

BACKGROUND**10. Band Council**

The Band Council is a governing body for an Indian Band, a First Nations community governed under the Indian Act.

The Band Council is typically comprised of a Chief Councillor and council members, who are elected by members of the Band. The roles and responsibilities of the Band Council are dictated by the Indian Act and federal government policies.

The Band Council was introduced to replace traditional forms of leadership selection, such as inheritance and consensus. It is a “one-size-fits-all” solution of early Canadian governments to assimilate First Nations into the cultures of the colonists.

The Band Council structure ignores the fact that First Nations had a diversity of successful governance systems long before contact.

Although elected by the community members, the Band Council is ultimately accountable to the federal government.

All final decisions regarding most aspects of community life, development and finances in the past were handled by what was then called the Department of Indian Affairs in Ottawa.

Some communities tried to maintain their traditional forms of hereditary leadership.

In the past, the elected Chief and Council had few real powers to run their communities. The 1876 Indian Act listed a few items of local jurisdiction they were allowed to make, but even these had to be confirmed by Ottawa.

However, the Indian Act was quickly amended to decree that hereditary or “life chiefs” had

to be elected before they could exercise any powers. It also prohibited chiefs from being re-elected.

Women could not vote in Band Council elections until 1951.

Over time changes have been made to Band Council governance, but control is still held by the Government of Canada today.

In the 1970s and 1980s, Indian Agents were removed and Band Councils were allowed to run their own meetings and set their own agendas. However, they were still responsible to Ottawa.

Many First Nations people live outside their home communities. Until 1999 they could not vote or run for office in Band Council elections. That year the Supreme Court of Canada in the Corbiere case said that all members of a Band had the right to vote.

One of the problems with the Band Council system is that it calls for elections every two years. Such short terms of offices often cause instability in government. As well, any appeals about the results of an election go to the federal Minister, not to the courts as is the case in other elections in Canada.

In 2014 the First Nations Election Act was passed. Communities with Band Councils can choose to follow this act. Among the improvements it makes are elections every four years and an appeal process through the courts like other municipal, provincial and federal elections.

Despite these changes, this is still a structure of governing imposed by the Canadian government.