



CLEARING THE PATH

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Public Policy Forum - Expanding the Circle

FNTC Chief Commissioner: "Solutions must come from First Nations"

Federal Minister of Justice: "FMA institutions 'very critical'"



(Public Policy Forum)

FNTC Chief Commissioner C.T. (Manny) Jules on a panel moderated by Shannin Metatawabin, CEO of the National Aboriginal Capital Corporation Association, with Squamish Nation Chief Ian Campbell, Public Policy Forum Fellow Karen Restoule and Dr. Ken Coates, Canada Research Chair in Regional Innovation.

In February 2017, the Public Policy Forum held a one-day conference, "Expanding the Circle: What Reconciliation and Inclusive Economic Growth Can Mean for First Nations and Canada," held in Ottawa, ON. With approximately 150 delegates, the conference was co-hosted by the National Aboriginal Economic Development Board, the National Aboriginal Capital Corporation Association and Indigenous and Northern Affairs Canada.

FNTC's Chief Commissioner C.T. (Manny) Jules appeared on a panel, "Taking Action for Reconciliation and Inclusive Economic Growth", where he outlined his position for improving the numerous economic development challenges facing First Nations and how they can become part of the national economy.

“ I don't want to create a situation where our governments are managing poverty. And that could happen as a result of a new program-based fiscal relationship. Our governments have to be able to manage wealth. They have to be able to set up standards to facilitate economic development growth. We have to own our own lands.”

Chief Commissioner C.T. (Manny) Jules
First Nations Tax Commission

This includes the creation of an institutional basis for First Nations to move forward. Chief Commissioner Jules discussed some of the initiatives the FNTC is working on with First Nations, including an infrastructure institute, a land title registry and an aboriginal resource tax.

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Chief Commissioner's Message



Recently, I had the pleasure of attending a speech by the Minister of Justice, the Honourable Jody Wilson-Raybould. She described how Canada is going to meet its commitments to support First Nations wishing to implement their inherent right of self-government under s. 35 of the Constitution. I invite you to read the full text of her important speech which we have posted on our website. I also want to share some key concepts she discussed.

The purpose of reconciliation is to provide a constitutionally-recognized place for First Nation government within the federation. This means establishing our constitutionally recognized inherent rights including our jurisdiction. Minister Wilson-Raybould said there are two paths to jurisdiction: We can negotiate comprehensive self-government or treaty agreements or we can establish sectoral jurisdiction. The federal government is committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) by respecting its two most important elements - the right of self-determination including the right to self-government, as well as the means to finance our governments.

Reconciliation and implementing UNDRIP will require new laws, policies, and institutions advanced by First Nations. The Minister of Justice is leading a comprehensive review of all laws, regulations and policies that affect Indigenous Peoples, including the comprehensive claims and inherent rights policies, to provide a starting point for this significant reform. But as she said, *self-determination means it must come from us*.

Minister Wilson-Raybould challenged us to advance legislative, policy and institutional proposals that move us beyond the *Indian Act* and establish our place as equal partners in Canada and the economy. She challenged us to establish governance structures that reflect our Nations and traditions. She challenged us to choose our path to implement our aboriginal and treaty rights. She stated the role of the federal government is to support First Nation-led legislation, jurisdiction, governance and institutions that move us away from administering poverty under the *Indian Act*.

The Minister of Justice's words and the commitments from the federal government represent an historic challenge and opportunity for us to restore our jurisdiction and achieve reconciliation. They represent a chance to restore the foundation of our government – our land title and tax jurisdiction – and to ensure the *Indian Act* and other policies are replaced.

In the past months, we have been privileged to work with several FMA and non-FMA First Nations on proposals to rebuild the foundation of First Nation governments. We are proposing an aboriginal resource tax (ART) to implement the collective economic interest of aboriginal title and treaty rights. We are advancing a proposal for a new land title registry system so our title can be registered in our own system. We are working with First Nations proposing new tobacco tax jurisdiction for First Nations in Ontario which could be seen as a possible model for other provinces. We have developed a proposal to provide greater support to First Nations with an option to move the First Nations Goods and Services Tax into the FMA. We have developed a revenue-based fiscal relationship proposal to provide mechanisms for the stable revenues needed to implement our governing jurisdiction and sustain better services and infrastructure. We have also developed the concept of a First Nations Infrastructure Institute in conjunction with the new tax and fiscal relationship proposals, so we build, operate, maintain and replace sustainable infrastructure ourselves.

First Nations we are working with want to expand the FMA to support these new areas of jurisdiction and also want us to expand the Tulo Centre to provide the training and administrative capacity to implement our governing authorities in the new areas of tax, title, infrastructure and resource management.

In short, we want to work with First Nations and accept the Minister of Justice's challenges. In the coming months, we will be implementing our corporate plan priorities and advancing proposals in support of the expansion of First Nation jurisdiction. We look forward to another year of working together to create a stronger, more prosperous future for our communities.

Sincerely,



C.T. (Manny) Jules
Chief Commissioner

(Continued from Page 1)

Public Policy Forum

Chief Commissioner Jules also spoke about the commitment by the federal government to create a new fiscal relationship with First Nations. However, he stated the relationship must not be based on program-based financial transfers, as the financial need will never be met.

“I don’t want to create a situation where our governments are managing poverty, and that could happen as a result of a new program-based fiscal relationship,” Chief Commissioner Jules said. “Our governments have to be able to manage wealth. They have to be able to set up standards to facilitate economic development growth. We have to own our own lands.”

Chief Commissioner Jules, in keeping with the theme of the segment of ‘taking action for reconciliation and inclusive economic growth’, said this means the work begins with First Nations.

“We, as Indigenous people, have to come up with the solutions. There’s no way that the federal government, provincial governments or indeed the municipal governments can come up with the solutions. This has to come from us.”

The Minister of Indigenous and Northern Affairs, the Honourable Carolyn Bennett, and the National Chief of the Assembly of First Nations, Perry Belgarde, addressed the delegates in separate presentations.

Later in the day, the keynote address was delivered by the Honourable Jody Wilson-Raybould, the Minister of Justice and Attorney General of Canada. Minister Wilson-Raybould outlined the federal government’s plan to review laws and policies related to Indigenous Peoples. A working group of ministers will be responsible for the review and will examine relevant federal laws, policies, and operational practices to help ensure the Crown is meeting its constitutional obligations with respect to Aboriginal and treaty rights; adhering to international human rights standards, including

the United Nations Declaration on the Rights of Indigenous Peoples; and supporting the implementation of the Truth and Reconciliation Commission’s Calls to Action.

Minister Wilson-Raybould will chair the working group, which will be comprised of six ministers who have significant responsibilities for the relevant statutes and policies to be reviewed. The working group will first develop a workplan and set of principles, which will reflect an all-government approach that addresses all Indigenous Peoples.

Minister Wilson-Raybould said First Nation-led institutions should play a key role in rebuilding the relationship with First Nations.

“As we move forward, in my opinion, we also need to give more consideration to how we support Indigenous-controlled institutions that advance nation rebuilding, so that it is Indigenous Peoples that govern these institutions with a vested interest in the outcome of the work they do and the decisions they make,” she said.

“I am also very well aware of the Fiscal Management Act and the importance of the initiatives to strengthen the ability of First Nations to raise revenues as well as borrow monies from the bond market and generally establish sound financial administration systems. The role of the First Nations Finance Authority, the Financial Management Board and the First Nations Tax Commission, are very critical. And in my opinion, there is a need to consider how we can support additional Indigenous institutions that support nation rebuilding.”

The working group will work with Indigenous leaders, youth, and experts on various legal and policy questions relating to Indigenous Peoples. At the conclusion of her remarks, and in keeping with the work of the working group, the Minister offered to meet with the Chairs of the FMA institutions in the coming weeks. 🌱



(Public Policy Forum)

“ The roles of the First Nations Finance Authority, the Financial Management Board and the First Nations Tax Commission, are very critical. And in my opinion, there is a need to consider how we can support additional Indigenous institutions that support nation rebuilding.”


Honourable Jody Wilson-Raybould
Minister of Justice and Attorney General of Canada

First Nations working to implement accommodation tax

Stay overnight at any hotel in Canada and you will likely find a specific tax on accommodation on your hotel bill. Sometimes called a “hotel tax”, “accommodation tax” or “tourism levy”, the tax is collected by provincial or local governments and ranges between 1% and 5% of the price for accommodation. For example, a 5% hotel tax for a five-night stay at a \$100/night hotel will generate \$25 in hotel tax. In many instances, the revenue from these taxes is earmarked for local tourism initiatives or for a local tourism board. Increasingly, First Nations are including hotel properties as part of their overall commercial development strategy, and the fiscal benefits of an accommodation/hotel tax are hard to overlook.

In recent months, FNTC has been working with proponent First Nations to establish an accommodation tax under the *First Nations Fiscal Management Act*. While similar to

accommodation taxes or hotel taxes levied by provincial and local governments, the First Nation Accommodation Operator Business Activity Tax Law is distinguished by its application; it is collected as a tax on the accommodation operator. Accommodation includes lodging at hotels, motels, resorts, and other lodging establishments included in the First Nation’s law. FNTC estimates that nationally, there are nearly twenty First Nations with close to 2,000 rooms available for accommodation.

In support of this work, the FNTC is currently seeking public input on proposed Standards which would apply to business activity tax laws that provide for a tax on business operators providing accommodation on reserve. Please visit www.fntc.ca to view the proposed Standards. 


Responding to First Nations: New FMA amendments and proposals

The FMA fiscal institutions continue work on additional proposed amendments to the FMA. These include some amendments to the FMA that were proposed, but not advanced, as part of the amendments to the FMA last year, as well as some additional proposals. The amendment proposals are aimed at clarifying certain aspects of the legislation, and at making the legislation more flexible and responsive to the needs of First Nations and their taxpayers.

To advance this work, the Commission, the Financial Management Board and the Finance Authority have participated in meetings with INAC over the last year, to review the proposed amendments being advanced by each Institution. INAC has completed a detailed review of the proposals and are undertaking the work to seek the

authority to begin the legislative drafting process.

The Commission is proposing amendments that would enhance taxation under the FMA including: deleting the requirement for the “special levy” provision in subsection 5(6), maintaining the integrity of the FMA, limiting de-scheduling from the FMA in certain circumstances, and would enable the FNTC to provide advice on “taxation matters” to the Minister rather than solely on property taxation. The Commission is also proposing amendments to support property taxation regimes on joint reserves and to clarify the delegation of law-making powers.

As the discussions continue, the Commission will provide updates on the proposals and any legislative timetable proposed by federal officials. 



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FNTC's corporate plan lays out strategic vision for the 2017/2018 fiscal year

Each year, the FNTC prepares a corporate plan to set out the work and resource requirements for the coming fiscal year. The corporate plan is a comprehensive report on the FNTC's objectives, external environment, risks, risk management strategies, performance measures, and budget requirements for the coming fiscal year.

The FNTC's corporate plan for the 2017/2018 fiscal year includes several key priorities related to the advancement and expansion of First Nation jurisdiction, including:

- Implementing FMA amendments and advancing new amendments;
- Working with the other fiscal institutions to expand the use and scope of the FMA;
- Growing the FMA tax system in these areas of focus:
 - TLEs in Manitoba, Saskatchewan, and Alberta, and continued support of growth in Atlantic Canada
 - First Nations implementing taxation for services, BATs, DCCs, service fees and other revenue-raising powers
 - Grants-in-lieu of taxation;
- Planning a National Meeting for FMA First Nations, in conjunction with the First Nations Finance Authority and the First Nations Financial Management Board;
- Supporting and advancing a revenue-based fiscal relationship option for First Nations;

- Securing core funding for the Tulo Centre; and
- Advancing special initiatives including the Aboriginal Resource Tax (ART), an FMA Infrastructure Institution (FNII), the Indigenous Land Title Initiative (ILTI), and expanded tax services for First Nations.

Key elements of FNTC's work plan for the upcoming year include:

- Continued growth in education provided to First Nations including increased courses, workshops, webinars and research through the Tulo Centre;
- Expansion of the *First Nations Gazette* as the voice of First Nation law;
- Development of communication materials and presentations to support the continued expansion of First Nation tax systems; and
- Continued support for service agreement negotiations and management of disputes and negotiations associated with the local revenue system.

First Nations are continuing to find innovative ways to advance and expand their jurisdiction and the FNTC looks forward to another year of assisting First Nation communities realize their visions. 🌟

Thank you for participating in FNTC's communications survey

In November 2016, the FNTC launched a survey to better understand the effectiveness of our communications in meeting the needs of our audiences.

The FNTC wishes to thank respondents for the valuable feedback provided and will continue to refine communications products and services to ensure we are meeting the needs of our audiences.

The FNTC would also like to congratulate *Clearing the Path* subscriber Rowan Forseth, who was randomly selected as the winner of a \$100 Best Buy gift card. 🌟

Notice: Interim budget no longer required for FMA annual expenditure laws

Starting in 2017, annual expenditure laws will no longer require an interim budget. In 2016, the First Nations Tax Commission removed the requirement from its Standards for First Nation Expenditure Laws following amendments made to the *First Nations Fiscal Management Act*.

The interim budget was designed to ensure First Nations had the legal authority to expend revenue throughout the entire budget year, and the legislative amendments clarified year-round legal authority for expenditures. Accordingly, the FNTC Sample First Nation Annual Expenditure Law has been updated to reflect the changes. 🌟



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Tulo Student Profile: Gailene William

The Williams Lake Indian Band (WLIB) understands the importance of increasing source revenues as federal funding remains stagnant and even dwindles. Without additional funds, the band cannot grow or plan for the future. Own source revenue in the form of taxation plays a vital role.

In Williams Lake, Gailene William is taking on this role in addition to her job as the payroll/benefits administration clerk. Recently, we were able to sit down with Gailene and get her perspective on the Tulo Centre and taxation.

How did you become enrolled in Tulo?

Our finance manager asked me if I was interested in taking the course at Tulo. Not really knowing what I was getting into, I dove right into the training without having any previous exposure to taxation but realized it would benefit me in my job and most of all, our community.

I started in the fall of 2015, and took my final course in February 2017.

How does what you learned at the Tulo Centre help you in your work with Williams Lake Indian Band?

Many communities are beginning to realize taxation is the key to a better life. It isn't something we should fear, but a way to create a better future.

Managing taxation wisely for the nation requires education and practical training. To succeed, nations need a thorough knowledge of the ins and outs of the First Nation Fiscal Management Act and members who understand the band's vision.

Being part of the Tulo experience has given me a broader outlook on the benefits of taxation and a properly running tax administration program and made me more confident in both the administration and education of taxation for WLIB.

What has been the most valuable aspect about the program for you so far?

Well the course work has been most valuable but thanks to Tulo a big part is that I now have contacts from other communities that I met in class who I can email or call for assistance and that's really helped in creating my support network. Its allowed me to see what other communities are doing and learn from each other in addition to the time we spend in the class.

How does taxation fit into your community's future?

I believe First Nation land taxation benefits a community and helps provide own source revenue – most communities financial planning is based on third-party funding agreements but when you also can add in other revenue, with no funding guidelines attached, you are able to look longer term.

So in that essence, everyone benefits from it depending on how you budget your tax revenue. From opportunities for building new infrastructure to adding or enhancing programs and services that affect elders and youth, everyone benefits from tax revenue in our community.

Tulo has been an excellent experience and it has also been a real challenge. "Introduction to First Nation Taxation" was the first exposure I've had to First Nation land taxation but attending Tulo has helped me greatly in all areas.

Also like many of our communities, at WLIB staff wear multiple hats and we also have our personal commitments to consider – for myself being a mom of three children I had a hard time leaving my kids for a week at a time for each of the eight classes. But thanks to some wonderful classmates and wonderful family who took care of my babies, I made it through each class and have made it through the end. 🌟

Seven First Nations added to the FMA Schedule

Congratulations to the seven First Nations that were added to the Schedule of the FMA through an amendment to the Act on March 8, 2017.

The seven First Nations added to schedule are:

- Iskatewizaagegan #39 Independent First Nation, ON
- Kwikwetlem First Nation, BC
- Red Pheasant Cree Nation, SK
- Sheshegwaning First Nation, ON
- Skin Tyee Nation, BC
- Wasagamack First Nation, MB
- Wuskwi Sipiuk First Nation, MB

There are now 211 FMA First Nations in Canada.

Restoring First Nation taxation and land title jurisdiction featured at 17th annual AFOA national conference

The FNTC travelled to Calgary to participate as presenters and exhibitors in the Aboriginal Financial Officers Association (AFOA) 17th Annual National Conference. The conference is Canada's premier event for Indigenous finance, management and leadership professionals that focuses on building capacity and creating wealth within First Nation communities. The theme of this year's conference was "Aboriginal Economy: Building a Stronger Future."

FNTC's tradeshow exhibit was well attended, with over 200 AFOA delegates visiting the FNTC, Tulo Centre and *First Nations Gazette* (FNG) booths to learn more about products and services offered by the Commission and FNG.

The FNTC exhibit showcased a double-sided billboard with jurisdictional timelines on each side. One side featured the timeline of First Nation tax jurisdiction and the other side featured a timeline of First Nation land ownership. Visitors to the booth were able to learn about the rich history of First Nation title, lands and jurisdiction in Canada.

Visitors to the FNG booth were able to see live demonstrations of the FNG website (www.fng.ca) by searching for their First Nation and were able to sign up for an FNG account if they didn't have one already.

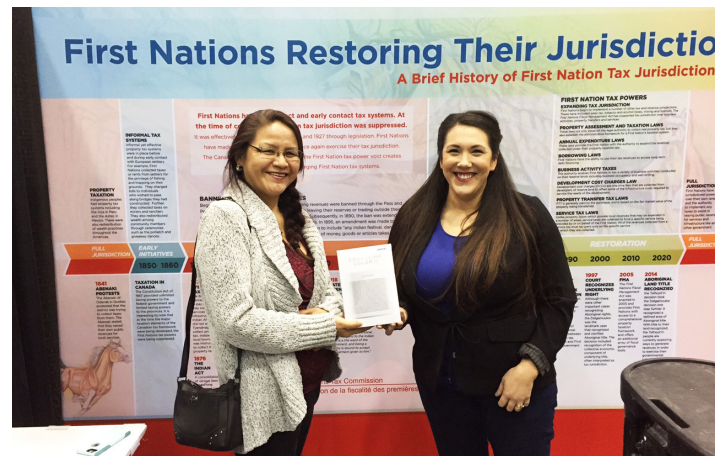
On the final day of the conference, FNTC delivered a panel presentation on what finance managers should know about property taxes, co-presenting with Dalyn Bear, councillor for the Whitecap Dakota First Nation (WDFN) and a Tulo graduate.

The FNTC presentation reviewed the background of property taxation, the importance of taxation as a governance function, how the FMA works, how FNTC supports the process and then focused in specifically on how the local revenue account is managed.

WDFN councillor Dalyn spoke to how property taxation has supported the economic growth and governance of the First Nation and how property taxation has benefited the community and the people that live there. 🌱



FNTC Director of Policy and Law Review Trenton Paul interacting with visitors to the First Nations Gazette booth.



Left photo: FNTC Director of Intergovernmental Affairs Brent Moreau with the winner of the FNG booth draw, Chastity Seesequasis from the First Nations Trust.

Right photo: FNTC Communications Officer Juli Holloway with the winner of the FNTC booth draw, Jacqueline Titian from Hesquiaht First Nation, located on the west coast of BC.

FNTC Regional Workshop Roundup

Restoring First Nation tax jurisdiction through the FMA



Attendees listen to CBI Senior Mediator Stacie Smith discuss how to manage difficult conversations.

Many First Nations in Ontario have cottage communities on First Nation lands and are losing out on benefits provided under the FMA. FNTC worked with the Tulo Centre and the Consensus Building Institute to develop and deliver a workshop for Ontario First Nations to learn about the benefits of switching from service fees to taxation for their cottage leases.

Attendees appreciated the historical overview of taxation and commented they didn't fully understand taxation prior to the workshop. Participants also commended the structure of the workshop and the activities as it provided rich engagement that led to a deeper understanding of taxation and the benefits it provides to First Nation communities, and challenged them to flip their thinking to focus on First Nation jurisdiction. Five First Nations expressed interest in property taxation as a result of what they learned through the workshop. 🌱

CBI negotiations training for Atlantic First Nations

Success in negotiations is critical to the implementation of property taxation and multiple aspects of First Nations jurisdiction. Working with the Harvard-MIT Consensus Building Institute (CBI), FNTC facilitated a two-day workshop held in Moncton, NB from February 21 – 22, 2017 to provide participants with the tools and skills needed in their ongoing discussions and negotiations with government and industry.

Using their “mutual gains approach”, CBI delivered group-specific training using real world scenarios that led to actively engaged participation from attendees. Participants representing 12 First Nations from New Brunswick and Nova Scotia wrapped up the workshop with a better understanding of the interest-based approach to negotiations and a readiness to put their new skills to the test for their respective communities in their interactions and discussions. 🌱

Saskatchewan Aboriginal Land Technicians Additions to Reserve (ATR) workshop includes tax jurisdiction

In January, the FNTC presented at the Saskatchewan Aboriginal Land Technicians Association's Additions to Reserve (ATR) Workshop. Nearly 100 participants representing a variety of First Nations and organizations attended the two-day event.

Established in 2010, the Saskatchewan Aboriginal Land Technicians Association is a professional association of First Nation land managers in Saskatchewan.

The workshop brought together a wide array of organizations involved with ATRs to discuss best practices and emerging policy issues in the context of additions to reserve and First Nation land management.

The FNTC's presentation highlighted how property tax jurisdiction effectively addresses how First Nations can ensure land is properly serviced.

Other topics discussed included First Nation property taxation and municipal services agreements, tax immunity of Provincial Crown corporations, and taxation of agricultural interests. 🌱



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