agreement in the co-jurisdiction governance model.

Funding Arrangements

1. Band-Federal Bipartite: federal officials enter into agreement with the band/tribal council to fund health and social programs.
2. Band-Federal/Band-Provincial Bipartite: involves two distinct and separate negotiated agreements with the band/tribal council – one with the provincial government; one with the federal government.
3. Band-Provincial-Federal Tripartite: a tripartite agreement used most often in funding child welfare services; whereby the Aboriginal child welfare agency is delegated the right to provide child welfare services (may sometimes receive provincial funding) and the federal government funds such services for on-reserve communities.
4. Band-Provincial Bipartite: this type of negotiation excludes the provincial government; this may occur for services delivery to the elderly or disabled peoples for rehabilitation services and in Ontario for child welfare services where the funding model is unique. The Ontario 1965 Indian Welfare Services Agreement transferred federal responsibility to the provincial government who reimburses First Nations child welfare agencies for providing child welfare services on-reserve.
5. Provincial-Federal Bipartite: these are agreements that exclude Aboriginal peoples. "Some services such as those for young offenders are contracted" where the federal government engages in negotiations with the provincial government without input from service users or other community members (p. 14).

The author argues that Aboriginal communities can move through the circle of self-government and may be engaged in different models at the same time for varying public services.

4.4 WESLEY-ESQUIMAUX, C. & CALLIOU, B. (2010). BEST PRACTICES IN ABORIGINAL COMMUNITY DEVELOPMENT: A LITERATURE REVIEW AND WISE PRACTICE APPROACH. THE BANFF CENTRE.

The authors argue that Aboriginal leaders are needed for community development to occur. They use academic research that demonstrates the characteristics of successful leaders. The main purpose of the study is to list a best practices guide/a list of leaders in the area of Aboriginal community development. They use the following as a framework for analyzing best practice: "a proven method, technique, or process for achieving a

specific outcome under a specific circumstance and in an effective way; …based on lessons learned by one group, which can be passed on to another group, facing a similar set of circumstances or tasks; the experiences learned by one community or organization that can be shared with another" (p. 5). Best practice case examples are meant to serve as benchmarks for excellency. The authors list the following projects as the **best practices in Aboriginal community development:**

1. **Harvard Project on American Indian Economic Development**

   - Cornell and Kalt (2010) American Indian Self-Determination: The Political Economy of a Successful Policy. *The Harvard Project on American Indian Economic Development*.
   - In the United States the primary national legislation that governs Tribal nations is the *Indian Self-Determination and Education Assistance Act of 1975*. The act states the following Tribal powers of self-government:
     - control of cultural and religious affairs;
     - use of environmental and natural resources;
     - business permitting and regulation;
     - social service provision (education, housing, health care, and family services);
     - public infrastructure;
     - citizenship criteria;
     - law making and legislation;
     - taxation;
     - civil law;
     - criminal law (minor crimes); and
     - constitutional form.
   - Limited sovereignty because federal law still applies and Tribes have similar powers to the fifty states. Authors refer to tribes has having contemporary sub-sovereign status – rights that is written into the constitution.
   - During the 1990s there was a burst of economic development among tribes – not due to outside investment (federal spending was deemed as disproportionately low compared to other groups). The reason was the federal policy towards Indian nations that constituted the era of self-determination. Before the new model the federal government applied a one-size-fits-all and micro-administration approach to self-rule. The federal Bureau of Indian Affairs was largely a body that would listen to advice and complaints from tribal governments and citizens. The introduction of the *Indian Self-Determination and Education Assistance Act* in 1975, according to the authors, resulted in greater nation building by tribes.

- Examples of very successful development projects:
  - Tohono O'odham Nation funded, built and operates the first either Native or non-Native elder care facility.
  - The Citizen Potawatomi Nation reformed their constitution including a trials and appeals court that has been so successful that other communities have opted out of the state of Oklahoma system to partake in the CPN system.
  - Chickasaw Nation Industries provide program management, information technology, technical and administrative support, medical and dental staffing, aviation and space technical support, construction, manufacturing, property management, and logistics to government and commercial clients.
  - Many tribes have re-organized their education system to promote learning of traditional languages.
- Those tribes that have not taken programs over from the federal government have shown little to no signs of development progress.
  - "the overall pattern of results in Indian Country are quite positive, and the reasons lie in the facts that local decision making and administration **(1)** improve accountability and **(2)** allow on-the-ground programs and policies to better reflect local values." (p. 13)

The results

1. Overall economic growth – per capita incomes among Native citizens on reservations have been growing rapidly.
2. Industrial performance: "each high skilled position that is transferred from the federal BIA forestry to tribal forestry results in a productivity increase of 38,000 board feet of timber output, and the price received in the marketplace for the output rises by 4.5%" (p. 13). The quality has remained constant.
3. Business performance: a number of successful businesses have developed in Indian Country.
4. Program performance.

2. National Centre for First Nations Governance **(See page 19)**

- Independent non-profit aboriginally run national organization meant to promote Aboriginal self-governance. The Governance Best Practices Report identifies pillars of good governance and identifies leaders within each area of effective governance.

3. Institute on Governance **(See pages 2-12)**

- A public interest agency "set out a model of five principles of good governance" that include "legitimacy and voice, direction, performance, accountability and fairness" (p. 10).

4. **UN Development Program**
   - Nine principles of good governance: participation, consensus orientation, strategic vision, responsiveness, effectiveness and efficiency, accountability, transparency, equity, and rule of law

5. **DIAND Governance Action Plan**
   - Project to help First Nations build capacity for self-government.
   - 7 drivers or levers of capacity development were identified as: a vision or sense of self as self-governing, stable and effective leadership, effective governing institutions, culture match, strategic orientation, citizen engagement, and effective and stable intergovernmental relations.

6. **Friendship Centre Movement Best Practices in Governance and Management**
   - Factors included in definition of best practice: board governance, executive leadership, staffing, volunteers, strategic planning, evaluation, adaptive capacity, external relations, sustainability, fundraising, and human resource management.

7. **Conference Board of Canada**
   - Seven factors found to create wealth and employment in 10 Aboriginal communities: strong leadership and vision, strategic community economic development plan, access to capital, markets and management expertise, good governance and management, transparency and accountability, and the positive interplay of business and politics.
   - For businesses these factors were identified: purpose, clear corporate vision, winning attitude, using creativity to overcome obstacles, good location, experience and expertise, hiring from outside community, recruitment and retention, and developing partnerships.

8. **Royal Commission on Aboriginal Peoples**
   - 5 critical factors of success in community economic development: "restoration of power and control over lands and resources, development of positive and encouraging social/political/cultural climate for Aboriginal economic development, development of enabling instruments for use in surmounting the problems facing Aboriginal economic development, development of a skilled and positive forward looking labour force acceptance and willingness to engage in economic activity by the mainstream in collaboration with Aboriginal people" (p. 11).

9. **Human Resources Development Canada**
   - Factors deemed as important in Aboriginal development: governance, planning and policy development, control over resources and funding arrangements, program delivery and management, accountability, capacity building, coordination

across programs, combining human resources and economic development, linking education and training to employment.

10. Comprehensive Community Planning Workshop (Hosted by the Okanagan Indian Band in BC)

11. Public Works Management in First Nations Communities

- Factors founds to contribute to effective public works management in First Nations communities: vision, leadership, policies, management and administration, self-sufficiency, human resources, asset protection and management, accountability, and fiscal accountability.

12. Canadian First Nation Community Economic Development Planning

- Based on the Harvard Study on Indian Economic Development, First Nations and INAC developed a tool to assess a community's capacity to develop socio-economically.

13. Indigenous Research and Education Charles Darwin University

- Academic paper on Aboriginal peoples' thoughts on governance and community development conducted in Australia. Author found the following as key elements of governance: Aboriginal authority, jurisdictional authority, cultural appropriateness, research, education and training, leadership, and capacity of government agencies.

The Australian National University Centre for Aboriginal Economic Policy Research (CAEPR)

- Data collection since 1990 aimed at collecting information about economic development in Aboriginal communities in Australia.
- The Indigenous Community Governance Project (ICGP) was initiated in 2005 by the CAEPR, and provides comparative data on case studies of eleven Indigenous communities' application of governance models.

4.5 HUNT, J., & SMITH, D. E. (2006). BUILDING INDIGENOUS COMMUNITY GOVERNANCE IN AUSTRALIA: PRELIMINARY RESEARCH FINDINGS. WORKING PAPER N°.21/2006. CANBERRA, AUSTRALIA: CENTRE FOR ABORIGINAL ECONOMIC POLICY RESEARCH, THE AUSTRALIAN NATIONAL UNIVERSITY.

- Examined the different types of governance models used by Indigenous communities, the impact of external factors on model type and the ways in which different models aligned with non-Indigenous governance standards.
- Found much heterogeneity in the types of governance models used by sampled communities.

- Data was collected using ethnographic analysis, document review and a case study approach to contextualize governance models within governmental policies.
- Community was defined based on location, identity, administrative details, and self-selection; communities involved in the project requested to become involved in the project.
- Findings include the following components as part of governance **(1)** family and extended family as community leaders; **(2)** limited boundaries between community politics and social functions; **(3)** the external forces affecting the communities varied, including levels of remoteness and access to resources; **(4)** much cultural heterogeneity; **(5)** the legitimacy of organizations was seen as important to their function, legitimacy was seen as the appropriateness of process and culture; **(6)** decisions around authority; **(7)** cultural match between governance structure and process and community values and traditions; **(8)** the importance of institutional design in terms of fit – "customised institution-building by organisations appears to make a significant difference to their legitimacy and effectiveness"; for economic development important factors included: "strong visionary leadership; strong culturally-based institutions of governance; sound, stable management; strategic networks into the wider regional and national economy; having prerequisite infrastructure substantially in place; and having access to relevant training and mentoring opportunities".
- 2005 report has **ten main messages related to Indigenous governance in Australia**:

    1. Relationship and representation are essential;
    2. There needs to be flexibility in the application of governance models;
    3. Governance models need to be culturally appropriate for communities in order for the model to be legitimate;
    4. Geographic location influences culture which makes a difference for the type of governance initiatives that will likely be accepted into Indigenous communities;
    5. "Institutions of governance matter" and should be suited to "preferred values and ways of doing things, by establishing internal mediation and dispute-resolution procedures, creating shared goals, agreed procedures" that are community specific (p. 3);
    6. Leadership is important;
    7. Socioeconomic development requires effective governance;
    8. Governance is most effective when there is an environment that supports community governance, including resources provision and flexibility;

9. Capacity building and a holistic approach to governance makes it more effective; and
10. Indigenous governance cannot be measures by non-Indigenous standards because these standards are different.

4.6 NATIONAL COLLABORATING CENTRE FOR ABORIGINAL HEALTH. (2011). LOOKING FOR ABORIGINAL HEALTH IN LEGISLATION AND POLICIES, 1970 TO 2008.

Lavoie, Gervais, Toner, Bergeron, and Thomas (2011) Looking for Aboriginal Health in Legislation and Policies, 1970 to 2008. National Collaborating Centre for Aboriginal Health.

Definition

- **Health Policy:** "a statement of a decision made by a government to control the healthcare system, to help solve problems within or caused by it" (p. 12).
- **Health Legislation:** "the body of rules that regulates the promotion and protection of health, health services, the equitable distribution of available resources and the legal position of all parties concerned, such as patients, health care providers, health care institutions and financing and monitoring bodies" (p. 13).

The authors review legislation and policies related to Aboriginal health in Canada from 1970 to 2008. The **scope** of the report was to focus on **(1)** federal, territorial and provincial health policies adopted by health ministries not on the health policies and practices adopted by and specific to First Nations; **(2)** on text within legislation and policies not on processes, implementation etc. of health legislation and policies; and **(3)** on publically available information. The authors used a key word internet search for the following reasons: to maintain consistency between jurisdictions; because the internet is an underused tool in policy research, and due to limited resources.

Method

Internet search of Aboriginal health policies and legislation in Canada between 1970 and 2008.

- Search works: Aboriginal, First Nation(s), Inuit, Metis, Métis, Indian, Amérindiens, reserve, health, medicine, and medical.
- Websites: Parliamentary Library, Health Canada, PHAC, INAC, Department of Justice, Statistics Canada, the Aboriginal Canada Portal, provincial and territorial websites (ministries, departments), and Aboriginal organizations.

The authors describe some of the socio-demographic statistics collected by Statistics Canada on Aboriginal peoples in Canada; making clear that the federal government distinguishes between registered (status) and non-registered (non-status) Indians.

Summary

- "The federal government funds health services and programs for First Nations on-reserve and Inuit living in their traditional territories, outside of any legislative framework" (p. 17).
- The authors reviewed legislation and policies within five federal department to find the following, **these were not included as part of the mandate of the project**:
    - Department of Canadian Heritage: is responsible for 33 Acts, focus is mostly on Aboriginal peoples off-reserve, does not have a mandate related to Aboriginal health.
    - Federal Healthcare Partnership (FHP): voluntary alliance in healthcare service delivery. Meant to promote and develop collaboration between areas of health care such as dental care, federal/provincial/territorial representation, health human resources, health information management, medical supplies and equipment recycling etc. "The adoption of Aboriginal-specific health policies is, however outside the mandate of the FHP" (p. 17).
    - INAC is not responsible for Aboriginal health – this responsibility was shifted to health Canada in 1945.
    - The only two federal departments responsible for Aboriginal health are: Health Canada and Public Health Agency of Canada (PHAC).

Authors list the foundational documents that inform the relationship between Aboriginal Peoples and the federal government. These include:

- The Royal Proclamation: created in 1763 an attempt to "create an alliance between the Crown and the Aboriginal populations to ensure the sovereignty of the British Crown" (p. 20). It states that Aboriginal peoples are entitled to their ancestral territory and "were not conquered" (p. 20).
- The 1867 British North America Act (aka. Constitution Act 1867): "created the federal dominion" and "defined Indian Affairs as an area of federal jurisdiction" (p. 21).
- Constitutional amendment of 1982:
    - Section 35: affirms Aboriginal right to self-determination and defined Aboriginal peoples as First Nations, Inuit and Métis. Recognition of existing aboriginal and treaty rights and land claims agreements and commitment to participation in constitutional conference;

- Section 25: “guarantees that provisions included under the Charter of Rights and Freedoms cannot abrogate or derogate from Aboriginal rights entrenched in treaties, the Royal Proclamation and land claims” (p. 21).

- The Indian Act: implemented in 1876. Section 73 gives authority to the federal government to regulations:

  a) “To prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;

  b) To provide medical treatment and health services for Indians;

  c) To provide compulsory hospitalization and treatment for infectious diseases among Indians;

  d) To provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;

  e) To prevent overcrowding of premises on reserves used as dwellings;

  f) To provide for sanitary conditions in private premises on reserve as well as in public places on reserve” (pp. 21-22).

  - The authors add that “the Indian Act’s regulation-making power does not provide sufficient authority for a comprehensive public health and health services regulatory framework on First Nations reserves” and the “Act does not extend to Inuit” (p. 22).
  - The authors note that jurisdictional debates particularly around First Nations right to self-determination and jurisdiction over public health on-reserve continue to shape public health provision to First Nations peoples. Sections 73 and 81 of the Indian Act arguably “provide First Nations jurisdiction over public health on-reserve” (p. 22).

Two federal departments responsible for Aboriginal health are: **(1)** Health Canada and **(2)** Public Health Agency of Canada (PHAC).

1. Health Canada

- Has primary 5 roles: **(1)** administration of the Canada Health Act; **(2)** policy support for Canada Health Transfers (including transfer of funds to First Nations and Inuit Organizations); **(3)** regulator of products; **(4)** service provider of “supplementary health benefits to eligible First Nations and Inuit to cover: pharmaceuticals, dental services, vision services, medical transportation” etc. “This program is known as the Non-Insured Health Benefits (NIHB) program” (p. 23); and **(5)** serves as an information provider.

- The First Nations and Inuit Health Branch (FNIHB) is responsible for health service provision for First Nations peoples. There has been a policy of devolution since the 1980s. Two policies have increased control over health by First Nations peoples.
    a. **1979 Indian Health Policy:** The three pillars informing the policy are: **(1)** "increase the health status Indian communities, through mechanisms generated and maintained by the communities themselves; **(2)** strengthen traditional and new relationship between Federal, Provincial, and local governments and Indian government organizations by encouraging greater involvement in the planning, budgeting and delivery of health programs; and **(3)** increase the capacity of Indian communities to play a positive and active role within the Canadian health care system with decisions affecting their health" (p. 23)
        - 1982 the Community Health Demonstration Program was introduced to allow First Nations community to "experiment with different models of community-based service delivery" (p. 24).
    b. **The Health Transfer Policy** was introduced in 1989 as part of the Indian Health Policy. It provides "opportunities to single communities and Tribal Councils for increased local responsibility in the planning and delivery of community-based health services as well as some regionally based programs". In 2003 "295 communities had signed a transfer agreement" (p. 24). An alternative model exists for smaller communities – the integrated model.
        - The FNIHB also provides direct services and funds 34 separate programs. Concerns related to the fragmentation of the FNIHB administration have been raised.
        - **Non-Insured Health Benefit (NIHB) Program:** "registered Indians living on and off-reserve and Inuit living anywhere in Canada are entitled to services included under the NIHB program" (p. 24).

2. Public Health Agency of Canada

- Created in 2004 by an Act of Parliament following the SARS outbreak.
- "Offers a number of off-reserve health programs" (p. 25).

Treaties and Health policies and legislation

- Treaty Six is the only historic treaty that "includes specific healthcare provisions" in the "medicine chest clause" (p. 26). The clause sets out that the federal government is responsible for "protecting First Nations people from pestilence and famine, and to provide a "medicine chest" in the house of each Indian agent" (p. 26).

- Treaties 8, 10 and 11 included similar provisions and requests for medicine and resident medical man (not included in text, but were negotiated).
- The federal government tends to view health services matters of policy while Aboriginal peoples tend to view health services as a right (as reflected in the Johnston appeal, a 1966 Supreme Court of Saskatchewan ruling and then expanded in the Wuskwi Sipihk Cree Nation 1999 ruling in Manitoba).
- **Most modern treaties and self-government agreements** have included clauses about Aboriginal government's jurisdiction in health. The James Bay and Northern Quebec Agreement is unique in Canada because it includes "structures [that] are co-founded by the federal and provincial governments to serve the health care needs of Nunavik Inuit and the James Bay Cree" (p. 27). Similar to the James Bay and Northern Quebec Agreement, the Nisga'a Agreement and the Labrador Inuit Association Agreement "include provisions for self-determination of health services…and clarify jurisdiction, roles and responsibilities, as well as mechanisms to address jurisdictional issues as they emerge" (p. 27).

Provincial and Territorial policies and legislation with Aboriginal-specific mandates

- Some provinces and territories include specific provisions for Aboriginal health but those that exist are "limited and focus on jurisdiction" (p. 28). In Alberta, Saskatchewan, Ontario and New Brunswick legislation states that the ministry can enter into an agreement with a First Nations in the area of health service delivery (as part of a tripartite agreement).
- The Yukon Health Act: includes as clause that the Yukon Land Claim Agreement and the Yukon Self-Government Agreement prevail when conflict arises between an Aboriginal group and the ministry.
- In Quebec the Loi sur les services de santé et les services sociaux defines a complaint process for signatories of the James Bay Northern Quebec Agreement related to access to health services; in Newfoundland and Labrador a similar provision exists.
- Yukon only government that recognizes the need to respect traditional healing practices. Quebec, Manitoba and Ontario exempt Aboriginal midwives from the Code of Professionals. BC, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick and PEI "have adopted tobacco control legislation that specifies that the legislation does not apply to the use of tobacco for ceremonial purposes" (p. 28).

- **Ontario**
  - Health and Wellness Strategy in 1990: (led to the Aboriginal Health Policy)
  - Aboriginal Health Policy in 1994: governing policy meant to ensure equal access to health programming and that the health needs of Aboriginal peoples in Ontario are met.
- **British Columbia**
  - Transformative Change Accord and First Nations Health Plan = Tripartite First Nations policy. These policies are intended to "clarify of Aboriginal title and jurisdiction" (p. 29).
- **Nova Scotia**
  - 2005 Providing Health Care, Achieving Health (framework on the needs of Mi'kmaq peoples).

Métis specific policies and legislation

- The only comprehensive lands claim signed by a Metis group is in the Northwest Territories. Included in the claim is the Metis Self Government and Health Policy – "the policy is, however, limited to extending access to Non-Insured Health Benefits as provided to Registered Indians" (p. 30).
- **Alberta**
  - 1989 Metis Settlements Accord includes a number of health specific provisions including **(1)** the right to make bylaws to promote the health, safety and welfare of the residents of the settlement area; **(2)** the right to invest money in a hospital district or health region under the Regional Health Authorities; and **(3)** make bylaws respecting and controlling the health of the residents of the settlement area and against the spread of diseases.
- **Saskatchewan**
  - The Saskatchewan Métis Act 2002: aims to increase participation of Métis leaders in health related decisions and priority setting.
- The authors conclude that Aboriginal peoples are not sufficiently reflected in health policy and legislation. In British Columbia and Nova Scotia there are stipulations that the Board of Directors of regional health authorities should reflect the population they represent – Aboriginal peoples are not specifically mentioned in these stipulations. In Ontario there is a council that provides advice through the Local health Integration Networks and is comprised of Aboriginal representatives.

Emerging Mechanisms in Aboriginal Health

1. **Cross-jurisdictional coordination:** committees (generally informal forums) intended to serve primarily as information sharing mechanisms.

    a. **British Columbia Tripartite First Nations Health Plan** (2007): partnerships between Government of BC, Government of Canada, Leadership Council Representing the First Nations of British Columbia. "The Health Plan creates a new governance structure for First Nations health services in BC" comprising of a First Nations Health Governing Body, a First Nations Health Council, a tripartite First Nations Health Advisory Committee, and "an association of health directors and other professionals" (p. 31).

    b. **The Saskatchewan Northern Health Strategy** (2001): meant as a way to increase "collaboration, improve the continuum of care for all northerners, design strategies to better use existing resources, and resolve cross-jurisdictional issues" by providing a forum for First Nations, Métis, northern municipalities, Regional Health Authorities and federal and provincial authorities (p. 31).

    c. **The Manitoba Inter-Governmental Committee on First Nations Health** (2003): set priorities and coordinate approaches to First Nations health in Manitoba. A large number of participating members including First Nations groups, Manitoba and Canada health representative and INAC.

2. **Intergovernmental Health Authorities:** formal organizations meant to increase partnerships between federal, provincial and Aboriginal governments. The James Bay and Northern Quebec Agreement lead to an intergovernmental health authority. Others include:

    a. **The Athabasca Health Authority:** federally and provincially funded, "considered an extension, although informal of a provincial health care system" (p. 31). Mandated to provide health services for Athabasca Basin residents in four Métis communities.

    b. **The Northern Intertribal health Authority:** partnership between Meadow Lake Tribal Council, the Lac LaRonge First Nations, the Peter Ballantyne Cree Nation and the Prince Albert Grand Council (this represents about half of the First Nations in Saskatchewan). Provides education and technical support to NITHA partners "in the area of communicable disease control, epidemiology and health status monitoring" (p. 32).

5
PART 2: SELECTED GOVERNANCE MODELS BY JURISDICTION

5.1 HEALTH

BRITISH COLUMBIA MODEL

1. **Governance Standards**
   - 7 Directives
   - 6 values
   - Corporate governance requirements
   - Competencies for the Board of Directors
2. **Governance Structures**
   - FNHC
   - FNHDA
   - FNHA
   - Regional Caucus structures and mandates
   - Holistic First Nations health governance model (blending non-profit, corporate and legislative elements)
   - Regional offices
3. **Governance Process**
   - The engagement and approval pathway
   - Process for reciprocal accountability
4. **Data Governance**
   - Decision making related to data collection and sharing
   - Creating information systems, improving reporting, developing capacity, and tracking performance
   - Based on OCAP™ principles – Aboriginal groups have ownership control, access and possession of the information that pertains to themselves

The planning model can operationalize the 7 Directives by ensuring: that plans at all levels are connected to community level planning; that the process is effective and efficient; that the process puts planning tools and capacity into the hands of First Nations; and that First Nations decision making is implemented through planning, priority setting, and investments at community, regional, and provincial levels. A planning model for our First Nations health governance structure can build on the successes we have had to date, including further evolving and formalizing the planning achievements of community engagement hub activity, where groups of First Nations are engaged in local planning and priority setting discussions with the goal of improving health services. Expanding on the benefits of the Engagement and Approval Pathway, this planning model supports all of our involvement in strategic and comprehensive priority setting at local, regional, and provincial levels. ((First Nations Health Authority, 2013, p. 69).

Holistic First Nations health governance model

Inspired by Tribes in Alaska who "have been able to: push funds, control and accountability for programs as close to the local delivery of the services as possible; implement a "customer owner" philosophy… leads construction of water, sanitation, and health facilities in Alaska, and offers community health and research services, established… Alaska Native Medical Center Hospital; foster mentorship and development of Alaska Natives in the health system, and implement a human resource approach that ensures that all employees understand and live the values that are important to the Alaska Tribes; develop the world-renowned "Nuka System of Care"; implement and 100% fund a traditional healing program through which the majority of care is provided by community-trained traditional health practitioners and healers" (First Nations Health Authority, 2013, p. 92).

Nuka System of Care

Was created by the Southcentral Foundation (a non-profit health care organization in Alaska. Before 1999, "Alaska Native people in Southcentral Alaska received their health care as "beneficiaries" of the Indian Health Service's Native hospital" (Gottlieb, 2013, p. 1). It was a highly bureaucratic and slow means by which to deliver services. Alaska Native peoples advocated and succeeded in lobbying the Congress to pass a federal law in favour of self-determination. After 1999, Alaska peoples were "customers" and "owners" of tribally managed health care services as opposed to "beneficiaries" of government run services. "Services Provided by Southcentral Foundation: primary care, both in outpatient and home settings; dentistry; outpatient behavioral health; residential behavioral health; traditional healing; complementary medicine; health education and more." Also provide administrative assistance and human resource services - grants, information technology, public relations Relationship building is the primary principle of the organization.

Operational Principles

1. Relationships between the customer-owner, the family, and provider must be fostered and supported
2. Emphasis on wellness of the whole person, family, and community including physical, mental, emotional, and spiritual wellness
3. Locations that are convenient for the customer owner and create minimal stops for the customer owner
4. Access is optimized and waiting times are limited
5. Together with the customer-owner as an active partner
6. Intentional whole system design to maximize coordination and minimize duplication
7. Outcome and process measures to continuously evaluate and improve
8. Not complicated but simple and easy to use
9. Services are financially sustainable and viable
10. Hub of the system is the family
11. Interests of the customer-owner drive the system to determine what we do and how we do it
12. Population-based systems and services
13. Services and systems build on the strengths of Alaska Native cultures

Core Concepts

1. Work together in relationship to learn and grow
2. Encourage understanding
3. Listen with an open mind
4. Laugh and enjoy humor throughout the day
5. Notice the dignity and value of ourselves and others
6. Engage others with compassion
7. Share our stories and our hearts
8. Strive to honor and respect ourselves and others

Yukon-Kuskokwim Health Corporation (YKHC)

"Fully accredited tribal organization that administers a comprehensive health care delivery system for over 50 rural communities in Southwest Alaska."

The YKHC also started its own construction arm to build infrastructure.

The YKHC and Providence Health and Services Alaska entered into a 50/50 joint venture to operate medevac services - LifeMed.

Bigstone Health Commission

1996 community ran a pilot project: Non-Insured Health Benefit Project.

The Health Commission is a non-profit organization owned by the Bigstone Cree Nation Health services delivered:

- The organization also runs a for-profit organization - Bigstone Health Holdings Ltd.
- Health Holdings Ltd. runs: a pharmacy, medical transport, Bigstone Dental and Orthodontic Ltd., a professional centre, and Visioncare Ltd.

SERVICES OF BIGSTONE HEALTH COMMISSION AND AFFILIATED COMPANIES (CIRCA 2006)

Chief executive officer

Bigstone Health Holdings Ltd.	*Finance*
► **Bigstone Pharmacy Ltd.** ► **Bigstone Medical Transport Ltd.** ► **Bigstone Dental & Orthodontic Ltd.** ► **Bigstone Professional Centre Ltd.** ► **Bigstone Visioncare Ltd.**	► Payroll ► Accounts Payable Accounts Receivable ► Financial Reporting Budgeting ► Audit Preparation

Other Notes

- First Nations owned businesses that support medical transportation examples: taxis, hotels, hostels, accommodations, meal services.
- Engage service mapping to identify most efficient and cost effective health service delivery.
- Identify economies of scale - for example "capital planning for different types of First Nations health facilities based on different regional demands for services."
- Offer advisory services locally, nationally and internationally.
- Developing a construction and maintenance company to design, build, and maintain First Nations health facilities locally, regionally, and provincially.
- Develop Gathering Wisdom for a Shared Journey into a self-funded and renowned health conference Workshops similar to ones held in Alaska on the Nuka System of Care.

Community Health	***Community Wellness***	***Non-Insured Health Benefits***
► Community Health Nursing	► Mental Health	► Pharmacy
► Community Health Representative	► NNADAP	► Medical Supplies & Equipment
► Home & Community Care	► Solvent Abuse	► Vision Care
► Adult Inhome Care	► Brighter Futures	► Dental Care
► Elder's Lodge		► Mental Health
► Early Intervention Program		► Medical Transport
► Special Program		
► Maintenance Custodial		

Bigstone Health Commission Services

5.2
NATURAL RESOURCES

Model Type	*Description*
Land Claims	► Right to land deemed as "legal" ► "In exchange for ceding to the federal Crown title to large portions of their traditional territories, Aboriginal groups obtain cash settlements to address pressing economic, social, health, education, capacity, and other needs; legal title to limite other portions of their traditional territory; and an increase in management authority on both Aboriginal lands and Crown lands. The latter is accomplished usually by the creation of cooperative wildlife, water, and environmental management boards, whereby decision-making is shared between representatives of the state and the Aboriginal signatory." (Stevenson, 2004). **Reasons why many Aboriginal groups go for this model:** 1. Sharing economic benefits of resource development; 2. Can help to preserve Aboriginal values; 3. Greater control **Reasons why the government tends to like this model:** 1. Devolve high costs of governance to Aboriginal communities; 2. Resolving issues of "ownership" 3. Natural resource development
Co-Management	► "Co-management has come to mean institutional arrangements whereby governments and Aboriginal entities (and sometimes other parties) enter into formal agreements specifying their respective rights, powers and obligations with reference to the management and allocation of resources in a particular area of crown lands and waters." (Assembly of First Nations., n.d.)
Crisis Based Agreements	► Often established because of fears that Aboriginal peoples are over-hunting animals or misusing resources ► Agreements are established to limit Aboriginal peoples use of land and resource management on an ad hoc bases (Stevenson, 2004)

Model Type	*Description*
Multi-Stakeholder Agreements	► Agreements that create boards that involve Aboriginal peoples, public, industry, government and non-government representatives ► The levels of authority vary-there are disparities between stakeholders (Stevenson, 2004)

Ostrom (1994) conducted research in common pooled resources (CPR) – natural and humanly created resources that are public, shared by all and open-sourced. Much research on "the commons", resources that are considered shared such as water or air, has outlined risks to resource depletion and conditions for effective resource management. Ostrom (1994) suggested that a good example of effective CPR management by localized groups is seen in Indigenous institutions of environmental protection. She outlines the conditions she found most effective for managing common pooled resources: **(1)** clearly defined boundaries; **(2)** congruence between appropriation and provision rules and local conditions; **(3)** collective-choice agreements; **(4)** monitoring; **(5)** graduated sanctions – used as a way of punishing individuals that misuse CPRs; **(6)** conflict resolution mechanisms, **(7)** "the rights of appropriators to devise their own institutions are not challenged by external governmental authorities" (p. 10); and **(8)** smaller organizations nested in bigger organizations when systems are large.

5.3
ECONOMIC DEVELOPMENT

Smith (2000) in his book *Modern Tribal Development: Paths to self-Sufficiency and Cultural Integrity in Indian Country* presents a framework for economic development for Indigenous groups in North America.

Conceptual framework for Economic Development for Native American reservations

4 stage cycle

(1) growth involving "initial export industry earning imports" (Smith, 2000, p. 45). Examples: revenues from tourists, and gaming facilities. **(2)** "Development of import-replacing industries within the local economy": reservation begins to produce local products, replacing production of previously imported products. It is important to identify those products that can be successfully produced by Tribes. **(3)** "Developing new and innovative products and production techniques during the import-replacing phase". **(4)** Developing "new techniques and products into new export industries, which provide increased or substitute import-earning income… at this stage, the process cycles: new import-replacing takes place, which develops new products, which cultivates a new phase of exports" (pp. 46-47).

Smith's approach to Tribal community development

Economic	► Economic activity is a byproduct of healthy communities ► "Any economic activity to be undertaken must show promise of profitability"; it is not enough to pursue an economic activity simply to provide jobs (p. 95) ► A tribe should identify a minimum of 3 potential enterprises ► "The final decision cannot be identified from a simple economic or accounting perspective" any economic activity must be analyzed as part of community wellbeing (p. 96)
Political	► Tribes should be aware of the internal political structures on their communities, and formal and informal political interactions
Educational	► The formal and informal education must aim at the continuation of cultural heritage ► Tribes can alter scholarship programs to match the future needs of the community

Social	► Matching social problems with reasons for unemployment to prioritize which social issues to focus on
Cultural	► This is the guiding force of all community development planning ► An understanding of the cultural subsystems guide all other processes ► Tribes must invest in cultural continuity – language programs, arts and crafts, community centres, traditional feasts and ceremonies etc.
Financial	► Financial assets are required, either from "tribal coffers" or through "direct investment or via debt obligations" (p. 99) ► Tribes need to look for development opportunities as well as internal structures

Smith (2000) recommends that the framework be used to develop a strategic plan. Research through interviews, secondary data (tribal reports, anthropological studies, soil salinization reports etc.) and workshop can help develop a vision, options and a plan.

6
PART 3: SELECTED LIST OF ABORIGINAL GOVERNANCE INITIATIVES

- Self-government agreements
- 1989 Metis Settlements Accord
- Saskatchewan Metis Act 2002
- BC Tripartite First Nations Health Plan
- Saskatchewan Northern Health strategy
- Manitoba Inter-Governmental Committee on First Nations Health
- James Bay and Northern Quebec Agreement
- Athabasca Health Authority
- Northern Intertribal health Authority (NITHA)
- Alaska Tribal Health Care Delivery
- Bigstone Health Commission
- Yukon Kuskokwim Health Corporation

Alaska

- State-wide, regional-level and local components.
- Responsibility for design and delivery of health services (program delivery, operation of hospitals, health centres, clinics, health stations and residential treatment).
- Customer owner philosophy.

Aboriginal Affairs and Northern Development Canada (2014). General Briefing Note on Canada's Self-Government and Comprehensive Land Claims Policies and the status of Negotiations.

Negotiations in British Columbia.

- All First Nations in BC must submit a Statements of Intent (SOI's) to participate in treaty negotiations that must be accepted by the BCTC.

- As of January 2013, **57 claimant groups** (representing 108 of the 197 eligible First Nations in BC) had submitted SOI's to the BCTC indicating their intent to negotiate a treaty. The 57 claimant groups have organized themselves into **47 negotiation tables**.
- Six First Nations groups are now in stage 5 (final agreement) negotiations, and 43 First Nations groups are in stage 4 (agreement-in-principle) negotiations. **Final agreements** have been concluded with Lheidli T'enneh, Sliammon and Yale First Nations. In-SHUCK-ch and K'ómoks are actively working towards final agreements (for further information see the Agreements under Negotiation section of this site). Additionally, there are 7 First Nation groups in stages 2 and 3. The preceding figures do not include the McLeod Lake First Nation—a recent adherent to Treaty 8—which also submitted an SOI to negotiate a stand-alone self-government agreement within the BC treaty process.

7
CONCLUSION

This report summarized six reports written about the topic of Aboriginal governance. Graham (2003) presented five models of aggregate First Nations governance:

1. Single tier aggregation;
2. Two-tier aggregation;
3. Power-sharing (aggregation through power-sharing treaties);
4. Special purpose bodies without specific legislated powers;
5. And special purpose bodies with specific legislated powers.

The author outlines the costs and benefits of each model (see page 13-14 for a summary of Graham's models of aggregation). The National Centre for First Nations Governance (NCFNG) has published several reports on First Nations governance principles and best practice examples. The five pillars of First Nations governance presented by the NCFNG are:

1. The people: strategic vision, meaningful information sharing, and participation in decision making;
2. The land: territorial integrity, economic realization and respect for the Spirit of the Land;
3. Laws and jurisdiction: expansion of jurisdiction beyond the Indian Act, and rule of law;
4. Institutions: transparency and fairness, results-based organizations including governance measurements, cultural alignment of institutions, and effective inter-governmental relations;
5. And resources: human resource capacity, financial management capacity, performance evaluation, accountability and reporting and diversity of revenue.

The Australian National University Centre for Aboriginal Economic Policy Research (CAEPR) similarly to NCFNG collected data to help Indigenous governance and found ten important factors for effective Indigenous governance: **(1)** relationship and representation are essential; **(2)** there needs to be flexibility in the application of governance models; **(3)** governance models need to be culturally appropriate for communities in order for the model to be legitimate; **(4)** geographic location influences culture which makes a difference for the type of governance initiatives that will likely be accepted into Indigenous communities; **(5)** "institutions of governance matter" and should be suited to "preferred

values and ways of doing things, by establishing internal mediation and dispute-resolution procedures, creating shared goals, agreed procedures" that are community specific (p. 3); **(6)** Leadership is important; **(7)** Socioeconomic development requires effective governance; **(8)** Governance is most effective when there is an environment that supports community governance, including resources provision and flexibility; **(9)** Capacity building and a holistic approach to governance makes it more effective; And**(10)** Indigenous governance cannot be measures by non-Indigenous standards because these standards are different.

Durst and Zwart (1996) present a framework that they termed "the circle of self-government", which includes five stages of a self-governance: **(1)** autonomy; **(2)** "benevolent" colonialism; **(3)** integrated; **(4)** co-management/delegated; and **(5)** co-jurisdiction. The co-management/delegation stage is one that current characterizes the delivery of much of Aboriginal child welfare services. Every province/territory has a separate child welfare system with separate child welfare legislation. Aboriginal child welfare agencies are delegated the power to deliver child welfare services and enforce provincial child welfare legislation by provincial government but are funding (except in Ontario) by the federal government. This type of arrangement is problematic for some First Nations because they argue that their right to delivery child and family services to their community members is pre-existing and does not come from colonial governments (Indian Child Welfare and Family Support Act, 1990). The last stage of self-government that Durst and Zwart (1996) include in their circle of self-government, before a return to autonomy, is co-jurisdiction. Examples of co-jurisdictional models include wildlife agreements, the Spalumcheen Band Council child welfare service delivery arrangement and the James Bay and Northern Québec Agreement. A model that is similar to co-jurisdiction/co-management is referred to as power-sharing. These models often are not clearly defined and there appears to be limited consistency about the characteristics of a power-sharing model. For example, Graham (2003) characterized the European Union as a power-sharing model while Karalekas (2011) uses the same term to refer to self-government agreements among First Nations in Canada.

Wesley-Esquimaux and Calliou (2010) outline thirteen examples of "best practice" in the field of Aboriginal community development (pages 19-21). The National Collaborating Centre for Aboriginal Health (Lavoie, et al., 2011) also outlines various health practices in the field of health delivery that pertains to Aboriginal peoples. In section two of this report four models of health are examined more closely: the British Columbia model, the Nuka System of Care, the Yukon-Kuskokwim Health Corporation and Bigstone Health Commission. These models blend private and public service delivery. Other areas explored in second two are common models of natural resource management in Canada, and a conceptual framework for economic development for Indigenous reserves developed by Smith (2000). The framework consists of four cycles:

1. Growth involving "initial export industry earning imports" (Smith, 2000, p. 45). Examples: revenues from tourists, and gaming facilities.
2. "Development of import-replacing industries within the local economy": reservation begins to produce local products, replacing production of previously imported products.
3. "Developing new and innovative products and production techniques during the import-replacing phase".
4. And Developing "new techniques and products into new export industries, which provide increased or substitute import-earning.

The last section of this report consists of a list of Aboriginal governance initiatives that were collected during conducting the research for this report.

8
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