

CONSTITUTIONAL DEVELOPMENT STEERING COMMITTEE

PRESENTATION OUTLINE  
COMMUNITY INFORMATION MEETINGS  
NOVEMBER 6 1994

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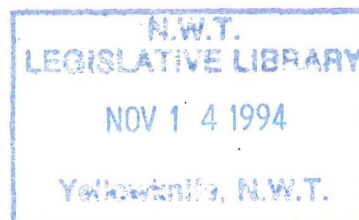


INTRODUCTION

- This meeting is an important part of the public information and consultation process for developing a new form of government in the western Northwest Territories
- It is being carried out by members of the Constitutional Development Steering Committee
- There has been a lot of discussion about constitutional development in our communities over the last few years and a lot of work has been done
- This includes the work of the Western Constitutional Forum in the 1980's, and the Bourque Commission on Constitutional Development in 1991 and 1992
- Western political leaders formed the Constitutional Development Steering Committee to carry on this work and guide it to a conclusion
- The members of the CDSC believe that we must now gather and share all of our ideas -- through public information, and through two constitutional conferences
- In this way, we can build a consensus about how we in the western NWT want to govern ourselves, and put in place a new form of government by 1999

DIVISION: TWO NEW TERRITORIES

- A new eastern territory, Nunavut, will be created on April 1, 1999
- Federal legislation creating Nunavut has already been passed by Parliament



- There is no legislation for a new western territory yet
- Right now, if we do nothing, it will still be the Northwest Territories, but smaller
- The map shows what the new western territory will look like, with the boundary that was approved in the 1992 plebiscite:
  - 34 communities
  - 6 regions:
    - Beaufort-Delta (Inuvialuit and Gwich'in)
    - Sahtu
    - Deh Cho
    - Dogrib
    - Treaty 8
    - Yellowknife
  - Approximately 38,000 people
  - Approximately 50% aboriginal and 50% non-aboriginal
- Unless we do something now, when division occurs in 1999 the new western territory will have the same form of territorial government we now have
- The Constitutional Development Steering Committee believes that's not the way it should be
- We have been talking about the need for change, particularly the need for more community and regional control over decision-making, for a long time
- In addition to division of the NWT in 1999, the aboriginal peoples of the western NWT are entering negotiations with the Government of Canada on self government
- We have the opportunity now to make changes, to form new structures of public government in the western NWT
- They must also recognize and work in conjunction with aboriginal governing structures which will be created

- On April 1, 1999 there should be **two new territories**: Nunavut and a new western territory with a **new name** and a **new constitution**, a **new way of governing itself**
- It will come from and take into account the people of the west - aboriginal and non-aboriginal, communities, cultures, regions, land claims and aboriginal self-government

### CDSC MEMBERSHIP AND OBJECTIVES

- The CDSC is not a government committee but an **independent committee** of 23 western NWT political leaders: all **14 western MLA's**, the heads of **5 aboriginal organizations**, **3 members from the Association of Western Tax-Based Municipalities**, and **1 member jointly representing two women's organizations**, the Native Women's Association and the Status of Women Council
- Seats are also available for the **Deh Cho Tribal Council** and the **NWT Treaty 8 Tribal Council**; they are not now members of the CDSC, but are participating in the discussions about the forms of government they would like to have
- The job of the CDSC is **not** to develop a new constitution itself or decide what should be in it
- Its job is to **guide** the **process** of developing a constitution and structure of government for the new western territory
- That process must be **public** and involve all of the people in the western NWT to **build a consensus** on how we want to govern ourselves
- People in every community **must** be involved **throughout** this process
- Once the constitution is drafted, **we will all have to vote** on it
- So, the process can't be done only by the government or by the elected political leaders on their own

## CDSC PRINCIPLES

- Last December, the Committee met and approved **12 draft principles** to guide the process; there are **four key points**
- **First**, we need to establish an **innovative constitution and structure of government**: a new way that works for us
- We don't have to follow the way it's done in the provincial governments or under the NWT Act the way it is now
- **Second**, we are talking here of **public government** so it must represent and serve all residents: aboriginal and non-aboriginal, men and women, elders and young people
- But **third**, it must recognize and work **in conjunction with aboriginal and treaty rights, claims agreements and the inherent right of self government**: the new system must **include aboriginal government institutions** as well as public government institutions
- **Fourth**, there will be a **central government**, along with **community and regional governments**
- There will be a **division of powers** that gives authority to each of those levels to deliver services which are most effectively delivered at that level

## CDSC PROCESS

- These principles leave a lot of unanswered questions, such as:
  - how are we going to do this?
  - what powers should the central government have and what powers should be assigned to community or regional governments?
  - how should we select our representatives to these governments?

- what will be the relationship between public and aboriginal government institutions?
- These and the many other questions involved can only be addressed by **public involvement and consultation**, and with continued support from aboriginal organizations and the members of the Legislative Assembly
- There must be broad distribution of information and discussion, first through these community meetings, then at regional workshops for the people who will be attending the Constitutional Conference, and finally at the Conference itself next January
- There will need to be further discussions and meetings after the Conference, and a Second Constitutional Conference during 1995
- The final proposed constitution must be approved by the residents of the western NWT through a ratification vote
- Also, since the Federal government must pass legislation to implement a new constitution for the new western territory, it must be involved in the process

### THE FIRST CONSTITUTIONAL CONFERENCE

- The First Constitutional Conference will be held **January 18 to 22** in Yellowknife
- Former Prime Minister Joe Clark will be the chairman of that Conference
- There will be 150 participants, including both political leaders and people from the general public
- We'll have more information later for anyone interested in applying to attend the Conference
- The Conference will include full **group sessions** and smaller **workshops** over 3 and a half days

- People at the conference will discuss the major themes and issues
- They'll make recommendations on principles and options for a constitution and structure of government for the new western territory
- They'll also make recommendations on how the remaining stages of the constitutional process should be completed
- The purpose of community meetings like this one is to let everyone know about this process
- We are preparing for the Conference by informing you about the ideas and proposals that have been developed for a new form of government
- They have been put forward for discussion by all the regions and groups that are involved in the CDSC process

### **MEMBER GROUP RESEARCH REPORTS AND SUMMARIES**

- The GNWT last year funded 9 groups to produce research reports on the constitution and structure of government for the new western territory
- These groups include:
  - the Inuvialuit Regional Corporation
  - the Gwich'in Tribal Council
  - the Association of Western Tax Based Municipalities
  - The Native Women's Association and the Status of Women Council
  - the NWT Treaty 8 Tribal Council
  - the Deh Cho Tribal Council
  - the Dogrib Treaty 11 Council
  - the Sahtu Tribal Council, now the Sahtu Secretariat Incorporated
  - the Metis Nation - NWT

- These reports have now been printed in a single book, called the Member Group Research Reports
- Copies of the book were sent to CDSC members and contributing groups, community governments and aboriginal organizations (including Band councils, Metis locals, Gwich'in councils and Inuvialuit community corporations) and community libraries
- The CDSC has also produced point-form Summaries of the Member Group Research Reports for public distribution
- These are now available for anyone who would like a copy and we have some here today

### **THE ELEMENTS OF A CONSTITUTION**

- What is a constitution?
- What kind of things go into it?
- A constitution is a group of laws -- or rules -- that describes what a government is, who it governs, and what it can do
- The first thing that goes into a constitution is the name and description of the geographic area covered
- Next, it needs a definition of the people to be governed and a statement of their unique and shared experiences, values, interests and aspirations
- And it should include statements of any special rights and freedoms enjoyed by people governed by the constitution
- These things are called Principles--the basic ideas and values that a government is based on

- It should have something that describes how the government is set up-- the **Structure** of the government
- That would include the orders of government and the kinds of institutions which will make laws, decisions and settle disputes in these different orders-- or types-- of government
- The ways authority and responsibility are divided among the orders of government are called **Powers**
- The constitution should describe how people are appointed or elected to serve in these governing institutions and the way the constitution is changed or amended
- This is called **Representation**
- Finally, we have a lot of different people who will be affected by the constitution, so we need something to guide us on how we are going to write it
- This is called the **Process**
- So, we have five areas that have to be discussed to create a constitution, which we can call the **Themes**:
  - **Process**
  - **Principles**
  - **Structures**
  - **Powers**
  - **Representation**

## THEMES AND ISSUES

- The Member Group Research Reports provided the basis for identifying the **themes**
- The things they have said under each of the **Themes** are called the **Issues**



- They are what we want to tell you about at this meeting
- These themes and issues will provide the starting point for discussion at the First Constitutional Conference.
- Discussion will take place in small group workshops on each of the five themes
- The Member Group reports raised a number of common questions under each of the five themes
- These questions will have to be addressed in developing a constitution and structure of government for the new western territory
- In the reports, there are a number of areas where there is already substantial agreement about the answers to these questions
- In other areas there are differences of opinion and more discussion is needed before consensus can be reached

## PROCESS

- The questions under the heading "**Process**" address the process of developing a new constitution that we are now involved in: what it is, what it is not, and how we go on from here
- These have to be looked at before we can go on to answering questions on what goes into building a constitution
- There are two parallel processes going on at the same time
- The first is this CDSC process we are involved in for public government
- The second is the negotiations that are going on with Canada on aboriginal self-government

- For most aboriginal groups, the self government negotiations are the more important process; they see it as the "senior" process
- Most groups also agree with the CDSC process for developing public government
- They believe these two processes are separate, but they work together and they are compatible: we can build public and aboriginal structures that will work together
- The exceptions to this are the Deh Cho and Treaty 8 Tribal Councils
- They believe that the two processes are not compatible
- They would like to have separate aboriginal governments in their areas, not a single, central public government for the whole territory
- Most groups also believe there is a need for federal government involvement in the process
- And that further transfers of federal powers should be put on hold until the self government processes have been completed
- The two women's organizations have added that communities must heal before they can govern themselves
- Other groups have also mentioned the need for healing as communities take on more governing responsibilities
- Finally, a number of groups have addressed the questions of who will write the constitution, and how it should be approved and ratified

## PRINCIPLES

- Under "**Principles**", we talk about rights and the values and beliefs that we share.
- These will form the foundation of our ideas about how we should be governed
- There is general agreement that both individual and collective rights should be addressed in the constitution
- Some groups say individual rights should be protected by affirming the Canadian Charter of Rights and Freedoms within our own constitution
- Others suggest we could go even further and put additional rights into our own constitution
- All the groups agree that aboriginal rights must be recognized and entrenched
- Under **Principles** we also have to look at what kind of governing institutions we want
- Most groups say that two levels of government should be entrenched in the constitution
- There should be a single territorial government and there should also be community governments
- Many groups say that community government should be primary -- the main government
- Where the groups differ is on how strong each of these governments should be
- Many say there should be strong community government -- in keeping with the principle that there needs to be more authority at the local level

- The Deh Cho and Treaty 8 Tribal Councils have stated similar principles
- However, they would each like to have their own form of government in a direct relationship with Canada
- It would follow Dene values, customs and laws and respect their relationship to their land
- There is agreement among all groups that there will be aboriginal self governing institutions -- through the land claims and self government negotiations
- These should be recognized in the constitution, along with the linkage between public government and self government
- A number of groups say there should be a Human Rights Code or a Social Charter
- These would include values and principles to guide government
- Some say they should be written into the constitution; others say they could be in legislation
- Finally, under **Principles**, there is the question of whether the constitution should be long and detailed or short and simple
- Some groups have said it should be short, to make it less open to misinterpretation
- Other groups have not said anything specific about length -- but they have described long lists of things that should go into the constitution, which would make it long and detailed

## STRUCTURES

- "Structures" describe the ways authority and responsibility are divided between types or levels of government
- All groups agree that self government talks will result in exclusive aboriginal jurisdiction over some things
- This will have to be taken into account as a new form of government is developed
- Almost all groups agree that the central government should have less authority than it has now
- All groups say that communities or regions could have more responsibilities -- but they differ in how much
- The Inuvialuit, Gwich'in and Dogrib are all interested in strong regional government made up of communities that are equal
- The Municipalities and the Metis would like strong central government, combined with district or municipal/district governments that would have more power than they have now
- The two women's groups and the Sahtu have said that community government should be prime: communities could form regional governments and the central government would have a lesser role
- Treaty 8 would like its own Tribal government
- The Deh Cho wants a First Nations government, made up of Deh Cho First Nations Councils that would replace band and municipal councils in their area
- Some groups mentioned the executive and administrative structure, but most didn't address this

- Some think there should be a Legislative Assembly or that municipal/districts could be something like present municipalities
- The women's groups have said there should be a People's Assembly to provide fairer representation of women and grass roots organizations in the political process:
  - it would meet with MLA's at the start and finish of each new Legislature to help formulate priorities
  - at the end of their term, it would meet with them again to review progress and set the stage for the next election
- Not all groups mentioned law enforcement and the administration of justice
- Aboriginal groups that did would like to see justice handled closer to the community
- Some say that they would like their own aboriginal form of justice
- The Municipalities would like justice handled by the central government

## POWERS

- Many groups would like community or regional governments to be able to take on as much authority as they feel they can handle
  - They would like the constitution to be flexible to allow community governments to assume or delegate authority according to local capabilities and cost effectiveness
- Responsibilities of the central government would be restricted to those areas that are essential to meet common need, or to areas delegated by community or regional governments
- The Municipalities would like the central government to have authority similar to or greater than a province

- Municipal/district governments -- a single community or a group of communities-- and would have responsibilities similar to or slightly greater than present municipalities
- The Deh Cho would like its First Nations Government to have powers similar to a province
- Some aboriginal groups believe that certain federal authority, such as control over resources, lands and waters may be granted by Canada through self government negotiations
- Aboriginal governments would be able to pass laws related to self government and treaty rights on things like language and culture, land and resources or social and economic matters
- Most groups have noted that there must be enough funding for each type of government to carry out its responsibilities
- Some believe the central government should have increased powers to raise revenues through taxation -- and possibly through natural resource revenues
- The Deh Cho would like exclusive jurisdiction over its own land and resources.
- Some groups also say there must be a federal commitment to adequate funding like federal-provincial transfer payments.
- Many groups have also identified that there will be a requirement for revenue sharing -- possibly spelled out in the constitution

## REPRESENTATION

- Under Representation, most groups have said there should be guaranteed aboriginal representation at the territorial or central government level, and that elections should also be by majority vote

- The Municipalities say MLAs should be elected by majority vote and there should be no guaranteed representation for any group at the territorial level
- The Sahtu suggests the Legislative Assembly could be made up of both elected MLAs and district government representatives
- The Inuvialuit and Gwich'in concentrated on regional and community government
- Regional Council representatives would be elected by majority vote from each community as well as the region at large
- The Gwich'in Tribal Council said that in mixed aboriginal and non-aboriginal communities in their region, the community government could include both elected people and people appointed by the aboriginal organizations
- In mainly aboriginal communities, the aboriginal government -- the Chief and Council -- would be recognized as the community government
- Representation also includes describing how amendments to the constitution will be made
- All aboriginal groups want to have a say in any amendments affecting them
- Some groups felt that community or regional governments should also have a veto over changes affecting them
- Some groups said that certain kinds of amendments should require a territory-wide referendum.

#### WHERE DO WE GO FROM HERE?

- As we said at the beginning, all of these Themes and Issues will be discussed at the First Constitutional Conference, in workshops and full group sessions
- By the end of the Conference we should know more about the areas where there is already some agreement



- We will also have discussed the areas where there are differences, and we will have a better idea of where there is more work to be done
- After that, and subject to the recommendations of the first Conference, there will be further public information distribution
- There will also be more community and regional consultations, and discussions among the member groups of CDSC to strengthen common areas and resolve differences
- This will lay the groundwork for a **second constitutional conference**, likely in **May or June of 1995**
- After that, the Legislative Assembly will be asked to establish a body to draft the final proposal based on the recommendations from the second conference
- It will also be asked to set the date for a ratification vote
- This vote will likely occur in 1996
- There will only be 3 years after that for the enactment of federal legislation and the establishment of a Western Implementation Commission
- The Commission would guide the process of putting the new system of government in place and will make transitional arrangements to get us ready for division on April 1, 1999

## SELECTION OF CONFERENCE PARTICIPANTS

- Now that you have some idea of the kinds of things that will be discussed at the Conference, we'd like you to know that people from every community will have an opportunity to participate in the Conference
- There will be a total of 150 participants
- Some of these will be elected leaders from every community and the rest will be people from the general public
- The public participants will be selected so there is an equal number of **aboriginal** and **non-aboriginal** people and equal numbers of **men and women**, and balanced representation of **all the regions; youth and elders** must also be included
- Before the Conference, there will be **Regional Workshops during the first two weeks of January for the people who will be attending the Conference**
- We're encouraging **everyone** who is interested in attending the Conference to apply
- We have application forms here today
- They will soon be available at community and Band council offices, through the regional and aboriginal organizations, and directly from the CDSC
- We will also be sending information about constitutional development to every household by mail
- This will also include an application form
- If you would like to apply now, stay at the end of the meeting and we'll help you fill out the form; the interpreter will help anyone who needs it