

GOVERNANCE WORKSHOP

Fort Simpson - April 16-19, 2002

Report of Facilitator, Peter Russell

1. The Workshop

Representatives of the Deh Cho First Nations, the Government of Canada and the Government of the Northwest Territories held a four-day workshop to discuss approaches to implementing a Deh Cho government, one of the objectives of the Framework Agreement they signed on May 23, 2001. The workshop was not a negotiating session, but an opportunity for the parties to consider together in an open public setting the approach the people of the Deh Cho would like to take in implementing a Deh Cho government. According to the terms of the Interim Agreement, the Deh Cho Government is to be “the primary government for the delivery of programs and services to residents of the Deh Cho territory within the Northwest Territories.”

The workshop took place in Fort Simpson’s Community Recreation Centre and was open to the public. Besides members of the parties’ negotiating teams, the workshop was attended by Deh Cho elders and chiefs from communities throughout the Deh Cho, representatives of municipal governments in the region, as well as many individuals, young and old, from all sections of the Deh Cho community.

A full record of proceedings was kept by the secretariat of the Deh Cho First Nations. The Deh Cho Communications team will be disseminating information about the workshop to Deh Cho communities. The report below is an attempt by the facilitator to summarize points on which there appeared to be a broad consensus and to identify matters on which further thinking and discussion are necessary.

2. Governance and Land Go Together

From the beginning, it was clear that it is difficult to separate discussion of governance from discussion of land. Many of the Deh Cho people who spoke emphasized that how they govern themselves has much to do with their relationship to their lands and waters. This was true in the past and they wish to continue this close tie between land and governance in the future. So it is not easy to discuss governance issues without knowing how questions of land rights and questions of sharing responsibility with Canada for managing land use and resources will be settled.

Nevertheless, the workshop went ahead with the consideration of governance issues on their own. Though the nature, shape and functions of Deh Cho government will become much clearer as land and resource issues are clarified.

3. Flexibility, Choice and Challenge

At various times in the workshop fears were expressed that the Canadian Government had a model of self-government that was being offered to the Deh Cho. The Deh Cho Dene do not want a model of self-government imposed upon them. They governed themselves for many years before the white man came, and they wish to build on that experience of self-government and self-sufficiency. Government of Canada representatives made it clear that it was not the intention of Canada to impose a model of self-government on the Deh Cho. In implementing its policy of working with First Nations to reach agreements on implementing the inherent right to self-government, Canada had shown great flexibility. Models of self-government developed in other parts of the NWT and Canada were presented as examples of how other First Nations had chosen to implement their inherent right. The point of looking at these examples was to see if there was anything in them that might be useful in implementing self-government in the Deh Cho.

The challenge for the people of the Deh Cho region is to design a governance system that draws on Deh Cho tradition and experience and can function effectively as the primary government for all of the residents of the Deh Cho region. This task was likened to “building a house” in which all the people can find a place.

4. Values and Principles of Deh Cho Governance

Deh Cho government is based, and should continue to be based, on the values and principles which have served the Deh Cho people well in the past and which define their society. Elders who attended the workshop discussed and explained these values and principles. The stories they told illustrate how these Dene ideals guided the people in knowing how to live well together, how to take care of their lands and waters and how to welcome newcomers to their land.

The Deh Cho have their own words for these fundamental values and principles. The English words which were most often used to sum them up were:

- sharing
- caring
- co-operation
- respect
- integrity

These principles, while fundamental to the Deh Cho tradition of governance, are universal values which should be readily understood and accepted as good principles of governance by new residents of the territory.

These principles of Deh Cho governance, like many of the important principles of British and Canadian parliamentary democracy, have not been written down as formal constitutional rules. Knowledge of these Deh Cho principles will continue to be transmitted by elders to succeeding generations. **But consideration might be given to preparing a statement of Deh Cho principles for the Preamble of the written Deh Cho Constitution.** Such a statement would be especially instructive for new residents of the Deh Cho territory.

The Framework Agreement says that the Deh Cho Government should be based upon “Deh Cho First Nations laws and customs and other Canadian laws and customs.” One important Canadian law that was recognized as applicable is the Canadian Charter of Rights and Freedoms. As stated in the Common Ground Principles, the rights of all Canadians which are guaranteed by the Charter of Rights will be respected by the Government of the Deh Cho but in a manner that is consistent with protecting the Aboriginal and Treaty rights of the Deh Cho.

5. One House, One People

There was a clear consensus that Deh Cho Government should be a government for all of the permanent residents of the Deh Cho territory. There was no desire to divide the population of the territory into two separate categories of Deh Cho and non Deh Cho. In implementing a Deh Cho Government, the Deh Cho wish to build one house with room for all who reside in the Deh Cho.

This is in accord with the commitment in the Framework Agreement to Deh Cho Government being “a public government”. The term “public government” raises fear that Deh Cho Government would have to conform to some standard model of Canadian government. But it was made clear that this is not the case. Public government means that the Deh Cho Government would be the primary government for delivery of governmental services to all the residents of the Deh Cho territory.

6. Membership in Deh Cho Government

A preference was expressed in the workshop for referring to all those who participate in the Deh Cho Government as “members” rather than “citizens”. There was agreement that all those who reside in the Deh Cho territory should be considered “members” with a right to participate and hold office in Deh Cho Government. Some minimum period of residency would be required to qualify for membership. Two years was mentioned by some as an appropriate residence requirement.

Membership in Deh Cho Government is not the same thing as membership in the Deh Cho First Nations. Those who belong to the Deh Cho First Nations have special treaty rights. The question of whether membership in the Deh Cho First Nations would be governed by the Indian Act was raised. In the discussion of this question it was recognized that under the Agreement with Canada it will be up to the Deh Cho First Nations to determine membership in the Deh Cho First Nations.

Work needs to be done on how membership in the Deh Cho First Nations and eligibility for Treaty benefits, and benefits arising under a new Agreement with Canada will be defined. Also more consideration needs to be given to how membership in Deh Cho First Nations relates to membership in Deh Cho Government.

7. One House with Two Storeys

Deh Cho Government will operate at two levels: the local or community level and the Deh Cho regional level.

In the Deh Cho tradition of government, the local community is the most fundamental level of government. It is primarily at the community level that the Deh Cho have exercised their responsibility for caring for land, nurturing the young and maintaining peace and social harmony. The primacy of the community level of government would continue under the Deh Cho Government now being implemented.

Deh Cho Community Government would replace all governments in the region that now function at the community level: band councils, hamlet, village and town councils. This process may require a transitional period so that existing structures can be phased into new structures.

Deh Cho Regional Government would be the government for the whole Deh Cho territory. It would be the government responsible for making policy and enacting laws for the entire region, and for co-ordinating the shared activities of the communities.

8. The Role of Elders

A distinctive feature of Deh Cho governance has been the important role played by elders. The importance of this role was evident in the conduct of this workshop. Many elders contributed to the discussion and enabled all who participated to understand how elders are recognized and to appreciate the kind of knowledge and guidance they provide to Deh Cho Society. If the Deh Cho Government to be implemented and recognized through the Agreement with Canada is to be truly Deh Cho Government, it must be a system of governance in which elders continue to play a vital role.

Deh Cho Government should be structured and conducted in a manner that will make it possible to have the knowledge and advise of elders on all matters of policy and in the selection of leaders. A role for elders should be provided for at both the community and regional levels of government.

The way in which elders emerge in Deh Cho communities and the way in which their advice is obtained has been a part of the Deh Cho people's "unwritten constitution".

The elders' role in Deh Cho society and government will, at least in part, continue in this informal way. But suggestions were made that institutional arrangements should be made to provide for the elders role in Deh Cho Government. One suggestion was that there be an elders' "senate" or "upper house" – at the regional level.

It will be important for the elders and the Deh Cho leadership to design the best way of ensuring the that the role of elders is continued in Deh Cho Government.

9. Diversity at the Community Level

In implementing Deh Cho Government it will be important to leave room for a great deal of diversity at the community level. Communities in the Deh Cho region have different traditions. They also differ considerably in the size and ethnic mix of their populations. This means that communities may have different governmental structures and take on different ranges of services and programs. Participants in the workshop recognized that at the local/community level "one size would definitely not fit all."

In many – perhaps in all - Deh Cho communities, extended families have traditionally been recognized as having responsibility for the care of specific lands and waters. There is a desire to continue this distinctive aspect of Deh Cho governance. In the past this practice of government appears to have been carried on informally without being formally provided for in institutions. **Consideration should be given to whether and how the role of families should be more formally institutionalized under Deh Cho governance.**

The special circumstances of the Town of Hay River were frequently mentioned in the workshop. Over half the population of the Deh Cho territory reside in this town. The majority are non-native. How the Town of Hay River would fit into a region-wide system of Deh Cho Government needs to be investigated. **One suggestion is that a special workshop on the Town of Hay River be organized.**

10. Representation options and issues

Various methods of representing individuals and communities in Deh Cho Government were discussed in the workshop. The methods of selection which were considered included the following:

- representatives of extended families
- consensus with the elders
- traditional representatives of an area of land
- representatives of local community institutions
- individuals voting: one person, one vote

There was no consensus that any one of these methods should prevail over another.

In response to a questionnaire prepared by the facilitator, Deh Cho First Nations representatives took the position that “there will be no elections” and that “selection of leaders will be by consensus both at the local and regional level.” In the break-out group on this subject some supported the idea that Deh Cho Government at both the local and regional level might combine several methods of selection or representation.

At the community level there is room for a great deal of diversity on the methods of representation and selection that are used. In communities that are small and have very few residents who are not members of the Deh Cho First Nation traditional methods could continue. But communities with significant numbers of residents who do not belong to First Nations will have to provide for appropriate ways of having these members represented. **The Deh Cho First Nations might encourage communities to set up their own workshops on how to combine methods of selection and representation in Deh Cho Community Governments.**

The workshop looked briefly at examples of how the Inuvialuit, Gwich'in and Dogrib had designed Community Governments to represent and serve all residents in their communities. There was little time to examine these examples of community government structures closely. Some thought they were being presented as “models” of what the Deh Cho ought to do in their communities. **In future workshops on Community Government it might be worthwhile inviting some people from the Beaufort-Delta or Dogrib communities to discuss their approach to Community Government.** The aim would not be to treat their experience as a “model” to be copied but to see if any features of their approach are appropriate in communities of the Deh Cho.

As for representation in a future Deh Cho Regional Government there was some support for “one-person-one-vote” elections. But most participants supported the continuation of a more traditional Deh Cho system in which leaders, at both levels, are chosen by consensus and in which leaders from the communities come together to direct the governance of their common affairs. The principle of equality in this confederal system is equality of communities - regardless of differences in the size of their populations. It is more a system of one-community-one-vote than one-person-one-vote. Direct accountability to all the people of the region is through Deh Cho Assemblies and Elders Assemblies rather than elections.

The workshop looked – again briefly – at examples of “central” or “regional” government structures that combine representation of community or village councils with directly elected councilors. These included the Nisga'a in BC, the Labrador Inuit as well as the Beaufort-Delta and Dogrib in the NWT. Only Nisga'a “citizens” can vote in elections to the Nisga'a Government. Non-Nisga residents participate through public institutions such as school boards and health boards. In Labrador only Inuit can seek election as Inuit Central Government members. It was noted that non-indigenous people in both these areas constituted only a tiny fraction of the overall regional population.

There was not much opportunity in the workshop to consider how members of the Deh Cho region who are unfamiliar with Deh Cho traditions of selecting leaders and representation might adapt to this system. **Work should be done in building a consensus on how the government which is to be the primary government for the delivery of programs and services to all of the residents Deh Cho region should be structured. A further step might be for The Deh Cho First Nations to set up a task force to come up with a model or several optional models of a Deh Cho Region Government for consideration at a future workshop involving residents who are not accustomed to the Deh Cho tradition.**

11. Jurisdictions, Programs and Services

Deh Cho Government, as the primary government at the local and regional levels, will be concerned with every aspect of managing the internal affairs and attending to the well-being of the people and resources of the Deh Cho. The list of areas of responsibility include:

- lands and resources
- health
- family services
- education
- culture and language
- housing
- transportation
- municipal services
- administration of justice
- environmental protection

Representatives of the Deh First Nations made it clear that “jurisdiction” in these areas means law-making power, not simply delivering programs or services established by other governments.

There was a consensus that as much as possible responsibility for carrying out governmental services and executing the laws should be at the community level. This will facilitate a high level of participation and sensitivity to local needs and knowledge. This is particularly important in the Deh Cho practice of land management.

There was considerable discussion of Deh Cho approaches to the administration of justice. The Deh Cho favour a justice system that aims at being restorative of social harmony and healing. They wish to maintain and develop justice practices of this kind that are already operating in some of their communities.

It was acknowledged that though Deh Cho Government is to be the primary government in the region it was not the only government with responsibilities in the region. Some laws and policies of the Government of Canada and the Government of the Northwest Territories would apply to the Deh Cho. Foreign affairs, military defence,

immigration and currency were identified as areas in which the Government of Canada should continue to have responsibility. The Constitution of Canada and the Supreme Court of Canada were also acknowledged as Canadian institutions that would continue to apply to the Deh Cho.

Workshop participants saw a governmental authority with responsibility for all of the Northwest Territories having a role both in establishing standards in areas such as educational curriculum, professional accreditation, housing and safety, as well as in providing expensive, technical services in areas such as medicine and transportation.

The workshop did not get into questions of which laws should be paramount in areas where both the Deh Cho and other governments have law-making powers. These questions (as well as precisely defining the fields of jurisdiction under Deh Cho governance) are matters more appropriate for negotiations than a workshop. However one principle on which there was a consensus is the need to eliminate as much as possible duplication in the provision of government of services. There is a strong desire to avoid overlap and red-tape, and to build a system of governance which, in this sense, is highly efficient. It was acknowledged that for this to happen, the federal and territorial governments will have to change their laws and policies to make room for a Deh Cho Government that is truly primary.

12 Finances and Self-Sufficiency

A constant theme throughout the workshop was that for the Deh Cho self-government to be meaningful must be, as much as possible, self-sufficient. Real autonomy does not exist for a people whose primary government depends on begging for resources from outside governments. The Deh Cho want future arrangements for the financing of services to be governed by their treaty-relationship with Canada.

It was agreed that Deh Cho Government will have the power to raise money by taxation. But the Deh Cho people and their leaders recognize that their capacity to be self-sufficient will very much hinge on their access to revenues derived from the Deh Cho's natural resources. This issue will be the focus of the next workshop.

13. Relations with Other Governments

The workshop considered relationships among the four levels of governments with which the Deh Cho are involved:

- The Deh Cho Community Government is the most fundamental for them
- The Deh Cho Regional Government is where representatives of the Deh Cho communities deal with their common interests
- The Government of the Northwest Territories they would like to see is one which is constituted by representatives of the various regions that make up the Territory and which deals with the common interests of the Territory
- The Government of Canada is the one with which they have treaty relations

The break-out group that considered these relationships reported that it is important for the Deh Cho people to be able “to see themselves” at all of these four levels of government.

The Deh Cho Leadership referred to the relationship they want Deh Cho Government to have with the GNWT as “an administrative relationship”. They do not want Deh Cho Government to be treated as a “junior” level of government, subordinate to a Territorial Government in Yellowknife. Hence there was considerable interest in the idea of reconfiguring the GNWT as a Congress or Council of the regions. **If this idea is to be pursued, it should be introduced by the Deh Cho leadership into forums discussing the future structure of the GNWT.**

14. Conclusions

The workshop made good progress in defining the general structure and nature of the Deh Cho Government to be implemented in the Agreement with Canada. It would be a government that builds on the generations of experience and distinct traditions of the Deh Cho Dene. As such it would give primacy to government at the community level and provide a role for elders at both the community and local level. It would be a single government operating at two levels – the community and the regional – for a united people – the people of the Deh Cho.

Possible future steps are indicated in this report by **bold type**. These are just the facilitator’s suggestions. Mostly they are concerned with how to adapt traditional Deh Cho principles and practices to a governmental system that must be the primary government for many persons who are not familiar with that tradition.