



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **Standing Committee on Aboriginal Affairs and Northern Development**

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AANO • NUMBER 010 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Tuesday, November 1, 2011**

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**Chair**

**Mr. Chris Warkentin**



# Standing Committee on Aboriginal Affairs and Northern Development

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• (1105)

[English]

**The Chair (Mr. Chris Warkentin (Peace River, CPC)):** Committee members, I'm going to call to order this tenth meeting of the Standing Committee on Aboriginal Affairs and Northern Development.

Colleagues, today is a special day for us. We have the National Chief with us.

We want to take as much time as we possibly can to hear from you, National Chief, and then to have some of our questions answered. Thank you so much for coming. We understand that you've been travelling the world, and we're glad to have you back here. We're thankful that you've taken the time to come to our meeting.

National Chief, I'd like to turn it over to you now. If you want to make introductions as well, that would be great.

**National Chief Shawn A-in-chut Atleo (National Chief, Assembly of First Nations):** Thank you very much, Mr. Chair and committee members, for having us here.

I'm pleased to be joined by my friend and colleague, the regional chief for British Columbia, Jody Wilson-Raybould, as well as by Jennifer Brennan, one of our senior officials from the Assembly of First Nations.

Yes, indeed, I have just come back from a really important, effective, and successful first nations mission to China. I saw a news report today about an archeological find in Yukon: a coin that is something like 350 years old. That references the fact that first nations and the people of China have trade that goes back a long ways.

We raised a totem pole in one province, in a town where they had lost many people to a tragic earthquake, a real tragedy, back in 2008. It was very much a cultural exchange. It was one of mutual support, recognition, and understanding, but it was also about education, and it was about trade. Thank you very much for mentioning that.

That brings us to our purpose here today, which is to offer up some reflections and, as you say, Mr. Chair, engage in a conversation. I'd like to take, if I may, eight or ten minutes to provide some opening thoughts.

**The Chair:** Take as long as you want, National Chief. We don't want to constrain you in terms of time today. We've invited you and we want to hear from you, so please take as much time as you need.

**National Chief Shawn A-in-chut Atleo:** Thank you very much.

I think the place to begin, really, is to establish some context and to describe my presentation and intervention about seeking to really transform the work, the relationship, based on a shared vision that first nations would set out alongside Canada.

We know, I think, especially in a committee like this, what our current reality is, and the sorts of trends we're facing with the first nations population being very young and growing rapidly, but not being very well educated overall, I would think, particularly in relation to the rest of Canada. First nations also face a shortage of paid work, with unemployment rates as high as 80% in many of our communities.

Also, the chronic health conditions that our people face are really not seen anywhere else in the country. Tuberculosis is at eight to ten times the rate of the rest of the Canadian population. Diabetes is at three times the rate of the rest of Canada.

Our people face deep fiscal and structural challenges that really reflect the antiquated Indian Act constraints. This covers the full policy spectrum, including social, housing, infrastructure, and our needs in the area of health.

We first nations have an increasing need and desire to create new structures, new authorities, and new ways of doing business independently and in partnership with other levels of government, with industry and, as I've just articulated, in fact, with countries around the world, based on the notion that treaties in their very essence are also international in scope, many having been forged before Canada was even formed.

Our current relationship is one that I think strikes us all and, in particular, is important in this conversation. It has been characterized by a long history of deep mistrust between first nations and government and a sense of interference with our rights and on our treaties. We have an outdated legislative framework that we've all inherited, which inhibits progress and growth. We have increased fiscal pressures on first nations governments, resulting from demographic challenges and discretionary approaches to funding, and this is paired with current federal strategic and operational reviews.

However, we can point out a number of important moments, the first of which, in the summer of 2008, was the Prime Minister's apology for Indian residential schools, signalling a new approach. We can look to Canada's 2010 endorsement of the UN Declaration on the Rights of Indigenous Peoples, setting out key parameters requiring mutual respect and partnership, and further, we can now add approaches such as those set out in the joint action plan as holding much potential to begin a new approach based on collaboration and mutual priorities.

We have as well, as we all know, multiple studies and reports going back over a long period of time now, such as the 1981 Penner report, the 1996 Royal Commission on Aboriginal Peoples report, and, most recently, the good work of our most recent and outgoing Auditor General in the spring of 2011, the report reflecting 10 years of recommendations, the report finding that conditions have not improved for first nations in the areas that were examined and, in many cases, are getting worse.

The Auditor General identified structural impediments that severely limit the delivery of public services to first nations and hinder improvements in living conditions, and specifically outlined a lack of clarity about service levels, a lack of a legislative base, a lack of appropriate funding mechanisms, and a lack of organizations to support local service delivery.

I think this outlines briefly the context we find ourselves in.

So first nations have a very ambitious agenda for change in the active pursuit of self-determination, and first nations governments are seeking true responsibility for the decisions that affect their lives. I want to outline an action plan on four key elements. First is the first nations-crown relationship; second is the implementation of first nations governments; third is fiscal relationships; and last is structural change.

Speaking to the first area, advancing the first nations-crown relationship means making progress through steps such as the proposed gathering for first nations and the crown, which we have been pursuing as an opportunity to truly reset the relationship and put it back on its original foundation. We are still working on the idea of that happening sometime this winter.

Second, we need new fiscal relationships to guarantee and deliver sustainable, equitable services that are based on—and this is really crucial—mutually agreed-to standards.

• (1110)

Third is the implementation of first nations governments: building our own institutions, doing our own planning, and working on accountability mechanisms that will truly deliver accountability, particularly to first nations citizens.

Last is structural change. What we're talking about here is machinery of government changes that affirm the relationship, uphold responsibility, and increase service standards, responsibility, and mutual accountability.

We're talking here about that first nations-crown gathering and the idea of resetting the relationship. I think it could be characterized as a real tinkering with the relationship, through Indian Act changes, to

move to a much more comprehensive approach that we jointly carry out.

The way forward, as we would suggest, is one that moves from constraints and imposed control to respect, recognition, and support. We move from models of dependency and ad hoc and unreliable allocations to sustainable funding for basic services. We move away from unilateral delegation to shared accountability among jurisdictions, and we develop accepted standards.

On stability and safety, we are particularly concerned about the fact that many first nations remain critically vulnerable. New financial mechanisms are needed immediately to invest in and stabilize basic first nations needs for safe water, housing, and services for children and families. We see these issues on a daily basis.

I'll reflect back to the committee reports from Manitoba about concerns about communities that are going to see another year pass before they see their basic water needs met. Those are examples of why it feels that we lurch from crisis to crisis without really having the ability get out in front and plan proactively for the long-term solutions communities need.

How we do this becomes the question: how can we more effectively work together?

Many previous legislative approaches, as I've alluded to, have not reflected first nations priorities and aspirations. This results in conflict due to a failure to engage in a respectful process, as opposed to focusing on the content itself. It's about the content, but it's also about how we do the work. We're saying that, based on treaties and the nation-to-nation relationship, it becomes about us doing this work together.

The AFN has long advanced the need for principled partnership on any legislation to achieve change for first nations. It would include unique elements, including advancing the discussion on scope and intent, open information sharing, and joint drafting and development—I can point most recently to the work on the Specific Claims Tribunal Act as one example of a joint legislative effort—and agreed-to processes for decision-making and conflict resolution.

I want to focus on a really top priority for first nations, and that is education. I feel strongly that we have an opportunity, should we so choose, to get this right at this time in history. For us to be successful, it will require, as I said to you earlier, elements such as new machinery, new systems, and new fiscal arrangements. We need action through commitment and collaboration.

It's not restricted to the K to 12 area. We also have to bring a focus to post-secondary education. We require increased opportunity, investment, and reinforcement of the role of communities in nurturing and supporting students so that they succeed.

I believe that the apology of 2008 suggests that we've entered a new era of reconciliation that calls for action that gives effect to reconciliation. It requires investment in schools, with programming and new approaches grounded in first nations culture. If the residential schools sought to take away language, culture, and the connection with the heritage of first nations, then education should include these areas. It should include language programming, connection with the culture, and other areas that are not included right now, such as youth sports and youth recreation.

The work we do here together, and your work, can support the way forward and help us move past structural barriers or points of dissent through strategic study or review of key topics.

There are some important related areas I wanted to touch on very briefly.

• (1115)

First is the idea of acting jointly with the justice and human rights committee and the status of women committee to look at violence against indigenous women and girls, as well as working with indigenous women and leaders on a national action plan that will bring clear focus and attention to this issue. This remains a top priority for first nations. At the Council of the Federation, all the premiers joined first nations in bringing focus and attention to this area as a priority.

The second area is to examine reciprocal accountability mechanisms and the development of standards, capacity, and institutional supports, such as a first nations ombudsperson, an independent officer of Parliament, and/or an Auditor General—a first nations auditor general function. Think about the innumerable disputes that arise. We have no such structures in place at this time. These are not new suggestions; they have been around for a while.

Third, there is the area of responding proactively to address barriers to unlock first nations economic potential, such as streamlining policies related to additions to reserve and advancing resolution of land rights above the current limit of \$150 million. This was one of the outstanding challenges in the Specific Claims Tribunal Act: claims over \$150 million. I think some important work is happening in that area.

On this third piece about unleashing the economic potential, there are not only the specific claims but also the comprehensive claims, the negotiations that are happening in many parts of the country, which I know the regional chief could speak to about in the B.C. context as well, and there is the need for us to ensure that we move much more quickly to resolve the land issue between first nations and Canada.

By way of some concluding thoughts, when growing up, I was always reminded that when it came to challenges, there was the hard way or the harder way. It's already difficult, and it's already tough work, for us to accomplish jointly responding to this work. It's already difficult to overcome the partisanship that can flow into our work at times, but working separately is going to make this much tougher.

We must find a way forward at this juncture in history. This can happen only if we truly have an open and honest dialogue and if we

share a mutual responsibility, as well as the determination to get through the very difficult issues.

I believe that the harder way—not finding a way—will adversely impact Canada's competitiveness. First nations are poised to make incredible economic contributions to the current and future life of this country. We demonstrated this by travelling to a place like China, which is seeking the rich natural resources of our land. First nations are poised to participate economically and unleash the human potential of our growing youth population, so this is about seeking a conversation with you to pursue a principled approach to some practical solutions for us to work together to achieve the promise and the potential of true treaty partnership.

I very much want to express my appreciation for your role in this work to forge all-party consensus on key priorities and to streamline approvals in areas like first nations claims and agreements. I suggest to you that we can achieve a much greater and much more rapid rate of change between first nations and Canada and in the lives of first nations peoples if we collectively choose that this is the moment for us to do so.

I thank you again for inviting us to appear before you.

Those are my opening thoughts, Mr. Chair.

• (1120)

**The Chair:** Thank you, National Chief. We really appreciate that.

Ms. Duncan, if you want to start, you have seven minutes.

**Ms. Linda Duncan (Edmonton—Strathcona, NDP):** Thank you.

Welcome. It's an honour to have you here, and we appreciate your time.

Of course, I have a thousand questions for you, and I hope this isn't the only time we'll have you here. You've given us a lot of food for thought.

National Chief, we've heard from the land group that is dealing with the land code and so forth. We've heard from the government on land claims. I'm hoping we will also hear from the coalition on land claims. I think it will also offer a good third perspective.

You talked very strongly about the need to move toward self-financing and pursue economic development. But then you also very eloquently presented—you brushed over it—very clearly the other side of it, the struggle of some first nations. I wonder if you could share with us, at least initially, what you would see, because in my mind, I'm seeing two different challenges.

Obviously, some first nations are poised to do very well and are already. They are innovating and are pursuing economic development. Then there's a huge number of first nations, especially isolated communities, that are struggling simply to provide safe drinking water and adequate housing for their peoples.

Can you talk a bit about what you see as the key measures needed for both of those categories? Do you see them as exactly the same, as one size fits all, or do you see that we need to be pursuing different initiatives at the federal level for those two categories of nations?

**National Chief Shawn A-in-chut Atleo:** Thank you.

I would reflect back to the notion of the need for a more comprehensive approach, because it appears that whether we're talking about land or some of the legislative pieces that have come up in recent history, they very much can be characterized as in some ways very important and in other ways as tinkering. They don't get to the true nation-to-nation case of first nations in Canada jointly designing and developing a way forward, which is why we want to suggest that it's time to hit the reset button.

How do you talk about building strong economies without basic infrastructure? The first nations, which have been under a spending cap of 2% since 1996, are lurching from crisis to crisis. It's very difficult to get out in front and to develop those economies.

On the other hand, we have first nations that are doing very well in unlocking their economic potential and doing so by still holding their land in common and finding ways to unleash that economic potential. To get drawn into detailed conversations about private and individual versus common ways of holding property is to miss the point that it should be back to first nations working with governments to jointly design a way forward.

After all, places such as London, England or Hong Kong in Asia are places where property is held in common, as one set of examples, and where there is tremendous economic activity. Rather than getting into the end products and having these detailed conversations about what a particular piece of legislation should or shouldn't look at—and in the end it is the House that's ultimately responsible—it's a question of finding a way to reset the relationship so that we can jointly design a more comprehensive agenda going forward, building on some successes such as the Specific Claims Tribunal Act and also drawing from the tremendous success we see in first nations communities that are building their economies.

What are the elements there? What can we learn from those particular situations? How do we grow those situations out? We're finding that other jurisdictions, such as China, are in fact looking to Canada, recognizing that first nations have a say over land and resources, and are prepared to be direct partners and invest capital into partnerships with first nations to help grow those economies.

First nations are looking to partner with business, industry, and others in a modern economy to build their communities. But I don't think it is any one element; it's a comprehensive effort that's required, just as in any society.

**Ms. Linda Duncan:** Thank you.

I have a minute and a half and so many questions to ask.

Thank you for your recommendation on the joint review on violence against indigenous women and girls. I'm hoping that our committee, when we discuss our agenda for the future, can pursue the possibility of doing that with the other committees. Thank you for bringing it to our attention. We're certainly hearing it from a lot of organizations and governments.

National Chief, you raised a really important point here, something I've run into in my past, and that surrounds the issue of a duty to consult. I look forward to finding more information about the actual process used in consulting on the development of the Specific Claims Tribunal Act. It sounds as though that was a process that was amenable to you.

Could you talk just a bit about the duty to consult? We have your national organization, and of course we have a number of Inuit organizations and Métis. I know there is a lot of toing and froing among the individual first nations on the question of whether the national organization speaks for them. Can you briefly give us an idea of how we would address this in moving forward to this bigger agenda? Would this be a topic we should also be exploring—whom we consult with, and when, and with what kind of better processes?

• (1125)

**National Chief Shawn A-in-chut Atleo:** Thank you.

If the chair would permit, I'd like to ask the regional chief for her perspective also, coming from a B.C. regional perspective.

But my first comment is that the Assembly of First Nations really can offer facilitative support. We report to and are instructed by first nations governments. First nations governments are responsible for holding and giving effect to their treaty rights and to their aboriginal title and rights. They're the ones who ultimately have the responsibility to be engaged in any final say, both in a Canadian legal context in which we're talking about consultation and accommodation....

But I think the new minimum acceptable standard is free, prior, and informed consent. That requires a vigorous engagement with each other. Certainly, we end up with either legislation or major resource projects that have been a long time in the planning and in the thinking, and our current pattern, very often, is to end up in deep conflict over the final decisions on these issues rather than to find a way to get out in front of that conflict.

So I come back to education. The aspiration around education is that first nations themselves, their chiefs, their grand chiefs, would work together to determine the way forward and that we collectively would find a way to support that. Well, first nations are very complex. They're so different. How do we end up with something that will work?

Well, Canada is very complex, very different, and has deep regional diversity and geographic diversity. Surely there is every reason why we can find a way to support that diversity, finding those streams that are in common but ensuring that nations can build systems in the manner that will work for them. I see that as being a way forward across a lot of the policy areas.

Mr. Chair, I would defer some of what has just been asked to a regional perspective, if you'd permit that.

**The Chair:** We've run out of time, but I think it's important that we give you an opportunity.

**Vice-Chief Jody Wilson-Raybould (Regional Chief, British Columbia, Assembly of First Nations):** *Gilakasla.*

Good morning, everyone. It's a pleasure to be back here so soon and to accompany our national chief on identifying priorities for the assembly.

I appreciate the questions. I think that both of the questions you asked are fundamentally interrelated. Not to echo what the national chief has indicated, we as a national assembly and I as the regional chief for British Columbia of course respect the autonomy of our individual first nations to move forward and to identify priorities in this really amazing period of time that we're in.

My own personal view is that there aren't two categories of first nation. It is that first nations are on a continuum in terms of moving away from the Indian Act, decolonizing, and moving towards self-determination as to how we can support the individual autonomy and decision-making authority of our communities, as a national assembly and as parliamentarians, as the national chief said, to ensure that the priorities and the building of governments for our communities are supported in a fundamental way, and that economic development and opportunities will come from the establishment of good governance capabilities and capacities within our communities.

Thank you for the question.

**The Chair:** Thank you.

Mr. Boughen, you have seven minutes.

**Mr. Ray Boughen (Palliser, CPC):** Thank you, Chair.

Let me voice my welcome to you folks and thank you for taking the time out of your busy schedules to meet with us.

This is a question for the national chief.

Both the federal government and the Assembly of First Nations agree that strengthening education is critical to improving the well-being of first nations communities. Currently, the National Panel on First Nations Elementary and Secondary Education is meeting on this issue with stakeholders across the country.

What roles do you see for the AFN and the first nations leadership in improving education for students on reserves? Also, how do you see the work of the national panel and its engagement with first nations fitting into that?

It's rather a long-winded question, Chief.

• (1130)

**National Chief Shawn A-in-chut Atleo:** Thank you for that.

What's really appreciated is that there is a shared notion that education is a top priority. If we are to close the education and the labour market gap in one generation, this could result in a contribution to Canada's economy of about \$400 billion and in reduced government expenditure of about \$115 billion. So we should make no mistake: where we have been failing, we can no longer afford to fail, and particularly in relation to the potential of our young learners.

The panel is focused on K to 12. There's a number of reasons for that, but it should be emphasized that it is only a door through which we walk together to examine the full spectrum of education. Our young people are underfunded by an amount of anywhere from \$2,000 to \$7,000 per child in their education. There are historic reasons for that.

The panel is really important. It's reaching out to communities and to first nations chiefs and councils. It's reaching out to the grassroots

of the community—the educators, the front-line workers, the principals, the students, and the parents—to talk about engaging them in the educational future of their young people.

It's also an effort that is important in this respect: that the report is coming back both to the Assembly of First Nations and to the government through the minister. It's coming back to both parties, as opposed to only going back to government. This is an important step for us because it reflects the potential of the way forward: that not only do we jointly examine and understand the current issues, but we jointly determine the way forward.

We would only do so once we have received the report, which we expect this winter, and we would hope then to jointly determine what that way forward would be. I have already alluded to the aspiration that we create a way forward that reflects and respects the autonomy the regional chief spoke about, such that in the end, every young person in this country knows that we as a country and we as leaders—who are sent to serve them and serve their needs—care about them.

Right now, they don't know that. I end up in these communities getting off at dirt airstrips with kids holding up signs that say, "I just want a school", or "I just want a playground", or "I need materials for my school", or "I want to learn my language".

I think the panel holds tremendous promise. I've been very thankful that every region from coast to coast to coast is engaging with the panel. Those voices are being heard.

To go back to the earlier questions, once that report comes back to the Assembly of First Nations, the Assembly of First Nations then joins the government in a facilitative role to work with first nations governments to determine what the next steps are, what the way forward is. I'm encouraged that we're getting this work done and I am encouraged that we're doing this work together.

**Mr. Ray Boughen:** Do I have any time left, Chair?

**The Chair:** You have about three and a half minutes.

**Mr. Ray Boughen:** National Chief, I'm wondering if you could share what you see happening with the young people who are outside of the K to 12 system, in terms of their ability to join trades and other programs at the college level. Could you comment on that?

**National Chief Shawn A-in-chut Atleo:** Well, to the degree that, as I said in my presentation, it's important. We understood that there was some sentiment around there being a review of post-secondary education. The Assembly of First Nations has held I think three national virtual summits on post-secondary education. We have had tremendous engagement from across the country.

This is an important area of support that we need to remain committed to. It includes both the traditional academics and the trades. I think there's an important need to look at areas of science and engineering and the full spectrum of trades. There is some good work that is occurring out there.

The education panel is also bringing in both—early childhood special education as well as post-secondary—and I think that's important, because trades and post-secondary need to pull from a successful K to 12 effort. They're all interrelated, they're all interlinked, and we would certainly join in working with government to find a solution to action.

I think that's what I come here suggesting that we need. This first part of the effort is important, but I have been maintaining that if we had been doing this work 25 years ago, this discussion would be very different. The education and the economic potential of our communities and our young people would have had a much better chance of being unleashed. Notwithstanding that we've come from very difficult times and that we're still in difficult economic times, I will make that front-end argument that it's an economic imperative for the health of our country going forward to get this work done.

I'm very hopeful that we will see some action early in this next calendar year.

• (1135)

**Mr. Ray Boughen:** I guess I'm out of time, Chair.

**The Chair:** Ms. Bennett, for seven minutes.

**Hon. Carolyn Bennett (St. Paul's, Lib.):** Thanks very much.

Thank you very much for coming. As you know, this committee can help on certain aspects of the four-point plan that you've put before us. In terms of the work of the committee, we would love your advice as to how we could be most helpful in exploring the areas where you have identified the need for significant change.

I understand that right now the finance committee is meeting and there is a presentation from the AFN as to what you want to see in the next budget. It would be helpful for this committee to understand those immediate asks.

Obviously, closing the gap in the funding of K to 12 is something.... Last week, Bob Rae and I were with Kirsty Duncan at Six Nations. I mean, to think that 5,000 kids and young adults have received acceptance letters to post-secondary education, but won't be able to go because there's no funding, seems to fly in the face of what we know needs to happen.

I'd like to know how can we help in pushing for things to be in the budget, things that you need right now and also along the lines of sustainable funding models eventually. As well, in terms of the work of the committee, what are the complex issues you would like us to tackle here that would be most helpful in your pursuit?

**National Chief Shawn A-in-chut Atleo:** Thank you, Dr. Bennett.

First, Mr. Chair and committee, my comment is that we have this annual challenge of coming and making pre-budget submissions... because it has been a one-way exercise. It has not been a joint exercise or a comprehensive, forward-looking exercise. It is particularly frustrating, to be coming back.... As you rightly point out, we're concurrently making a presentation, and I alluded to the context. Right now, we need 40 new schools in our communities.

Again, Canada deploys important international work around the world. We can bring clean drinking water to Africa and we can build schools in South America, and we have those same needs right here,

right now, across the country. The challenge I have is that on an annual basis we come back and make pre-budget submissions saying that we need 85,000 units and that 118 first nations are currently under boil-water advisories. In the area of non-insured health, the expected shortfall would need to be addressed with \$376 million next year and \$805 million over the next five years.

The three areas that our CEO Richard Jock is focusing in on at the finance committee are: first, to transform the fiscal relationship through examining existing funding mechanisms and moving forward on a set of shared principles, and I've alluded to that here today; second, to make critical investments in first nations education infrastructure and skills development, and again, it's the notion of those schools that need to be connected with clean drinking water and proper waste-water treatment; and third, to invest in safe and healthy communities through supporting infrastructure, housing, and health care.

It is an interrelated conversation. The pattern has not been a satisfactory one for any of us, that is, making pre-budget submissions that are based on a pattern of work that is not joint, nor is it comprehensive and forward-looking.

Those are comments, Mr. Chair, that I would make to that important question of suggesting a new way forward that can be exemplified by the education joint panel effort we have under way. That sets out a pattern that we should really look at to reset the relationship based on joint effort.

**Hon. Carolyn Bennett:** In that safe drinking water piece, do you think that Jordan's Principle could be applied to this, that we have to just get on with a plan that says by x amount of time 100% of homes will be hooked up, that we should get on with it now, and then they can squabble about who pays?

• (1140)

**National Chief Shawn A-in-chut Atleo:** In some respects, it's about ensuring that the rights of first nations and their needs are the rights of people to, in this case, to clean drinking water, to not be vulnerable, and to not be so hindered from developing economies that we have this pattern of just lurching from crisis to crisis.

I don't want to understate or leave out the idea of resetting the relationship and of having a first nations-crown gathering. When I say to reset it on its original foundation, that is to reset it on a treaty basis. Treaties and the pursuit of treaties, where they're being sought to be negotiated, are to engage in a true nation-to-nation relationship, where we see each other's jurisdiction.

When it comes to an issue like water, in this case it was important that the engineering report, the analysis, was released, because you need to have a shared understanding, a shared analysis of what the core problem is. The next step is to jointly design a way forward. There's every reason why we could jointly design regulations and have resources match the development of those regulations. That is an example.

We can go throughout the policy spectrum, into education and other areas, and we can examine it and see that if we were to choose to jointly design a way forward, we could move away from this very heavily reactive approach and also address the inter-jurisdictional aspects.



The principal relationship is that of first nations and federal crown, but there are also relationships with other levels of jurisdiction: provincial and territorial governments. We really do need to look to the first nations and we need to look to the regional leadership for support in facilitating those relationships going forward as well.

**The Chair:** Thank you, Ms. Bennett.

Mr. Rickford, you have seven minutes.

**Mr. Greg Rickford (Kenora, CPC):** Thank you, National Chief.

Jody, it's nice to see you here again today, and it's nice to see you, Jennifer. Thank you for coming here today.

National Chief, in listening to some of the other questions, I understand the challenges fully and completely. In a previous life, of course, I spent almost a decade living and working in isolated first nations communities. That would be 12 to 15 years ago. Many of the things we're talking about, like safe drinking water and critical infrastructure as such, are long-standing challenges for us, and I think it is high time that we move forward on this.

Chief, just briefly by way of introduction, we've now had a couple of occasions to be together at the Penticton school—a marvellous facility, of course—and at the AFN breakfast recently. We met about an exciting student mentor program with a private sector company that I understand is introducing some very sophisticated and complex business processes to at least a couple of younger first nations people.

I think that's great news, because it speaks to what you have certainly delivered on in your time, and that is the importance of partnerships: relationships with governments across jurisdictions and, of course, with the private sector. I know that in the great Kenora riding a lot of our successes, I've always said, hinge on the ability of our first nations to participate in major forest management plans and major mining activities, and of course what goes with that, importantly, is training, not just in the K to 12 context, but certainly in the post-secondary context.

Chief, to that end, I want to spend a little bit of time on something that you mentioned in your speech. It's with respect to chapter 4 of the Auditor General's report of June 2011.

The Auditor General rightly identified a number of long-standing structural impediments that have severely limited the delivery of public services to first nations communities and that hinder living conditions on reserve. It highlighted that the federal government alone cannot address these impediments, and that first nations have an important role to play. So that in addition to stable funding, the Auditor General pointed out, *inter alia*, of course, that there was a need for a legislative base for programs, enforceable standards, and a greater capacity for service delivery at the community level.

Indeed, today you said that you're concerned about some outdated legislative frameworks that may be part of that impediment. I would submit respectively that we do have some exciting legislation that in fact may not be ad hoc per se. Things like the First Nations Land Management Act are doing some great things for a number of communities, particularly in the province of British Columbia.

Summarily speaking, do you agree with this perspective, or this take-away, if you will, from the Auditor General's report? If so, how

can the AFN specifically, and first nations community leadership, given your own appreciable background, become more engaged to bring about these changes?

• (1145)

**National Chief Shawn A-in-chut Atleo:** Thank you very much.

On the AG's mention of legislation, I think what we're finding in our reaching out to Canadians... We are finding a tremendous positive response, and not only from the corporate or business sector. New partnerships are emerging. There is wonderful support from civil society: NGOs, colleges, school districts, etc. What many people find quite shocking, in some respects, is that first nations, unlike what many people perceive or believe, are the only segment of the Canadian population without a statutory guarantee for funding for education.

As my colleague would remind me, we're really talking about the rights of individuals, rights that most Canadians enjoy and that first nations don't have any way of realizing. We don't have a statutory or legislative foundation for things such as education for our young people, so there would be a need to discuss how to achieve that.

Having said that, and to come back to my earlier point about how we achieve this, from my perspective, it would only be accomplished through a joint effort, because we're talking about the treaty right to education. This is about jurisdictions recognizing each other. How do we accomplish that? First nations understand that the Government of Canada operates, receives, and gives instruction through legislation, and that this would be a way to achieve a statutory guarantee on the part of governments.

So I want to make an important differentiation here: that first nations rights are, as I said much earlier, international in scope; that they are acknowledged and recognized in the Canadian Constitution; and that we have the UN declaration. When Canada endorsed that declaration, I suggested to the Government of Canada that we could see the UN declaration as somewhat of an agenda. It says in it that first nations indigenous peoples must be involved in designing an education system that works for them, involved in designing a system of health that works for them.... This, in my view, can be accomplished if we do so jointly.

But I didn't want to lose sight of your earlier point around the partnerships. In fact, on the trip to China, one of the aspects we were discussing was that the chiefs, this last summer in assembly, supported the notion of developing a national virtual institute on energy and mining, something that would support first nations taking a real leadership role, and not necessarily just in those areas, because forestry is also a part of the energy sector.

It's really about the fact that there is around \$400 billion in natural resource projects in this country for which first nations will have a direct say. It makes sense to support their capacity, to support first nations in doing what they have the responsibility to do, and that is to take a leadership role.

I wanted to suggest on the legislative question that we could really set the agenda through a first nations-crown gathering to facilitate broader engagement amongst first nations across the country, so that we can get moving on a much more forward-looking, comprehensive approach.

**The Chair:** Thank you, National Chief.

Mr. Genest-Jourdain, you have five minutes.

**Mr. Jonathan Genest-Jourdain (Manicouagan, NDP):** I will proceed in French, since I have some technical questions.

**The Chair:** Is the translation happening? Okay? Very good.

Go ahead, please.

[Translation]

**Mr. Jonathan Genest-Jourdain:** What is your understanding of the concept of sustainable development?

You also mentioned various partnerships, with industry, among others. Could you further explain this aspect to us? More precisely, what are these partnerships that are envisaged?

My final question relates to partnerships with industry. It sometimes happens that aboriginal communities are used as a façade, that their name is used in order to obtain funding or to be eligible for certain contracts. With a view to avoiding such behaviour, what focus will you place on the real commitment of aboriginal communities within this type of partnership?

• (1150)

[English]

**National Chief Shawn A-in-chut Atleo:** I'll work backwards from your last question because, through expanding procurement both directly with government and through major contracts, I think this committee and government can facilitate the direct involvement of first nations. I wanted to begin with a practical aspect of your question.

In some provinces, we see this happening more, but I think there is a lot of room for growth. Government can play a direct and active role in facilitating procurement and involving first nations on the contracting side. I know there's some good work happening there.

But I'll come back to your first and biggest question, the question around sustainable development. As we hear first nations say, first nations are not opposed to development. They're just not supportive of development at any cost. This means that the values of first nations, that... In my language we use the phrase "*Hishuk ish tsawalk*": we are all one and interconnected. We are connected and embedded in the lands and in the environment around us.

First nations feel very acutely an imbalance that has arisen, whether it's due to dwindling clean water supplies or the climate change impacts that first nations—especially throughout the north—talk about. We see climate change impacts in the territories that I come from and that the regional chief comes from on Vancouver Island. We know that our fishing stocks have been impacted, both through climate change and through such things as clear-cut logging over the course of history, which decimated the fish stocks in my own home territory.

So first nations that I see on the land are giving expression through green energy projects, for example, and changing forestry systems. Forestry was mentioned earlier: why couldn't Canada end up with some strong branding? We do forestry in a sustainable manner, where indigenous peoples are directly involved in having a

much lighter footprint on the earth, where we're doing much more with the resources we have available to us.

I will mention again that the earlier questions around consultation and accommodation impact here: engage early and engage often with first nations. I know that many major projects are 25 or 50 years in the making, and that a major mine might change hands from companies that front the project, making it very difficult to establish relationships. Well, with first nations, it's very important that those relationships be established early, and that you build trust, because trust is something that has been lacking in the relationship between first nations and industry, as well as in the relationship between first nations and government.

Through these new partnerships, we see impact benefit agreements and we see increased revenue-sharing agreements being developed. We can learn from the good examples that are being created.

Finally, to your question, I believe that first nations are now prepared in major areas such as energy. We know that this country does not have a comprehensive national plan for energy. We know that we don't have a North American comprehensive plan for energy. Well, first nations will step into a leadership role, and we will help shape the future of our relationship with natural resources, including non-renewables such as oil and gas.

We're prepared to take on that role. We suggest that we can do it in a way of real partnership, whereby we will generate sustainable economies that create new jobs in communities, but we will also take a leading role in areas such as the green economy and will suggest alternatives. We realize that we are going to need non-renewables; we're going to need fossil fuels. That's a part of our life right now, but how can we move away from dependence on those so that we can return to a greater sense of balance between first nations and the living environment around us?

I appreciate that question.

**The Chair:** Mr. Payne, you have five minutes.

**Mr. LaVar Payne (Medicine Hat, CPC):** Thank you, Mr. Chair.

I would like to welcome back Chief Atleo. I believe that the last time we saw you in this committee, Chief, was in about December of last year. It's good to have you back.

Of course, welcome to Jody, who was here a week or so ago.

Jennifer, welcome as well.

National Chief, I was listening to your comments with great interest. In particular, you talked about crown relationships.

In one part of your comments, you talked a bit about accountability. I have some questions around that. Accountability is a very broad concept, encompassing many different aspects of governance, from elections to financial transparency. My question is, what does the AFN envision with respect to strengthening the accountability of first nations, governments, and leaders to their citizens?

• (1155)

**National Chief Shawn A-in-chut Atleo:** Thank you, Mr. Chair.

Accountability is really critical and I know that we as first nations reflect on our history of accountability. Previous to the new structure—such as the Indian Act—coming in, we can point to much more direct accountability mechanisms that were directly between first nations governments and their citizens. The Indian Act, something we all inherited, changed that dynamic, creating accountability mechanisms between first nations and the Minister of Indian Affairs.

I think there's a shared notion that we need to put back in place proper accountability mechanisms between first nations governments and their citizens. In this way, first nations leaders and governments are very much taking a lead. They are demonstrating leadership in this area.

The AFN unanimously passed a resolution reaffirming their commitment to maintaining transparent and accountable decision-making structures in first nations communities. The notion of true accountability goes much further than reporting on funds or disclosing salaries.

The outgoing Auditor General also reflected on the challenges that I was referring to in the Indian Act relationship between first nations and governments: that the Government of Canada needs to be accountable to first nations for how it discharges its responsibility to first nations and for the outcomes of its actions. This is the reason for the structural suggestions that we move to a first nations auditor general concept: so that we can bring in some independence and essentially mirror an effective mechanism like that of an auditor general, but also have something for first nations specifically.

As well, we suggest a first nations ombudsperson concept. We don't have that. The Assembly of First Nations often has people coming to us around disputes that may arise, but I don't have that authority or that responsibility. First nations have been saying for a long time that they are prepared to work with government to establish such a mechanism as an ombudsperson. These mechanisms can provide oversight, ensure that funding policies and programs are truly working for first nations governments and their citizens, and achieve the change that we can all agree to.

The concluding point is that we've all inherited a system that in the end does not offer true accountability. The bureaucracy has been growing, with innumerable people chasing reports that don't end up being read. That's what the Auditor General said, not what I've said.

So I think we do need to achieve a much higher level of efficiency, but I come back to my earlier point: the theme needs to be about seeing each other's jurisdiction and about jointly designing a way forward, with the first nation-crown gathering being the kind of place where we can agree.

Let's hit the reset button. Let's agree to a plan of action that will change this, as opposed to doing a long string of one-offs that in the end don't really deliver true accountability.

**Mr. LaVar Payne:** Do I have any time left, Mr. Chair?

**The Chair:** Just one minute.

**Mr. LaVar Payne:** Okay.

That leads me into another question. I know, National Chief, that you are working with the minister on many initiatives. One of the things you were talking about is accountability. How do you see that accountability impacting the opportunity for economic development for first nations?

**National Chief Shawn A-in-chut Atleo:** Once first nations are on a stable footing with infrastructure so they can ensure that they're not lurching from crisis to crisis.... If we can achieve long-term sustainable funding for their communities, first nations suddenly would have, either on their own or collectively, the kind of stability they need to offer business certainty to the community. This creates a whole new dynamic.

We're now seeing a small number of first nations who have been able to accomplish this. I think one has achieved ISO international standards in their community, and there's every reason why all communities can achieve those levels of standards for their citizens. In a sports analogy, it's a matter of getting out of our own way. As a country, we've been unable to do that on these issues.

I'm very hopeful that this is the time, when it comes to the barriers in the Indian Act, when we can find a way to move beyond that and go back to that nation-to-nation relationship. If we have first nations who are no longer lurching from crisis to crisis, and where their citizens know there's accountability directly to them, I think we're creating the conditions for economic prosperity.

If we address the barriers of unlocking the economic potential of the lands that first nations hold, and if we're responding to the education needs of the community, those are beginning to be the kinds of elements that any society, including Canada more broadly, would seek to have in place in order to unleash the economic potential of their communities.

• (1200)

**The Chair:** Thank you.

National Chief, we asked you to be here until noon. I'm wondering whether we could ask you to stay for an additional 10 minutes or so. We started a little late, and we have a couple of questioners who would like to ask questions, if that's all right.

Okay, colleagues, we'll have the next two people on the list ask their questions.

Thank you, National Chief.

Mr. Bevington.

**Mr. Dennis Bevington (Western Arctic, NDP):** Thanks, Mr. Chair.

Thanks to the delegation here today. I very much appreciate your being here to give us the insight that can assist this committee in moving forward. We'll be here for a while, as we're in a majority government now, and that's not likely to change for a while. We want to see progress on many fronts. That has to be the goal here.

You mentioned streamlining comprehensive claims processes. We've been talking about that a fair bit over the last number of meetings. In my constituency, of course, and in the north, this is an extremely important issue and is one that faces a number of groups yet. What's your best advice here?

**National Chief Shawn A-in-chut Atleo:** Similar to the way in which we reformed the Specific Claims Act process—while not perfect, it was I think a step forward, in that it was joint—we would like to see a Specific Claims Act tribunal legislative effort, perhaps with some additions or reforms to make it more effective.

But to get to your question, for years, first nations have been calling for a joint reform of the comprehensive claims negotiation process.

We're seeing out of B.C. some cause for concern being expressed by the current treaty commissioner, Sophie Pierre, who is saying that the process really needs to be reformed, that we need to address federal mandates. The Hul'qumi'num people of central Vancouver Island, petitioning at the Organization of American States Inter-American Commission, are raising the issues in international fora around challenges with the negotiating policy that currently frames negotiations between first nations and Canada.

I would suggest, in short, that we examine how we jointly reform the way negotiations are occurring. It's not as though we're starting from scratch. I think we know where the major challenges are, but are we prepared to jointly address them? That's a question I would put back to government and to this committee in regard to seeing whether or not we are prepared to do that.

I would suggest that the first nation-crown gathering I have spoken of is perhaps a place to consider resetting it. If the goal that we share is to expedite and move towards settlement so that we can get to the economic prosperity we know to be possible, there is a major economic component to settling the land issue, whether it's within the treaties context or in the comprehensive claims negotiation context. There is a huge economic component to this conversation. As a country, we are missing our collective potential by not addressing the resolution of these issues.

I'd reiterate for emphasis that these solutions are not for unilateral resolution. This is something we must jointly design while deciding that we have to find a new way forward.

**The Chair:** Mr. Rafferty, you have two minutes.

**Mr. John Rafferty (Thunder Bay—Rainy River, NDP):** *Boujou. Awbinogeeeyak. Meegwetch.*

Thank you very much for being here. I welcome you to this sitting.

Thank you, Mr. Bevington, for sharing your time with me.

I have a quick question. Canadians have heard for some time now that the government will be cutting back, that the next number of years are going to be pretty slim in terms of funding for various things.

One of the things leaders tell me in my community is that the urban aboriginal strategy is facing cutbacks; it's done through Aboriginal Affairs Canada. As demographics are clearly changing in this country as to urban and rural and who lives where, I wonder whether you could give us some comments about the importance of the urban aboriginal strategy.

● (1205)

**National Chief Shawn A-in-chut Atleo:** First I have a couple of comments. I'll respond to those comments in the context of the role of the Assembly of First Nations, which is to serve and support first nations.

It was mentioned earlier that this committee has had representations from a number of groups. I think I heard Inuit being mentioned, and I'm sure Métis groups have come in. So there have been representations from the three distinct indigenous peoples recognized in the Constitution: first nations, Inuit, and Métis.

The three national organizations talk a lot. We talk a lot about the fact that as indigenous peoples collectively, first nations, Inuit, and Métis also flow between the rural and the urban settings, that the term "aboriginal" in fact encompasses all three, and it would be important to speak to the Métis and the Inuit about their urban aboriginal population.

In the Assembly of First Nations, we have has strong relationships with those who provide services in the urban settings. When I came to office, we launched a portfolio area focusing on an urban strategy, recognizing the importance of service delivery.

The response, though, is not disconnected from this conversation so far. The decisions to be away from home are many, and they're complex. They link with externally imposed divisions that include the residential school system, the lack of clean drinking water, the fact that we need 40 schools, and that there isn't housing in the villages. So it's not disconnected from this discussion: the reasons for people being away from home are very often also connected.

First nations also feel strongly about supporting the choice of first nations about where to reside, and right now that choice is limited on first nations reserve lands. For the Assembly of First Nations, our role and responsibility is to support first nation citizens wherever they reside. We work with groups such as the Friendship Centres, which have provided important historic supports for communities.

What we don't want to see is conflict or competition between people for what are already, as you rightly pointed out, resources that are limited. But when times were good, when the resources were there, first nations didn't see a shift in funding. The 2% cap has been around since 1996, and the Auditor General reflected on a full 10 years: the reflection was that the gap was deepening. This, then, becomes about how we ensure that all first nations are going to be supported going forward.

First nations governments have a principal responsibility to support their citizens, and it's to them that I would look for instructions on how we support their citizens wherever they reside. Many of the challenges are to ensure that first nations governments are supported to build their capacity and be as effective as possible, and to ensure that they have the resources available to support their citizens.

Post-secondary education is a good example, regardless of whether you're at home or in the urban setting. Are the resources going to be there to support success in the area of post-secondary education? We're hearing in many instances that communities unfortunately are not able to support their citizens. This is a good example of needing to ensure that we have full support for citizens wherever they reside.

**The Chair:** Thank you very much. It was a complex question with a short time to answer it, but we appreciate that you kept it as concise as possible.

Mr. Seeback, you have five minutes.

**Mr. Kyle Seeback (Brampton West, CPC):** Thank you, Mr. Chair.

Chief, I want to go back to one of the comments you made a number of times. It was about unleashing the economic potential. What opportunities do you see for unleashing economic potential on reserve lands under such things as budget 2011 funding and government and first nations efforts within the first nations land management regime?

**National Chief Shawn A-in-chut Atleo:** Jody?

**Vice-Chief Jody Wilson-Raybould:** Thank you for the question.

Thank you, National Chief.

The very reason I was before the committee a couple of weeks ago was to speak on first nations land management and the framework agreement for first nations land management. The realities of unleashing the economic potential on our reserve lands exist right now.

The way we support that as first nations and as a government is to ensure that every first nation that wants to be able to engage with or enter into the framework agreement on land management has the ability to do so. As first nations across the country, we have created our own land tenure systems and have created mortgageable interests in our lands, and this is based on not simply interests in lands, but also on exercising and having the jurisdiction to create those interests wherein we can, depending upon which first nation you look at, create an A-to-A lease and create an interest that is mortgageable and marketable.

The potential there—and the greatest investment that the government and everyone sitting here can make—is to invest in first nations-led initiatives that support economic development but that, most importantly, support first nations governments and the building of first nations governance on the ground.

Going back to other questions involving the legislative agenda, there are three different types of legislation being brought forward. One is to support and approve agreements. The others are government-led initiatives and first nations-led initiatives. I would echo the comments of the national chief about looking at and developing the legislative agenda jointly, so that the national chief or other leaders do not have to come back before this committee and have the same discussions, while recognizing that the priorities of first nations and the ability of first nations to move forward in a concrete way, based on their own priorities, are supported by the government and supported by parliamentarians in moving forward.

Thanks for the question.

• (1210)

**Mr. Kyle Seeback:** Recently there has been a great deal of progress made through tripartite agreements among the federal, provincial, and aboriginal organizations—for example, in education, in and family services, and in a new health agreement in British Columbia. What are your views on the value of these kinds of agreements and, as well, on the role of provinces in those agreements?

**National Chief Shawn A-in-chut Atleo:** Thank you.

I think wherever first nations are agreeing to and driving those initiatives and those agreements, they are most welcome.

There are outstanding issues of the relationships. Jordan's Principle was mentioned earlier, recalling a child who in fact died because of the lack of clarity about how the jurisdictions are going to—and should be—working together and supporting one another.

I begin, though, again by going back to the original point; that the principal relationship is one, firstly, between first nations and the crown. That's the reason for pursuing a first nations-crown gathering: to have a meeting with the federal government and to reset the relationship there.

The second point, and maybe the next step, would be then to consider the relationship among first nations, the crown, and provincial and/or territorial governments, but only as driven by first nations. What first nations are not welcoming of is the imposition of an approach. That includes the imposition of tripartite arrangements. Those areas in which first nations are choosing, though, we can see quite clearly in the examples you've described.

Great progress has been made, and it allows for the opportunity to address what the relationship is between the different jurisdictions. The principal relationship between first nations is with the crown on the education piece; we need to work that out. But then the next step would be what the relationship is between a provincial education system and.... It may not be a tripartite arrangement, but wouldn't any of us want to make sure that our children, if we choose to leave jurisdictions, would have equitable support for their education success if they were to move between a provincial and a first nations school?

Those are the sorts of practical issues that need to be worked out. But my interest is to reflect the fact that there is a basic foundational first nations-federal crown relationship that we need to address. Then the next step is to look to the first nations for instructions about how they see the next piece of this being worked out.

It's not to suggest that one size fits all or that only a single tripartite model should be implemented and/or imposed, but to suggest that we should be open to the idea that we first reset the first nations-federal crown relationship, and then ask the question about what the relationship is across the whole policy spectrum. In every area we can then ask what the relationship piece is that needs to be addressed with the provincial level as well.

**The Chair:** Was there a final comment there, Ms. Brennan?

• (1215)

**Ms. Jennifer Brennan (Senior Strategist, Assembly of First Nations):** No.

**The Chair:** Okay. I wasn't sure if you were signalling to me.

National Chief and Regional Chief, thank you so much for being here.

Ms. Brennan, thank you so much for coming.

We know it will be a regular occurrence that we'll be inviting you to come before us. We appreciate the fact that you made time to come and join us for this initial discussion as our committee works to undertake its work plan. We will, I'm sure, ask you to come back again. Thanks again. We look forward to seeing you again.

**A voice:** Thank you.

**The Chair:** Committee members, we will suspend and then go in camera in about five minutes or so. I just want to give members time to meet with the national chief.

*[Proceedings continue in camera]*

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