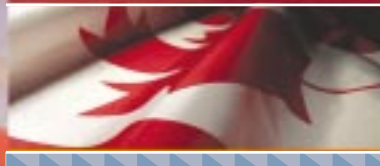




Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

A Guide to Understanding Bill C-7, the First Nations Governance Act



Canada

Published under the authority of the Minister
of Indian Affairs and Northern Development
Ottawa, July 2003
1-800-567-9604
TTY only 1-886-553-0554
www.ainc-inac.gc.ca

QS-6158-111-BB-A1
ISSN 1708-2269

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What is Governance?

- Governance means different things to different people. However, most people agree that it means the way communities organize themselves to best meet the needs of their citizens.
- It is the traditions, processes and practices that affect how decisions are made, how governments are run and how people can participate.
- Governance also involves the development of institutions, such as school boards, housing authorities and a professional public service.

Some Key Terms:

Accountability means governments and citizens taking responsibility for their actions and decisions.

Building capacity means strengthening the ability of communities to govern themselves.

Empower means to give authority to someone.

Governance codes are sets of rules that guide how governments run communities.

Proposed amendment is a suggested change to the Bill.

Redress is a way of challenging a decision or action with which you do not agree.



Why is good governance so important?

- ❖ Good governance empowers citizens and strengthens their governments.
- ❖ Good governance is the foundation of successful communities.
- ❖ Good governance brings stability which can lead to jobs, new business and economic growth.
- ❖ Good governance supports effective delivery of social programs and the overall health of communities.

Why did the Government of Canada introduce Bill C-7, the First Nations Governance Act?

Bill C-7, the First Nations Governance Act, was developed because:

- the *Indian Act* does not allow First Nations to create modern governance systems
- the *Indian Act* applies a “one-size fits all” set of rigid rules on all First Nations. This makes it harder for First Nations governments to meet the needs of their citizens and it undermines First Nations customs and traditions
- the *Indian Act* gives too much power to the Minister and the federal government, and too little to First Nations citizens and their governments
- the *Indian Act* creates an unequal relationship between Canada and First Nations, forcing First Nations governments to answer to the federal government, not their citizens
- the shortcomings of the *Indian Act* make it harder for First Nations to move towards self-government

What are the goals of Bill C-7, the First Nations Governance Act?

- To ensure that communities create their own codes, and to allow First Nations to decide how their communities will be run and how decisions are made.
- To strengthen the relationship between First Nations governments and their citizens.
- To give First Nations people a stronger voice in the way their communities are run.
- To make it easier for First Nations governments to respond to the needs of their citizens.
- To provide tools of good governance that can be adapted to individual bands' customs and traditions.
- To make it easier for First Nations to move towards self-government by building capacity.
- To reduce the power of the Minister and the federal government over First Nations communities.
- **To support First Nations in building stronger, healthier communities.**



What would Bill C-7, the First Nations Governance Act, mean for First Nations citizens?

- All First Nations citizens, on- and off-reserve, would have the right to be informed about and to vote on governance codes proposed by their governments.
- All First Nations citizens would have a say in who gets to vote, who gets to run for office and how often elections are held.
- All First Nations citizens would have the right to be informed about how and where money is spent in their community.
- All First Nations citizens would have the right to be informed about and to comment on proposed laws affecting their communities.
- All First Nations citizens would have the right to know about their community's programs and policies.
- **All First Nations citizens would have the right to question their government's actions and decisions through a local complaints and redress body.** *See Page 7*
- **All First Nations citizens would have the same protection as other Canadians under the *Canadian Human Rights Act*.** *See Page 7*



What would Bill C-7, the First Nations Governance Act, mean for First Nations governments?

- **First Nations governments would have authority to develop governance codes.** *See page 6*
- It would provide First Nations governments with modernized and expanded law-making powers, such as the preservation of language and culture.
- It would remove the Minister's power to review and disallow First Nations laws.
- It would give First Nations governments better enforcement authorities, such as ticketing, higher fines and penalties.
- First Nations governments would be able to do what all governments can do — for example, invest or borrow money and enter into contracts.
- The proposed Act would not turn bands into municipalities or corporations, and it would not affect reserve lands and Indian moneys.
- First Nations communities would be able to pool their resources. This would make it easier for small communities to provide programs and services to their citizens.
- First Nations governments and their employees would not be held legally responsible for honest mistakes made while doing their jobs. This is similar to the protection that other governments and their employees have.





The Three Governance Codes

The Three Governance Codes

Can be adapted to individual communities' traditions and customs

Designed by First Nations

Approved by citizens, on- and off-reserve

1

Leadership Selection Code

This code would have written rules on matters such as:

- ❖ who gets to run, who gets to vote, term of office
- ❖ appealing elections, defining corrupt electoral practices and a process for removing someone from office
- ❖ setting standards of behaviour for candidates and elected officials

2

Administration of Government Code

This code would have written rules on matters such as:

- ❖ how often meetings of the community and the band council are held, citizens' participation in meetings and how decisions are made
- ❖ developing, making and registering First Nations' laws, public notice of these laws and a process to allow citizens to comment on proposed laws
- ❖ conflict of interest and access to information

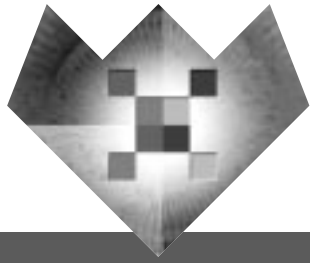
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Financial Management and Accountability Code

This code would have written rules on matters such as:

- ❖ preparation of an annual budget that would be presented to citizens
- ❖ audited financial statements that would be presented to citizens
- ❖ how citizens would have access to information on the salaries of Chief, Council and band administrators, the band's debts and how they are being handled

All codes would have to contain a process on how they can be amended.



Protecting the Rights of Individuals

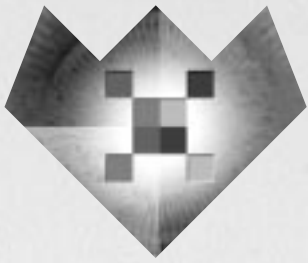
Bill C-7, the First Nations Governance Act, would give First Nations citizens new ways to protect their rights.

Redress

- ❖ The band council would have to create an impartial body to consider complaints made by a band member or a resident of the reserve.
- ❖ The redress body would be able to deal with complaints about the improper application of the Act and band laws, decisions by the council, members of council or an employee of the band.
- ❖ The complaints and redress body would be required to review the facts of each case fairly and make a decision in a timely way.

Protection under the *Canadian Human Rights Act*

- ❖ First Nations citizens would have the same protection as other Canadians under the *Canadian Human Rights Act*.
- ❖ Under the *Canadian Human Rights Act*, it is against the law for any employer or provider of service that falls within federal jurisdiction to discriminate on the basis of race, colour, national or ethnic origin, religion, age, sex, marital status, family status, physical or mental disability, pardoned criminal conviction and sexual orientation.
- ❖ First Nations citizens would be able to go to the Canadian Human Rights Commission when they believe they have been a victim of discrimination on one or more of these grounds.



The Legislative Process for Bill C-7

1 Consultation and legislative development

April 2001 to June 2002 — consultations, information sessions and a report by the Joint Ministerial Advisory Committee led to the development of Bill C-7.

2 Introduction and First Reading in the House of Commons

Introduced June 14, 2002, and reinstated October 9, 2002, following the opening of a new session of Parliament.

3 Committee Stage

January 27, 2003 — the Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources began public hearings across the country to allow interested parties to provide their views on Bill C-7. The committee then examined the Bill clause by clause and reported back to the House of Commons on May 28, 2003.

Typically, the Standing Committee reviews a Bill after second reading, but Bill C-7 was referred to committee before second reading. This made it possible for substantial amendments to be proposed.

Second Reading / Report Stage

4 Second Reading was combined with Report Stage. When the committee completed its review of the Bill, it reported back to the House of Commons, along with its recommended changes to the Bill. Members of Parliament proposed additional changes to the Bill that will be considered by members of the House of Commons after the summer recess.

Third Reading

5 Final debate of the Bill as a whole in the House of Commons.

Senate of Canada

6 Passage of the Bill follows a similar process to that in the House of Commons.

Royal Assent

7 The Governor General of Canada makes the Bill a law.

Implementation

8 Consultations would take place leading to the development of regulations. After the adoption of these regulations, communities would have three years to develop their codes before the fallback* regulations would apply to them.

Not all sections of Bill C-7 would come into effect when it receives Royal Assent. Some sections would come into force only when the regulations are ready, for example, the sections dealing with the governance codes.

* *Fallback regulations on the Three Governance Codes would apply to First Nations that chose not to develop their own codes.*



How Bill C-7 is changing

- ❖ Many important issues were raised by First Nations during the 61 public hearings held across Canada by the House of Commons Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources.
- ❖ Amendments to address these issues were recommended by the Standing Committee and by the Government at the Second Reading/Report Stage.
- ❖ The Bill now before the House of Commons has been changed thanks to input from approximately 280 presentations.

Key Amendments Proposed by the Standing Committee

- Make it clear in the Bill that First Nations' cultures and traditions be respected by adding in the Preamble that tools of governance could be adapted to individual bands' traditions and customs.
- Make it clear in the Bill that Aboriginal and treaty rights are protected by adding a non-derogation clause that would further clarify and strengthen the protection of these rights.
- Further reduce the Minister's role in First Nations communities by adding that the Minister's power to intervene in a First Nation's finances would be limited.
- Further protect the rights of citizens by limiting the powers of band enforcement officers.
- Extend the transition time for communities to develop their codes or to seek an exemption to complete a self-government agreement, from two to three years.



Key Amendments Proposed by the Government

Create a Canadian Centre for First Nations Governance

- The Centre would be an independent advisory body, led by First Nations.
- It would support First Nations governments in the development and implementation of governance codes and other aspects of governance.
- It would provide information, training and advisory services to First Nations citizens and their governments.
- The Centre would decrease the role of the Minister by increasing the governance capacity of First Nations communities to manage their own affairs.

Create a national First Nations Ombudsman

- The Ombudsman would be independent and impartial.
- The Ombudsman would be able to hear complaints made by band members and reserve residents and to make appropriate recommendations to band councils.
- The Ombudsman would not replace the community complaints and redress body.
- The Ombudsman would be a second place for citizens to go if they are not satisfied with decisions made by the local complaints and redress body.



Further protect individual rights in the area of enforcement by:

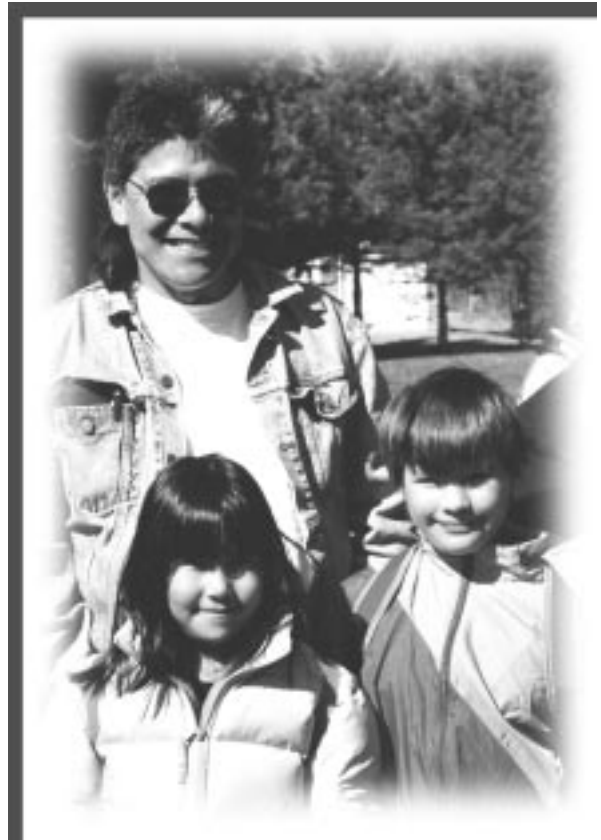
- Improving how band laws are enforced.
- Ensuring that band enforcement officers have the necessary qualifications and skills to take on their important functions within First Nations communities.

Further limit the Minister's role in the day-to-day lives of First Nations by:

- Developing regulations that would define the nature and scope of the Minister's power to intervene in a band's financial matters.

More detailed information about the proposed amendments to Bill C-7 is also available.

NOTE: *All proposed amendments have been submitted to, and are currently before, the House of Commons for its consideration. In explaining some of these amendments, we are not attempting to predict or pre-judge any decisions that might be made by Parliament. Bill C-7 will not become law until it is passed by both the House of Commons and the Senate in the same form, and until it has received Royal Assent from the Governor General.*



There are several ways to find out more about Bill C-7, the First Nations Governance Act, and the other work being done to improve opportunities for First Nations citizens and their communities.

To get more information or to schedule an information session in your community you may:

- Call toll-free **1-800-550-1540**
- Send an email to **Governance@ainc-inac.gc.ca**
- Visit the website **www.fng-gpn.gc.ca**

