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**Chair**

**The Honourable MaryAnn Mihychuk**



## Standing Committee on Indigenous and Northern Affairs

Tuesday, April 11, 2017

• (0845)

[English]

**The Chair (Hon. MaryAnn Mihychuk (Kildonan—St. Paul, Lib.)):** I'd like to welcome you all to the Standing Committee on Indigenous and Northern Affairs. Today, we're meeting on the unceded territory of the Algonquin people, a fact that is very important as we go through the process of truth and reconciliation in Canada. Pursuant to Standing Order 108(2) and the motion adopted on February 21, 2017, we will continue our study of default prevention and management policy.

On our first panel today, we have Wendy Harris from the Canadian Executive Service Organization, Stan Bear and Lorne Cochrane from the Indigenous Management Group Incorporated, and Loretta Burnstick appearing as an individual by video conference from Edmonton.

Why don't we start with Loretta? Each group will have 10 minutes to present. After all the presentations are done, there will be an opportunity for questions.

I turn it over to Loretta Burnstick from Edmonton. Welcome.

**Ms. Loretta Burnstick (Finance Clerk, Finance Department, Alexander First Nation, As an Individual):** Thank you, Madam Chair and members of the committee.

I first of all would like to say thank you to the Creator for allowing me the opportunity to be here and to speak with you as per your invitation.

I guess I found it somewhat difficult at the beginning to try to answer questions on the default policy, the reason being that the policy, as much as it may be meant to help our communities, doesn't necessarily address all of the issues that I think the community is dealing with. Although I'm not a policy-maker and not a politician—I'm just a normal working girl who works for my community—my personal opinion is that it seems to be a policy that deals more with crisis management. In our case, as some people may be aware, the Alexander First Nation has been in the news and there are some controversial issues going on.

We are now dealing with a number of issues in our finance department in terms of accountability and transparency. This is the second time. It's my understanding that we've been under co-management. If I'm not mistaken, I think the first time was in 2009. With co-management coming in again in 2017, it got me thinking

about what the reason is that we're back here again dealing with co-management.

I've had some very sleepless nights in the last few days—in fact, since I got the email to attend for the presentation. I tried again to sum it up as to what I thought could help and what could be improved and those sorts of things. I found it really difficult to put all of that into a 10-minute opening statement, so what I decided to do was delete my 10-minute opening statement. I thought that I would just speak to you directly and try to give you an idea of the things we deal with on a day-to-day basis on my reserve.

I also want to mention, as a member of my band, that I'm here speaking on behalf of many people, particularly the homeless people, the people who are poor in my community, the children who are in care, the sick, the elderly, and even some of our people who are in the prison population. I wanted to make special mention of them because what happens on our reserves obviously has a direct impact, and we're supposed to be there to help all of our people who are struggling. From what I have seen, and since returning to my reserve and working in my community, the system really does not allow for that to happen as best it can.

I tried to sum it up when I first got back home and was dealing with all of the issues there. I was so overwhelmed that the word I came up with was that it's a “mess”. There are so many variables to deal with, and the default prevention policy doesn't do that. The co-manager comes in and deals with the finances of the band as best he can.

A number of other issues contribute to why we end up in default management. The list is long, but I'll try to speak on some of the things I've seen that contribute to that.

One, we have no policies in place that are enforceable. Let me rephrase that. We have a number of policies that have been drafted, that are in the office, but have never been passed as law; therefore, they're not enforceable.

●(0850)

I just want to make mention of a previous incident that I had back in 2008. My intent here is not to make my community look like we're terrible. We do have some positive things. However, back in 2008, I was a summer student, and I was instructed to do some summer student work in the finance department in our economic development office. I want to touch on an issue, I guess, rather than dance around it, as to what I feel plays a contributing factor as to why we end up in default management. They're obviously not nice words, and nobody wants to talk about not-so-nice things, but it seems to be one of the pink elephants in the room in meetings in my community and sometimes in other meetings. That is the issue of corruption and mismanagement.

The reason I bring that up is that I've seen and I've been involved in witnessing the effects of it. I'll go back to 2008 when I was a summer student. At the time I was employed by the late Raymond Arcand, who was the chief. During my employment, I was concerned with some of the spending practices and the lack of accountability and transparency in that department. At that time, I brought it to his attention. As an ex-RCMP member, he instructed me to take my concerns to K division in Edmonton.

Well, I did that. What happened a year later was that I got a letter back from the RCMP saying that there was nothing they could do. Needless to say, I felt defeated and I felt helpless, and it bothered me to no end because I thought of all those people who were still struggling in my community, who were living in poor housing, and whose children were ending up in care because they had no support. The list just goes on, and on, and on, again, of all the needs in my community.

I was fired from my position. I was locked out of my office. I left the community because I had to find work.

It's 2017, and we are still going through the same thing that I witnessed back in 2008. Having said that, it seems like not a whole lot has changed.

There's a saying in the community. When people come into the band office—and this is an organization that is supposed to improve the lives of our people in our community—the saying is, because of corruption and mismanagement, “In the real world, these things wouldn't happen.”

I don't want to get into too many specifics because, again, there are many examples. We have people who are still living with mould in their homes. We have a lack of housing. We have children, again, who are still being taken into care because we don't have the resources to look after them in our own communities.

When I look at the opportunities lost because of corruption and mismanagement, it's heartbreaking. I know that money is not everything, but sound financial management, strong governance, and laws and policies that are enforceable are needed in order to make things run more smoothly in our communities.

I grew up in a time that I call “the Indian Act times”—

●(0855)

**The Chair:** You have one minute. I'm just indicating you only have a little bit of time, about one minute.

**Ms. Loretta Burnstick:** Okay.

What I'm asking the standing committee for is an opportunity to have representatives of your government come out and meet with the people to further discuss all of the things and the variables that we deal with to improve the lives of our people on reserve, so that we can look at some things that deal with accountability and transparency and ask for assistance for our communities from all levels of government.

Many people in my reserve are struggling, and it's heart-wrenching to see that.

I ask for your compassion, your understanding, and your assistance to come meet with us in our communities or to send representatives to help us deal with all of this. Basically, I don't know what else to say. I know there's not much time, but I would welcome further opportunities to discuss other things that I know first-hand are affecting our communities in negative ways. We're going through some very troubling times right now.

Thank you.

**The Chair:** I want to thank you for those comments.

We'll have an opportunity for questions and the MPs will have an opportunity to delve into it.

Our next presenters are Stan Bear and Lorne Cochrane, from Indigenous Management Group.

**Mr. Stanley Bear (Chief Executive Officer, Indigenous Management Group Inc.):** Hello. I'm Stan Bear. I'm from Peguis First Nation. I was born and raised on Peguis, and I left the community many years ago now.

I am an entrepreneur. I have been running a management company in the private sector for almost 20 years. One of the activities we have been doing for the last 11 or 12 years is third party management. It is a component in our company. We do co-management facility. I have a team of financial experts and project managers.

I speak here today also as a first nation indigenous person who has seen over the years, right from childhood to the present, how our communities are.... I appreciate Loretta Burnstick's comment in regard to looking at the core issues, the fundamentals in our community.

Again, this is my perception. What I see is a lack, over the years as we progress, of a code of ethics and of adhering to that code of ethics with our indigenous values. With the current system and the default policy it's centred around, there are no repercussions for breaking a code of ethics. In the past, prior to the Europeans coming, there were consequences, and it wasn't a slap on the wrist or whatever. There were always consequences if you broke certain codes.

In regard to the default management, after talking to Wayne Helgason and thinking about it a lot more, I equate the whole thing.... My wife is from Brazil, and they're going through that whole issue of political corruption, where the institute is being questioned. I'm very knowledgeable of that process, and making the people accountable is difficult. I talk to my wife. As I say, she's from Brazil, where it's very similar to first nations indigenous people's communities in that corruption becomes a part of culture. You do not know the difference between right and wrong.

It was rather interesting, even with the capacity building. My wife has friends who were university-educated in the United States, Canada, and elsewhere, just as first nations people are educated in institutions outside our communities. You can have capacity, but if you're operating in a cosmos or an area where there's no right or wrong, and no prosecution of doing right or wrong, then you can have professional people with capacity who break the rules.

Hence, when I was looking, I was surprised that the federal government has the Conflict of Interest Act, the provincial government has a conflict of interest act, the municipalities have conflict of interest acts, where there's prosecution should someone break these instruments. There are repercussions. If they have a strong conflict of interest act.... Brazil has a conflict of interest act, but they conveniently take out certain clauses or they don't prosecute. There's no accountability to enforce a policy.

First nations have policies, and you can have policies, laws, and the whole thing, but if they're not implemented or there's no consequence, the problem still continues.

- (0900)

I think one of the key issues is governance. You have to have strong governance structures in order to build capacity. You can have professionals in the administration aspect of it, and if there are no boundaries set in a code of ethics, like we traditionally had, there will be a lot of grey areas. In regard to a first nation indigenous person in an election, with social media nowadays, you could have documentation showing outright misappropriation of funds, and the individuals could get elected because the people don't know what is right and wrong.

That barrier is broken. I'm not saying it's happening in all the communities, because a lot of the communities aren't affected. They don't need rules or regulations or whatever, but they have that code of ethics still in there, and they practise it. We work with a lot of communities that are not under third party management. They hire financial advisers just to do the areas where they're weak. Those communities are firmly grounded in their traditional values, compared with other communities that are not.

Let's say the policy cannot be blanket, but creating an instrument where there are consequences would seriously help even the default management policy. They may have it, but I would say if there are consequences, they may not even use it in the future.

Those are my opening comments. I'll turn the floor to Lorne.

**The Chair:** You have three minutes left.

**Mr. Lorne Cochrane (Managing Partner, Indigenous Management Group Inc.):** Thank you. My name is Lorne Cochrane. I'm from the Fisher River Cree Nation.

I've been involved in first nations' businesses and lives for all my life obviously, but I first got involved in politics in 1989. I was the chief of my community. I left there and joined the federal government as the associate RDG and the RDG. I had numerous issues with respect to the policy on default from day one.

It's still before us. I mean, everything is punitive in the government's eyes when they take action. They don't promote progress. They don't promote good governance. Maybe if we spent more time in those areas, we would be bringing people along rather than pulling them back to an area where we have to have discussions on default.

I'm currently sitting on the fiscal advisory committee with the AFN in Minister Bennett's office. It's troubling to be having discussions that we had over 30 years ago. My community alone was one of the first to sign the flexible transfer agreement. It has been changed so many times, unilaterally, by the federal government that it's hurting our development and our growth. I think it's under the guise that we're progressing too far and leaving others behind, and I say that with no disrespect. Success is always linked to opportunity, and if you don't take hold of it at the time and have the tools, you're going to lose it and still have these discussions with respect to default management.

Even our default management policy, which we have to go by, takes up so much time and drives away prospective partners, not only in business but with financial institutions and others. A lot of the banks are backing away from dealing with first nations. That's unless you have trusts and everything else, when of course they want your business.

I'm hopeful in going forward that there are some initiatives that are more progressive in terms of dealing with communities and then bringing others along, rather than bringing everybody back to a level playing field or progressing too far.

So many unilateral changes impact our communities, that whether you're in a flexible agreement or a contribution agreement is very prescriptive. I don't know if there's a willingness or a desire to make significant changes in that direction, but if we don't, we're still going to be having this discussion 20 years from now. Our children can't afford to wait that long.

We hear a lot about the challenges across Canada. I've been involved in this business for the last 30 years, and it's getting frightening. You're hearing so much frustration from the grassroots, who have nothing. What do they have to lose? You hear talk like that. I've visited about every reserve in Manitoba. I've attended community meetings over the last 30 years in every one of those communities, and it's sad that we have that situation.

Hopefully we can open a good dialogue this morning. I want to give you thanks for giving us the opportunity to be here. Thank you.

• (0905)

**The Chair:** Thank you.

Now we're moving to our third presenter, Wendy Harris from the Canadian Executive Service Organization. Go ahead, Wendy.

**Ms. Wendy Harris (President and Chief Executive Officer, Canadian Executive Service Organization):** Thank you, Madam Chair. Thank you also to the honourable members of the standing committee for inviting us here today. We're delighted to participate in the review of the default prevention and management policy and to provide our point of view. It's an honour to be on the panel with my cohorts today.

For over 50 years CESO has operated in many countries around the world and in partnership with indigenous communities in Canada. Because we work both nationally and internationally where we leverage key learnings and best practices, we hope to bring a unique perspective to the study. CESO is a not-for-profit, volunteer sending, international, economic development organization. We firmly believe that a strong economic infrastructure lies at the heart of sustainable change, both economic and social, including the eradication of poverty.

For CESO economic infrastructure means two things. First of all it means supporting the development of the private sector, particularly micro, small, and medium-sized enterprises, SMEs, the key drivers of any economy, whether developing, emerging, or mature. SMEs play a unique and important role in setting the rate of economic growth, and according to the UN, account for two of every three new jobs worldwide. We know indigenous-owned SMEs are growing at a rate six times faster than those of non-indigenous Canadians. Combined with a surging indigenous youth demographic these trends indicate a tremendous economic growth potential for indigenous communities in the coming years and also for the Canadian economy more broadly.

The second part of a strong economic infrastructure is about creating an inclusive environment to support private sector growth. This means strengthening the management and governance of institutions, consistent with many of the comments of my colleagues today. This is whether we're talking about band or tribal councils, trade or industry associations, civil society organizations or co-operatives. From our experience, whether working here in Canada or around the world, quality governance is always a major indicator of whether economic development and social development will be both successful and sustainable.

By quality I mean its ability to effectively manage, plan, and execute on the complex priorities of a given community and in a holistic manner that drives prosperity forward. When governance capabilities are strong and inclusive there's an ability to invest and reinvest in both social and economic programming from multiple angles. This is, in our experience, how economic stability is achieved over time.

Regardless of where we are working the main objective of our work is always capacity development. A non-negotiable aspect of our approach is that our work is locally driven. It is entirely focused on building the skills and experience of our clients and partners to support their goals and priorities. Our expert volunteers transfer their

knowledge and skills to our clients who then develop the tools they need to become not only the owners, but the creators of their own long-term stability and prosperity. This approach contributes to self-sufficiency and resiliency long after our work is done.

Essentially the policy is a tool used by the Canadian government to stop a financial situation from deteriorating further. It's intended to get a community back on track in financial reporting so funds can flow to the community. Perhaps I will leave it to others to determine the success of the policy in achieving this objective. I want to speak directly to the standing committee today about where I see a tremendous gap, a gap that can be filled at the earliest level of warning and even before the policy is actioned. This gap is capacity development.

The current policy fails to address the capacity development of a community, whether proactively at the earliest warning or once the community has moved into either co- or third party management. This is simply because third party managers aren't tasked with building skill and knowledge. They are tasked to go in and stop the bleeding. However, based on our lengthy experience in economic development, both here in Canada and around the world, the only way to achieve sustainable change is by building local capacity.

• (0910)

If the knowledge, the experience, and the skills are not absorbed into the community and by the actual individuals charged with their responsibility, the cycle of crisis continues. Focus needs to be placed on unlocking the local potential and building the capacity to ensure that solutions are both achievable and sustainable. This approach ensures a bottom-up strategy that encourages autonomy over dependency, and never replaces, only empowers, local resources. Until this or another policy better addresses that gap, the intervention tool will be used more often and for longer than anyone wants it to be.

We recommend that at the earliest signs of financial management risk or financial deterioration, the intervention comes instead in the form of capacity development, through training and mentorship, to proactively keep communities out of co-management and third party management. Specifically, when a community's governing body has developed strong financial management and governance capacity, it can start to plan and to build long-term economic predictability and stability. The community can also begin engaging effectively with the mainstream economy. The stronger the governance capability, the greater the ability for an individual, community, or, as in our work internationally, a country or even a multinational region, to develop and strengthen critical social and economic initiatives. Internationally, for instance, our work strengthening local tax and audit capacity clearly shows the link between this and the ability to invest sustainably in economic and social programming.

Taxation and sound auditing practices play a tremendously important role in furthering sustainable development, not only from a reinvestment perspective but also concerning regulatory accountability and transparency. However, our clients and partners often face multiple barriers and challenges in developing these types of skills and knowledge. CESO's roster of volunteers includes many experienced financial services experts who bring their knowledge and expertise—and, by extension, the expertise of Canadian financial and regulatory institutions—to support the capacity-building development of clients. This development then ripples throughout the given community or country in various ways, leading to a more resilient and adaptable environment for communities and individuals to thrive.

The role that CESO can play in the prevention of default management is to first work in partnership with communities to build their readiness to engage in economic opportunities. We work closely with communities on building those fundamentals, such as strong governance, leadership development, financial management and stewardship, human resource management, strategic planning, and many more—all elements critical to successfully developing long-term economic stability and resilience. But we also work with small business owners and entrepreneurs on the various areas of skills and capacity they need to build, stabilize, and grow their businesses successfully, creating those all-important autonomous source-revenue streams.

Second, CESO can play a complementary role, working collaboratively or in parallel with such indigenous organizations as the FNFMB, AFOA, and NACCA. It's important to underscore that we are not an alternative to these organizations. Rather, we complement their objectives. We are the partner who can operationalize the capacity development required to move through certification and to ultimately access capital markets, a truly transformational opportunity for communities.

In conclusion, it is our firm position that the current policy does not address the lack of financial management and governance capacity within communities, a fundamental cause of the need for intervention in the first place. We see these two areas of competency as critical building blocks of a strong economic infrastructure necessary for a community to further develop both economic and social initiatives and to support its prosperity and stability.

As such, our main recommendation is that a major focus be placed on investing in community capacity development long before the policy is enacted. In doing so, we will proactively reduce the need for the policy itself. We will set the stage for autonomous, long-term social and economic growth. Finally, we will help create the conditions for true reconciliation.

Thank you for inviting us to share our perspective today. I look forward to questions.

● (0915)

**The Chair:** Thank you very much.

The question period starts with MP Michael McLeod.

**Mr. Michael McLeod (Northwest Territories, Lib.):** Thank you, Madam Chair.

Thank you to all who presented today. This is a very complicated issue before us.

I'm from the Northwest Territories. I've had the opportunity to work as a band manager for my community, and I've also been the mayor of my hometown in the Northwest Territories. In my experience, I've watched as the municipal government develops, with a lot of support from the Government of the Northwest Territories, an integrated community plan. They get together, they do town planning, they plan for infrastructure complemented with an energy plan, they have emergency plans, they do financial planning, and they have ongoing training for their councillors, for their managers.

On the flip side, with the aboriginal governments, there is relatively nothing. The federal government and the regional office don't really do a whole lot. There is core funding provided, with some money for management, and they're kind of left to fend for themselves.

I really appreciate the comments by the Canadian Executive Service Organization on capacity development because that is a real weakness.

I see two areas that are causes for entering a situation where you need to have intervention. One is being underfunded. We've seen funding reduce over the last 10 years or so to a point where it has become almost impossible to operate. The core funding has been reduced to just bare-bones funding. Really, who can they hire to manage it? They sometimes have the chief try to manage it, or they bring in somebody they can't afford, or they'll just hire somebody in the area who knows a little bit about financial management. They are always either underfunded or under-managed, or both.

How we deal with recovery and with developing a recovery plan is a question that I have today. Should we, as a government, send in outside consultants to just take over to try to salvage what they can and keep things moving forward? Or should the community be the one to develop a recovery plan and a way to get out of the mess it ends up in?

I'll just give each organization a few minutes to answer.

● (0920)

**The Chair:** We have three and a half minutes for a response.

**Ms. Wendy Harris:** Thank you very much.

To put it briefly, I believe that a key to success is having community ownership, engagement, and involvement in the recovery plan. I think carte blanche control of that by outside consultants or whoever, or outside resources, if it's not a partnership with the community and if there is no parallel investment in capacity development so that can be taken over—

**Mr. Michael McLeod:** Maybe you could just tell me who should be doing that because the communities don't have those kinds of resources. I'm assuming that you're saying that the federal government should be.

**Ms. Wendy Harris:** From a financial perspective, that investment from the federal government has to be there. For long-term, sustainable solutions, that investment needs to be there, so it's professionals coming in who can work with the communities to help unlock the potential, to plan for the future, to create a blueprint of what the community wants to achieve. I think it's very important that the finances around that support success, whether it's in terms of, as you said, not just more funding but funding tied to performance in this area.

Thank you.

**The Chair:** Would you like to hear from Edmonton? Okay.

Go ahead, Loretta.

**Ms. Loretta Burnstick:** I think it would be both the government and the community working together to address those issues. People in the community know what the problems are.

Again, it's the supports that we don't have, in terms of expertise, finances, that sort of thing, I guess in collaboration with the government. In some cases, we don't have the capacity to progress. For example, we have a band office that's barely standing. Those are the kinds of issues that need to be looked at so that we can continue to progress. I've said it as clearly as I can that we need help. In my community, most people are willing to work with....

The other thing is that they've been kept out of the discussions for so long, as grassroots people. I think they would welcome that in so many ways, to have their voices heard as to what they feel they need most in their communities. To be able to have that dialogue with the federal government, I think would be really good for the grassroots people as well.

**Mr. Lorne Cochrane:** One of the things we do in my community is that when we're running into issues with respect to finances or over-expenditures, we have meetings and engage all our directors, our committees, our community, and develop a management action plan. We need to get people's buy-in to be effective, so we don't have to deviate from the long-term planning and sustainability of our community. We need to engage community members and empower them to become engaged in all the aspects of governance.

**The Chair:** Thank you. That was succinct.

Now we're going to move the questioning over to MP Cathy McLeod.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Madam Chair.

Thank you to all the witnesses for attending today and your very compelling testimony

I appreciate a lot of the comments. When you look at the default prevention and management policy, it's very much a top-down approach. We heard about the importance of creating capacity and capability. We've also heard about the importance of community and community information.

Certainly the transparency act was an attempt to ensure that community members have access to basic information. When I was a mayor of a small town, my community had every ability to hold me to account. To me, it's all part of a package. If we're developing capacity and we're developing capacity in communities, information is the first piece.

Of course, with this government, one of the first things they did was to say they weren't going to enforce the transparency act.

I'd like to talk to Loretta.

You talked to CBC quite a while ago, in October, about the frustration of information and getting spun around. We brought that up with the minister in November, and she just said, the "chief and council report to their members and to my department. That is the way it is, and we will review any additions or reviews with first nations as we go forward."

Can you tell me, how is getting access to information in your community—?

• (0925)

**Ms. Loretta Burnstick:** It's very difficult.

There are a number of people who have asked for financial information. I know personally that when I asked about where our money was going years back, I was told to go to Indian Affairs and they would give me a copy of the audit. When I went to Indian Affairs, they sent me back to the band. They wouldn't give me a copy of the audit.

It's virtually impossible, as a band member, to get full disclosure on our finances. We have no say as to where our money should go, for the most part. I know we're probably underfunded, but we're kept out.

**Mrs. Cathy McLeod:** Your community has not posted statements since the compliance measures were dropped. Is that accurate?

**Ms. Loretta Burnstick:** No, they haven't. For the most part, again, we don't have consistent community meetings where our budgets are presented and where the audits are presented.

I need to go a little further than that. I think there is some concern even with the budgets and the way they are presented. Most people who work in finance know that audits are made up of bottom line figures. There's always concern around transparency in those audits, so a number of people in my community have come up with recommendations. We want enforceability of accountability and transparency. We need that. We need somewhere to go if somebody is not complying with what our rights are.

**Mrs. Cathy McLeod:** I understand that the decision by the minister was made because some of the chiefs and certainly the AFN did not like this particular act.



We have National Chief Bellegarde coming in the next panel. Is there anything you would like to say to him in terms of how you think things should move forward with regard to ensuring that community members get access to the basic information?

I happen to believe that this top-down approach is not the way to go, and empowering community members to hold leadership to account is ultimately a hugely important piece of this puzzle.

**Ms. Loretta Burnstick:** With regard to the AFN, most grassroots people look to the AFN as an organization that is there to assist us. I guess we expect our leaders and our chiefs to encourage and work toward laws that promote transparency and accountability. That's why they're elected. We encourage them to do everything possible to promote good governance for the people.

I think back on my late grandfather who was involved in politics back in the day and he, at one time, was a chief. Many of us remember the things he promoted. Our ancestors always said, "Look after your people", simple words. In modern times, for the most part, we would think of at least making sure people have a roof over their heads, clothing, and shelter, the very basics at the least, and in that way they can start to look at other areas of development in their lives.

I certainly know that's what helped me. If I hadn't had a roof over my head after being homeless and going through all the things I went through as a survivor of the residential school system and the day school system, I wouldn't be where I am today. We expect our organizations to put those in place for us.

● (0930)

**Ms. Cathy McLeod:** Currently, there's no compliance on transparency, and it's been 16 or 18 months, and the government is saying it is working with the AFN to develop something that's acceptable. To me, basic expenses and audited statements are just a minimum standard, so hopefully, ultimately they are going to come out with something that is significantly more comprehensive.

My concern, again, is that it seems to be fairly top-down. There was apparently some kind of online survey. To what degree do you think the online survey penetrated the awareness in any of the communities that it was their opportunity for input into what the new fiscal relationship and transparency might look like?

**Ms. Loretta Burnstick:** In my community we felt left out. We felt we didn't have a voice. There was not a lot of consultation in my community. Most certainly there are a number of us who would have made recommendations. Many of us feel our voices are not heard. I don't mean to say that disrespectfully, but it's almost like we're forgotten, and we're the ones who live in these conditions day to day.

**The Chair:** Thank you for those comments.

Our questioning now moves to MP Romeo Saganash.

**Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP):** Thank you, Madam Chair.

Allow me first to apologize for being late. I have no control over traffic. That's what you have to deal with when you choose to live across the river. I apologize to Loretta because I missed her presentation and part of Mr. Bear's presentation as well.

I do want to come back to something that's been identified by many witnesses before us who came before you, which is the chronic underfunding. Capacity building is also important. Many people have mentioned that in much of the testimony before us.

One of the things that intrigues me.... This study was not of our choosing. It was the choice of the majority of this committee. It wasn't necessarily my priority. There are a lot of other priorities for first nations people in this country other than this one.

Even if we achieved successful capacity building in any community, the fact of the matter is that these communities will remain under an archaic governance system, which is the Indian Act. Do you see that as a problem?

This is for each and every one of you.

**Mr. Stanley Bear:** I will take a crack at that.

I would bring in an entrepreneur, but at the same time I'm going to bring him in as a first nations person. Canada's going to be 150 years old. Although we talk about the government of today, we need to talk about the whole 150 years, with regard to the colonialism and the situation indigenous people are in with the colonization and the destruction of some of the languages and the values, the whole thing. Prior to the Europeans coming and prior to the creation of Canada there was a healthier community. The challenge is getting back those values and implementing them today because they're just as relevant.

We were not in a chaotic state prior to the Europeans coming to Canada. I always ask, what did we do to survive 550 years ago before the Europeans came? We survived for thousands of years, and it wasn't feeding off other people. It was a more structured environment.

We need to look at what it is. I think the default prevention and management policy is an effect of a cause. If you want to correct it, there shouldn't even be a policy if the cause were solved. What causes that? That should be the focus, not trying to fix it.

● (0935)

**Mr. Romeo Saganash:** In other words, what you're telling us is that this committee has a mandate to "improve", I think that's the word used in the mandate of this committee regarding this study. However we improve this policy, we still remain under a governance structure that is inappropriate and colonial.

Are you saying that this process, studying this policy, is useless as long as we remain under the Indian Act?

**Mr. Stanley Bear:** If it's useless, we're currently living in today's time, so today we need to.... It may be with us for a while. How do we make it more effective? Do you know what I mean? Even if we have it, one could say we're not going to have a default policy, the whole thing, but what is its replacement? What is the root cause? If you're going to delete it, what's going to happen?

**Ms. Wendy Harris:** Yes. I think it's a very good point. I'd like to add that the Indian Act is a clear problem. You could pick any issue to talk about today, and the Indian Act is going to be a problem. While that is being looked at, dismantled, whatever, I would like to see communities being set up for success. It's not going to be overnight: one day we have the Indian Act and the next day we don't. We have time right now to set up communities for success in strengthened governance, financial management, economic diversity, leadership, all those things.

I would like to add to what you said about underfunding. Underfunding is definitely an issue. Financial management is an issue. There are financial management issues on the government side as well as the community side.

**Mr. Lorne Cochrane:** Some of the challenges, obviously, are greater. There have to be some incentives for progressive communities. You need an intervention policy to some degree, but it has to be worded in a way that is more co-operative rather than punitive.

With 45 seconds, I'll leave it at that.

**The Chair:** Thank you.

The structure of this committee is very difficult for a wholesome debate.

We now have the final round of questions. That will go to—

**Mr. Mike Bossio (Hastings—Lennox and Addington, Lib.):** Actually, Chair, I'm going to pass my time over to Robert-Falcon Ouellette.

**The Chair:** Okay. MP Robert-Falcon Ouellette, welcome to our committee.

I turn it over to you.

**Mr. Robert-Falcon Ouellette (Winnipeg Centre, Lib.):** Thank you very much, Madam Chair. I really appreciate the opportunity.

[*Translation*]

Thank you very much. It's very brave of you to testify so passionately on this issue.

I have a few very important questions and comments. One of the issues you keep raising is corruption. Mr. Bear, Mr. Cochrane and Ms. Burnstick, in your documents, you mention a corruption process like the one described by Graaf and Huberts in a 2008 report. You list nine propositions about the process of “becoming corrupt”.

I am deeply concerned about this, because it makes me think of the time when I was in the military, in the 1990s. There were a lot of problems in the Canadian army. People may not recall, but that institution of ours was lacking in capacity. We were no longer representative of our population; we were no longer representing Canadians and their values.

At the time, we decided to build our capacity through education. We rethought the institution in order to give us a long-term vision. We have produced a document entitled *Defence Strategy 2020*, which has helped me advance in my career, not only in leadership but also in management. Those two skills are extremely important. You can be a leader without being a manager, and a manager without

being a leader. Sometimes, we have to be able to combine those two roles; we have to be realistic and know how to differentiate between the two, and determine when to apply the related processes.

I really liked what Mr. Bear said about feeding off others.

In your view, what would happen if we completely abandoned this policy?

The federal government cannot tell the provinces, such as New Brunswick, Quebec or Ontario, that they are not able to manage their own affairs and that it will now take control. Instead, it is saying that it is a nation-to-nation relationship and the provinces must manage their affairs on their own.

What kind of education should we provide? Should we have academic institutions like Ryerson University or the Banff Centre? Or should there be an indigenous educational institution to provide community chiefs, leaders and workers with lifelong training to improve their skills? Even if they change jobs, they would be able to perform any duties because of their education.

What type of system could we set up to build that capacity?

Thank you.

• (0940)

[*English*]

**The Chair:** Please direct your question.

[*Translation*]

**Mr. Robert-Falcon Ouellette:** My question is for everyone. I would like to quickly hear each witness, although we don't have much time left.

[*English*]

**The Chair:** There are three minutes, so one minute each.

Stan.

**Mr. Stanley Bear:** I will quickly say that you can lead a horse to water, but you can't make a horse drink. You could have an institution for your education, a university. You could take the child to school or take the individual to university, but you cannot make the individual learn. He may pass a test, but he may not implement those things. What I'm saying is that it has to be the will of the people to make the leaders accountable.

**Mr. Robert-Falcon Ouellette:** Mr. Bear, you also suggested a code of conduct though, so who imposes that code of conduct? Is that a code of conduct from the community? Is it a code of conduct from the federal government saying to the community, “These are the standards, this is what you have to meet”? Who should do that?

**Mr. Stanley Bear:** I think the ideal situation would be that it come from the community level and that it's enforceable, at maybe a national level by indigenous institutions, should that first nation not implement the code. As they say, you can have policies and you can have acts and legislation, but if there's no one there to implement that legislation or deter criminal actions, they are of no use.

•(0945)

**Mr. Robert-Falcon Ouellette:** Go ahead, Ms. Harris.

**Ms. Wendy Harris:** I would like to say a couple of things. First, culturally appropriate, capacity-building training that is community-driven with community engagement is always the best way to go. Again, if the results are to be sustainable and successful, it has to happen.

I think that, when one builds strength in terms of governance and that code of ethics and the values and all that, it plays into good governance. You build momentum in the community that helps then build even better governance. Trying to say it another way, the most effective sort of behaviour modification is feedback from your peers, so—

**The Chair:** You have 20 seconds.

**Ms. Wendy Harris:** I'll leave it there then. Thanks.

**The Chair:** We have a response from Loretta.

**Ms. Loretta Burnstick:** Thank you for the question because I do have some suggestions that a number of people have come up with in my community.

Obviously, one of the things, with regards to the Indian Act, is that a lot of people have said to scrap that, which possibly could be a better solution and replace it with something else. At the brainstorming meetings we've had, there have been suggestions of an Auditor General for first nations. Another recommendation is a national hotline to the federal government, where people can call in complaints of corruption or conflict of interest, which is overseen by government and maybe made up of experts and elders. Again, an ethics committee has been suggested at a national level to deal with things like conflict of interest, which are things we all deal with.

Those are some things that we've thought about.... Just to be able to have that dialogue—

**Mr. Robert-Falcon Ouellette:** Ms. Burnstick, are you talking about, then, not just at a very local level? Are you also talking about a larger regional nation, for instance perhaps Crees or treaty-level areas?

**Ms. Loretta Burnstick:** Yes.

**The Chair:** I'm sorry, but we are out of time. We are over time actually.

I want to thank you. It's obviously too short. The issue is comprehensive. It has a lot of implications. I want to thank you for coming on the teleconference. We appreciate it. Also, for you who came here to our committee, *meegwetch*, thank you very much for participating in this discussion.

We're going to take a very short break of maybe one minute and then we will reconvene with our second panel.

•(0945)

(Pause)

•(0945)

**The Chair:** I'm going to ask everyone to take their seats quickly.

We have another robust panel. People want the ability to present. We have a tight timeline, so I'm going to ask everyone to come together as quickly as possible.

Once again, we're on the unceded territory of the Algonquin people. At a time of truth and reconciliation, it's important for us to recognize the special relationship that we have with indigenous people. This committee is continuing its study of default management.

Our second panel consists of the national chief of the Assembly of First Nations, Perry Bellegarde; regional chief, Ghislain Picard, and representative Norm Odjick, from the Assembly of First Nations of Quebec and Labrador; and Pam Palmater, appearing as an individual.

I want to welcome all of you. You will have 10 minutes to present. After that, we will go into questions.

I'm going to suggest that we start with Pam. You have 10 minutes to present.

•(0950)

**Dr. Pamela D. Palmater (Chair in Indigenous Governance, Department of Politics & Public Administration, Ryerson University, As an Individual):** Thank you.

*Kwe, ni'n teluisi* Pam Palmater. I am from the sovereign Mi'kmaq nation on the unceded territory of Mi'kma'ki.

I want to thank you all for inviting me to speak to this issue today, and I first want to acknowledge that we're on the unceded territory of the Algonquin nation.

This committee, obviously, is constructed to undertake a review of the purpose, efficacy, and alternatives to the current INAC intervention policy, and while the name has changed, it's still an intervention policy.

From the first nations who have testified so far, I think the fact that they are testifying as survivors of the policy is a telling indication of the severe harms it has committed upon first nations. To this end, my testimony will not repeat some of the concerns made by—but I also support—the testimony of the Algonquins of Barriere Lake, Mathias Colomb Cree Nation, Wasagamack First Nation, the Mattawa First Nations, Swampy Cree Tribal Council first nations, and MKO First Nations.

The first thing I think this committee should respectfully consider is the mandate of Indian Affairs. It seems like something very basic, but it's something by which all INAC policy should be measured against. The mission is to make “a better place” for indigenous peoples, but the mandate is to “improve the social well-being and economic prosperity” of first nations. To this end, Parliament appropriates more than \$9 billion every year, with a staff of roughly 5,000, to implement this very basic mandate.

Your question should be, “Is that policy consistent with that mandate?” If you listen to the United Nations, the Auditor General, the Truth and Reconciliation Commission, and every social research study that's ever been done, the answer would be categorically “no”.

I think it's also prudent for this committee to analyze this policy considering Canada's fiduciary obligations to always act in the best interests of first nations; constitutional obligations to consult, accommodate, and obtain the consent of first nations; the official recognition that was given in 1997 of first nations' inherent right to be self-governing; Canada's domestic and international laws, which prohibit discrimination against first nations and support the right of self-determination of first nations, including the right to manage its own institutions; and Canada's stated commitment to reconciliation, to respect aboriginal and treaty rights, and to renew a nation-to-nation relationship that's not based on the paternalistic controls of the past.

To be specific, here are the problems I have noted with the policy.

First, the policy interferes with the first nations' inherent right to be self-governing. All levels of intervention are directed or mandated by INAC. The policy imposes higher standards on a first nation than is required of other governments, and it's not created in partnership.

Second, there is no legal authority under the Indian Act for the minister to impose a co-manager or third party manager. The policy is not law. It is done under their own discretion, based on their own contractual preferences. This is a major power imbalance, especially considering that many contribution agreements are signed under duress.

Third, this policy does not address the root causes of financial distress and duress: the purposeful and chronic underfunding of essential programs and services, the failure to implement treaty rights, the theft of lands and resources, and the failure to provide sufficient and needs-based funding to develop and maintain governance capacity. That is the root cause of the problem.

Fourth, the policy lacks financial supports to even obtain its own stated objectives to support capacity development. INAC has admitted that it has very little funding to prevent defaults, but it hasn't upgraded band support funding in decades. Regarding the timely remediation of defaults, it has no enforceable exit strategy. Regarding the accountability and transparency of first nations, they are already the most over-reported, overburdened government in the entire world, according to the Auditor General. How much more transparency can this policy require?

● (0955)

Fifth, this policy lacks legitimacy and breaches all principles of administrative fairness and justice. There's no consent from first nations. There's no appeal process. There's no accountability mechanism for INAC. There's no remedy for the harms that are done by a third party manager. The policy has been used for inappropriate political purposes. You just have to look at Mathias Colomb Cree Nation, Attawapiskat, and the Algonquins of Barriere Lake.

INAC forces first nations to pay from their underfunding upward of \$600,000 for a third party manager, which it won't give to the first nations to create their own financial staff and office with their own people. If the money is there, it should be used for appropriate purposes.

The policy creates more harm than good. First nations often languish in intervention for many years. They're worse off

financially, especially under third party management. Their financial capacity is no better off after third party management. The relationship between INAC and first nations continues to deteriorate. Intervention sends the false and unfactual message of fraud, corruption, and financial mismanagement to community members, making them believe that's the cause of the poverty and not the underfunding, when every statistical report has proven otherwise. It is the rare exception for there to be a situation of wrongdoing, and even less so than in federal and provincial governments, which says something.

In terms of my recommendations, INAC must address the root causes of the alleged defaults, including needs and rights-based program funding, which takes into account non-discrimination, population increases, inflation, and retroactive and prospective costs of staffing, training, and supports, and not just in financial management.

INAC must respect and implement aboriginal and treaty rights, which includes rights-based funding for treaty commitments in education and health, so they are not in financial distress to begin with. This would also include the return of lands and resources, and a constitutional recognition of first nations jurisdiction.

INAC must immediately review all cases of intervention, prioritizing those who are in third party management for reassessment, additional supports, and remedy the severe harms that have been incurred.

The policy itself, should it continue to exist, should substantially be redrafted, in partnership with first nations, as an emergency support policy, and not a political and financial interference policy.

Some of my recommendations for such a policy would be based on core principles, such as that it would be a last resort, exceptional, and in extreme cases only, through volunteer first nation requests for departmental assistance, and would provide accountability and a remedy for breaches and harms caused by INAC and its agents. As well, all costs associated with emergency or exceptional support be borne by INAC as an incentive to make it short term. It should be done on a human rights framework, including indigenous-specific rights, and there must be a formal appeal and review process for any exceptional support cases, including adequate funding and legal supports for first nations to defend themselves, especially in cases of political interference.

We must also review all supports currently provided to so-called first nations financial institutions and crown corporations involved in first nations finances. First nations governance at the first nations level must be the priority, with supports for aggregates when requested. INAC's paternalistic and unconstitutional intervention policy must not be handed over to a first nations institute to do the exact same thing.

In conclusion, you will see consistent messages from the first nations witnesses to address the root causes of the alleged defaults, one of which is chronic underfunding. The INAC director said, "I totally concur with you that the implementation of the policy doesn't mean much for certain first nations if there's not overall adequate funding."

First nations have also testified about the abuse of power and political interference by INAC staff in first nations. Testifying as survivors is very telling of the toll that it takes, and languishing in third party management for years while finances deteriorate is not in line with anyone's concept of accountability, especially on INAC's part.

Thank you.

• (1000)

**The Chair:** Thank you very much.

We're now going to move to Chief Picard from Quebec.

[Translation]

**Chief Ghislain Picard (Regional Chief, Assembly of First Nations of Quebec and Labrador):** [Witness speaks in the Innu language]

Good morning, everyone, Madam Chair and members of the Standing Committee on Indigenous and Northern Affairs.

I will be very brief, because I would especially like to allow my colleague here with me to describe in much more detail the study being carried out right now.

My thanks to the committee for proceeding with the review of a truly archaic and outdated policy, as undoubtedly are most policies for which the Indigenous and Northern Affairs Department, the federal government, is responsible.

I could probably say that I have personally spent a lot of energy and effort—not more than anyone else, but at least more than most—over the years to come and testify before the various committees, without a lot of results, unfortunately. I still hesitate when I decide to participate in so-called democratic exercises that finally allow us to express our concerns about the nation-to-nation as well as government-to-government relationship, between our own institutions and the federal government. That specifically pertains to the current review of the default prevention and management policy.

Clearly, in our view, we have been talking for years about the anomalies in applying the policy. Unfortunately, the only legacy we have is our own echoes of the concerns we express. To that end, I would say that, nationally, although the percentage of communities in a situation with a third-party manager is very low, the fact remains that a significant number of communities—there are some in our own region, for instance—are close to the intervention threshold.

This is still very worrisome and the situations are ultimately still at the mercy of the head office of Indigenous and Northern Affairs.

A little earlier, we talked about the situation in Lac-Barrière, which is a telling example of the issue. Already in 2015, the community of Lac-Barrière was seeking the support of the Assembly of First Nations at the national level to engage in what could be a much more constructive process with the federal government. That being said, I am here to support our colleagues from Lac-Barrière of course.

On that note, I will end my remarks, because I think that it's also important for us to be present and to support our colleagues who are daily on the front lines to ensure the sound management of the communities' affairs and the proper support of administrations, both local and regional.

I will now give the floor to my colleague Norm Odjick, who has vast experience and will certainly be able to elaborate even further on the policy being studied today.

Thank you.

[English]

**Mr. Norm Odjick (Representative, Assembly of First Nations of Quebec and Labrador):** Good morning, Madam Chair, and members of the committee. I'm honoured to be here today to speak about this very important issue.

I am Anishinabe, from the community of Kitigan Zibi, and the director of the Algonquin Anishinabeg Nation Tribal Council. I have over 16 years' experience in upper management at both the community and tribal council level. In this time, I have learned how communities end up in financial difficulty and how hard it is for them to get out of it. I'd like to give you my point of view on where the problems arise from and how we, as the directors of Quebec, would like to see things improve. I have always felt that just talking about problems without offering solutions is not productive, so I'd like to give you our suggestions on how we see things can be fixed.

If I were to briefly summarize the main root causes of what places first nations communities in difficulty, I'd state that they are mainly underfunding, shortfalls in capacity, lack of flexibility in the funding agreements, and administrative burdens.

In January, the Quebec directors were consulted regarding the new financial arrangements with government, including default prevention and management, and the root causes were repeated in all of these sessions. In Quebec this is a troubling issue, because in the past there were only a handful of communities that were in difficulty, and now about half of them are receiving some kind of intervention. We've heard repeatedly that the communities are underfunded, and this is a reality. The cuts made to band support funding and other programs, along with increasingly restrictive funding agreements, set into motion a chain of events that led us down this path. There are numerous examples of how communities are underfunded. I'd like to offer one glaring example.

Our communities are told that they're funded for the maintenance of their infrastructure at 80% of the cost. Where the other 20% is to come from we don't know. Our engineer at the tribal council conducted a study and found that in reality, the communities on average were being funded at only 50% of the true cost. This leads to infrastructure, such as roads and buildings, needing to be replaced before its life expectancy is up, or funds earmarked for other programs being diverted there, if they are able to be. Again, this is only one example.

With regard to capacity, it's hard for our communities to recruit and retain qualified personnel, especially in senior positions. One of my member communities, which is well-organized and not isolated, has been looking for a director of finance for about two years. In Quebec we have biannual meetings of the Quebec directors, and we see constant change, sometimes with as many as six new DGs within a six-month period.

The funding for the professional and institutional development program is limited and restricted to communities already in financial difficulty. The tribal council program was gutted in 2013, and it has severely limited our ability to assist our member communities. As a result of these cuts to the tribal councils, we have to wear so many hats that at times it's difficult to walk through the door.

There was talk about lifting the 2% cap on funding. Tribal councils receive no indexation on an annual basis, let alone the 2%. Our purchasing power is diminished on an annual basis, yet we're asked and expected to do more and more. Our communities need more support, but it's a real struggle to give them all that they need.

Under previous funding arrangements there was much more flexibility on how money could be spent. Now so much of these funds is delivered under secondary or targeted budgets, which can only be used for one specific purpose. This matters, because a budget is a budget. It doesn't matter if it's your household budget or a community's annual budget, you need flexibility in order to cover areas that need a supplement or to cover unforeseen expenses. Say, for example, in your household budget you have funds targeted for clothing, but your furnace is breaking down. If you can't divert some of that clothing budget for the furnace repairs, what happens? Eventually it breaks, your pipes freeze and burst, and you have water damage in your home. This is what our first nations administrators face in their communities with these budgets and restraints. The lack of flexibility causes a snowball effect that causes all kinds of different problems.

Finally, with regard to the administrative burden, it mainly relates to two issues: funding applications and reports. First nations administrators spend an extraordinarily huge portion of their time filling in applications year after year. In addition to the time lost filling in applications, this type of competitive approach is a further disadvantage to the communities that are already in difficulty and those with capacity issues.

I'll skip ahead to the solutions.

First, properly fund communities and tribal councils. Look at the areas causing first nations to struggle and properly fund them. With regard to tribal councils, in 2008 there was a comprehensive national study produced by the department in collaboration with tribal

councils when the tribal council program was being renewed by Treasury Board. The findings of this report should be used as a basis for examining the program. It showed the important role tribal councils play in proper functioning for their member communities, the funding gap they face, and how the program could be improved. By bolstering tribal councils, you can help bridge capacity gaps within communities.

● (1005)

Second, allow first nations flexibility to set their own priorities and allocate the funding where they feel it is needed.

Third, remove the competitive nature of funding applications for programs that support capacity building. Consider flowing funds through tribal council such as for a professional institutional development program so all communities can benefit regardless of their situation. This helps those already in trouble and prevents others from slipping.

Fourth, wherever possible, provide funding in the form of grants. This is more in line with the concept of dealing with each other on a nation-to-nation basis and will help alleviate the administrative burden.

In conclusion, I'd like to share with you an idea that the Quebec directors have had for a number of years. We feel that instead of third party managers, ideally there should be a team of first nations administrators who assist communities directly and whose employment is not contingent on the clientele being in financial difficulty.

For the 2017-18 fiscal year my tribal council, along with the tribal council of Mamuitun and Mamit Innuat, have submitted a pilot project to work with three communities in difficulty. We want to hire resources to examine specifically why those communities are in trouble, and to make an action plan to remedy the situation, and then to commence with coaching them. We're hoping that even within this short time frame we can demonstrate the benefits of this approach. Our hope is that when it's shown to be effective, we can work with the department to ensure that each tribal council has one such resource to help each community.

*Meegwetch.*

● (1010)

**The Chair:** Thank you.

Now we will move to the national chief of the Assembly of First Nations, Perry Bellegarde.

**National Chief Perry Bellegarde (National Chief, Assembly of First Nations):** Good morning. Thank you, Madam Chair.

*[Witness speaks in Cree]*

Pam, Ghislain, Norm, those were very good presentations.

Just very quickly, Madam Chair, good morning to you all, friends and relatives. I give thanks to the Creator for this day and my colleagues who presented. I also want to acknowledge the Algonquin nation unceded territory we're on.

All the numerous presentations that you've heard spoke to the need for proper fiscal funding to be in place. They spoke to the need for adequate capacity in first nation communities, territories, and nations. As well, in particular, the Algonquins of Barriere Lake, I told them I acknowledge them and lift them up for their presentation because we support that through a national resolution as well.

Regarding this default prevention management policy on first nations, we say it's inappropriate and punitive, but what needs to be done to change it? Basically, it has to be discarded, and/or amended, or put to the side. We talk about this vestige of colonialism that does little to prevent or manage default. It treats first nations as service providers for the federal government rather than as governments in their own right. It's designed to address risk to the department rather than improve performance on the ground. That's the issue. It does little to help first nations to increase capacity to get out from under the policy.

There are four triggers, and I'm sure you probably know these. You've heard numerous presentations, so I won't have to read it because it's probably boring. I hate boring presentations. I hate reading.

But you have the four risks, you know them, the four triggers. There are situations where a first nation is punished rather than protected by the intervention policy, and here are some examples. The first is flooding. When a first nation is flooded, what happens? They have to look at other sources of revenue internally to deal with the flooding. They don't get any money for flooding or emergency management. They look elsewhere to deal with that need, that issue. The policy does more harm than good because they get penalized for trying to meet the needs of their people.

There's also a perceived risk to program delivery, and this has the minister substitute his or her judgment for that first nation's. Basically the communities know best. We have 5,000 bureaucrats. No disrespect to those good first nations people who are there trying to make change within the department, but that's a lot of bureaucrats within INAC. There have to be more effective and efficient ways. Nobody in Ottawa should be dictating what goes on in the community. The community members know best. That's my point on this line here.

No disrespect to my good staff writers, but I'm just cutting to the chase. It should be the people in the community who making the decisions, not some bureaucrat in Ottawa or regional Indian Affairs.

Because there is a huge socio-economic gap that has existed and has persisted for decades, it's a clear example, again, that the policy has failed miserably. It's not serving the people, nor is it supporting good governance. It's doing more harm than good. What do you do to change it? What do we do? What are the steps, the processes, step by step by step, to change it?

The majority of the time when an audit cannot provide a positive opinion, it's not because of malfeasance. Usually, it's because of a lack of capacity. I've been a chief at Black Bear. We used to get a

\$180,000 for band support funding a year. You have to pay your chief and council salary. You have to pay your operations, maintenance, and administration. Do you think you're going to get a chartered accountant or a CMA to come in for \$30,000 to \$40,000 a year? Because that's all that's left. There's a capacity issue. That's the issue.

I wish every 634 first nations across Canada had a chartered accountant or a CMA on staff. They don't have that ability to hire. A lot of time they take from own-source revenue to supplement that. The issue is capacity, lack of capacity. A lot of times, again, lack of proper record keeping is a capacity issue as are training and development. Getting capacity in place is the big point.

Again, band support funding.... I lobbied hard. Do you want to have 634 happy first nations chiefs? You increase your band support funding, you increase your O and M, and you increase your minor capital, the three programs within INAC that have not increased. I know there's \$8.4 billion, and now \$3.4 billion. That's good. It's moving in the right direction, but there's a huge gap that exists built up over the past 25 years. That's what we have to start closing. Band support funding is really the issue.

Then it's ironic, though, that when you go into third party management.... We were in third party management in my reserve when I took over. I got out of third party management in eight months. You can do it, but you have to make tough decisions. What upsets leadership at the band level is that Indian Affairs will make the decision to pay a third party manager thousands and thousands and thousands of dollars taken from their own band support funding.

There's no incentive for the third party managers to put in capacity because that's their bread and butter. Who the heck wants to get out of third party? I'm a third party manager, and so many companies have been set up across Canada now to provide these financial management services. There's no incentive for them to train and have capacity at the band level, because that's their bread and butter. It's a cycle, so it's about interrupting that cycle. It's about issues of capacity.

• (1015)

An agreement comes out of INAC, bless their souls, in February or March and it's all one-sided. There's no discussion. There's no dialogue. There's no back and forth. It's dictated: here, you sign this, and if you don't sign it, there's no money flowing on April 1. Well, that's a poor, crappy system. It's a "take it or leave it" proposition.

The choice of “leave it” would mean the appointment of a third party manager. It would mean that no services or programs get delivered in the first nation. It's terrible. Again, it seems to have more to do with controlling first nations than preventing or managing default. In place of the default prevention and management policy, I suggest that support for financial literacy, for administrative and management capacity, and for first nations institutions to assist with building financial capacity is where you have to focus energy and efforts.

In addition, the existing accountability relationship must be flipped on its head.

Cathy, we love accountability and transparency. Are you going to come out with the financial transparency and accountability act? I know that's there.

We have 634 first nations across Canada, and on every reserve you have the ones who support the chief and council, and the ones who don't support the chief and council. When you have one individual coming and they're going to slam and try to paint a picture of all chiefs and councils as crooked and corrupt, that's not the case in the vast majority of them. We have to flip it on its head to be accountable to the citizens of that first nation, first and foremost. That's how it has to be flipped around, not accountable to the government first, but accountable, first and foremost, to the citizens of that first nation.

I totally support transparency and accountability, and it has to be there. If my mom's watching this, she'll say “yes”, because she knows what it's like at the rez. She wants transparency and accountability. She's 80 years old and she'll tell me if I'm saying something wrong. She wants to make sure those resources are utilized in an effective and efficient way for everyone but with results achieved on the ground.

The point we're making is that first nations in Canada should answer to citizens first and re-establish a true government-to-government relationship. The existing policies do not reflect a government-to-government relationship, and they must be discarded and replaced, no question. We are trying to work on that with this comprehensive law and policy review. We have a process in place, but it takes time.

Basically, the citizens and the first nations know what the needs of the citizens are, and we have to respect that and incorporate that in. We have a new fiscal relationship. In fact, we're meeting this week. We're looking at presentations to our chiefs-in-assembly in December with options. We've always talked about, as the Prime Minister said, moving to a long-term, sustainable, predictable funding relationship with the crown, based on needs.

What does that look like? We're saying the work we're doing at that fiscal table is ongoing, but it should not be used as an excuse to not move ahead where opportunities arise for first nations. I don't want to hear, “Oh, it's all done at the national AFN fiscal table.” No, don't say that, don't do that, don't support that. Move on things that can happen in the community and the regions right now. This ongoing work with the MOU is going to take some time.

Basically, there are four points or examples that can happen now. First, fully implement the appendix K to the Treasury Board

directive. Do you know what that is? It's so you can carry over from one fiscal year to the next and forget March madness. You know what happens. We have monies that we have to spend before the end of March or we lose them. It's crazy. Put that aside so you can carry over from one fiscal year to the next. Government departments can do it. First nations should be able to do it so there are no crazy decisions made at the end of March. I'm saying, no more March madness.

Second, the time limited authorities ending in 2017-18 should be extended to allow ongoing projects to be concluded.

Third, Canada should act on its commitment to the nation-to-nation relationship and to rights recognition by being responsive to the request of individual first nations seeking changes in mentality and policy now. First nations cannot afford to wait. The process of change must begin to be implemented, and change must be implemented with first nations, not for first nations but implemented with us.

Own-source revenue is another issue that should be put on the shelf and not be used to penalize bands that have monies coming in.

Again, we need a new fiscal relationship with the crown, based on total population, based on needs, keeping up with inflation, treaty-based, and a percentage of GDP going directly to first nations because the original lands and resources are ours.

That's it. Thank you for listening.

• (1020)

**The Chair:** *Meegwetch.* That's good.

For the first round of questions, we'll go to MP Anandasangaree.

**Mr. Gary Anandasangaree (Scarborough—Rouge Park, Lib.):** Thank you, Madam Chair, and thank you all for coming.

Chief, I think this is your fourth visit to our committee and I thank you for your continued engagement and information.

I have a couple of questions. Professor, you spoke about replacing the policy with a temporary emergency support policy of sorts. How do you envision that playing out in terms of the role, the timeline, and the desired outcomes? Could you elaborate a little on your expectations with regard to that?

**Dr. Pamela D. Palmater:** Think about flooding, as an example. It's a temporary hopefully short-term emergency in which you need extra resources and extra support. Sometimes first nations can do it themselves if they have their own support, and sometimes they might need emergency management folks to come in to help.



It's the same thing in this situation. If a first nation determines for itself that programs and services are at risk—not a political decision made by a funding service officer because he or she doesn't get along with the first nation but an actual risk—and it's something that the first nation can't deal with itself, or deal with through the tribal council or regional organization, or it can't hire outside people to help and it actually needs INAC intervention or emergency supports, then that would be the trigger. It wouldn't be INAC deciding, first and foremost, what has to happen and then limiting all the options and directing what happens. It would be a voluntary trigger.

**Mr. Gary Anandasangaree:** Thank you.

With respect to the financial transparency act, I know it's come up with our previous panel, and I know you brought it up, Chief. Can you elaborate on the effects it has had on the communities, and what, if any, benefit it has had on the lives of our population in the communities?

**National Chief Perry Bellegarde:** The FNFTA is going to be part of the comprehensive federal law and policy review that's on. That's one of the laws that are not consistent with the nation-to-nation approach.

We say that we're accountable. Chiefs and councils are audited already. Those audits are available. They have to be presented, in a lot of cases, to their first nation citizens on a regular basis.

It's almost as though if it's not accountable at Little Black Bear, what do I do as an individual citizen? We have an election every three years, so I'm going to back and make it an issue. If Chief Cathy McLeod is not being accountable, then I'm going to hold her to account. There are politics on every reserve—that's how it is.

I say that rather than having an imposed piece of legislation, whether it be federal or provincial, a lot of first nations are starting to be proactive in developing their own financial transparency act, setting up their own treasury board, setting their own financial.... The problem is that you have 634. Some are really advanced; others aren't. Focus on the ones that aren't and start looking at capacity for those ones, because there are good tools and processes and mechanisms in place across Canada. Look at those good examples. How can they be replicated?

You have 58 different nations. The Cree are different from the Mi'kmaq, from the Dene, from the Haida. They're all different. Some have a treaty relationship with the crown or federal fiduciary trust obligations, but it's the Indian Act that governs all 634, unless you have a separate piece of legislation and you're out of it. We all want to get out of it, no question. It's going to take some time.

We're even looking at developing our own institutions. You have the Auditor General of Canada, and you've seen those reports and how they point to the need to revamp the department at INAC, no question. What about establishing our own auditor general so that we have our own institutions in place that can help support accountability, transparency, but under first nations' jurisdiction?

That's it.

**Mr. Gary Anandasangaree:** Chief, if you want to add to that as well, have you seen any difference in the lives of people in the 634 communities since the financial transparency act has come into

place? Has it improved the lives? Has it been a distraction? How has it impacted the communities you work with?

[*Translation*]

**Chief Ghislain Picard:** To add to what the national chief said earlier, I would say that the depth and breadth of the issue are greater than that. It directly affects the government-to-government relationship beyond the nation-to-nation relationship.

In reality, on the ground, it is more of a parent-child relationship, the children being the communities we are representing. That may influence the popular opinion in our communities. The people in our communities tend to see their leaders or band council as being entirely dependent on the federal government. That's what needs to be changed. The relationship is clearly and completely dysfunctional. That's why we are trying to find effective ways to mobilize our communities so that we can have the same status as the one in the political speeches, which is far from being the case right now.

After my flying visit in Ottawa, I am going back to Montreal to meet with the administration of a federal department. Our managers spend a lot of time preparing reports on the number of coffees they drink per day instead of taking the time they need to reach their targets, which is completely unacceptable. There are many examples and I could spend the entire day listing them.

Ultimately, it is extremely important for the communities that the relationship between the federal government and first nations can be an example of success. Otherwise, the credibility of our own institutions will be undermined. I agree with the national chief's comments just now. Our reality is not any different from Canadian society overall. We must also look at the situation from that perspective as well.

•(1025)

[*English*]

**The Chair:** Thank you.

The questioning now goes to MP Yurdiga.

**Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC):** Thank you, Madam Chair.

Good morning. I'd like to thank the witnesses for participating in our study, which is a very important study.

Often, we look at first nations governments under third party management and we see it as a mismanagement issue. If we look really closely, we'll see that, in many cases, it's not really a mismanagement issue. It's a revenue issue. I had an opportunity to visit many first nations communities. You look at their infrastructure failing. The cost on first nations to do things, especially the isolated communities, is three times more. There is a gap there in funding to be able to sustain what they have. That really troubles me.

If we look at revenue and the abilities of federal, provincial, and municipal governments, we see that they have the ability to tax. They get linear assessment from pipelines and everything else, and if they need more revenue, they have the ability to raise taxes. I believe first nations do not have that capacity to increase their revenue.

I think the real question is, what can we do to raise revenue in first nations communities? I'd like to open up that question to all our witnesses.

**National Chief Perry Bellegarde:** That's a good question, David. That's one of the things we're dialoguing about with regard to this new fiscal relationship with the crown.

As first nations people, each of us has ancestral lands, even treaty territories. For example, I'm from Treaty 4 territory. About 13 years ago, one pipeline was going across and we put a Treaty 4 tax in place. That pipeline had to pay to all 34 first nations that signed Treaty 4 \$100,000 just for coming through Treaty 4 territory. I always called it "hush up and go away" money because we had a little bit of a slowdown of traffic on Highway 1. I was riding my old sway-back pinto there, slowing down traffic just to get attention to the issue that there should be an aboriginal tax for any industry to operate on our ancestral lands and our territories. That's a way of raising revenue.

Again, when you start talking about the economy, the GDP, and everything else, how else is it all raised? It's from the land and resource wealth of this great country, from Canada. From an indigenous person's perspective, how did the crown gain title? I'm starting to use the words "assumed crown sovereignty" and "assumed crown jurisdiction" because the concept of *terra nullius*, the doctrine of discovery...our legal rights as doctrine.

Having the ability to tax any company or business operating within our ancestral lands or our territories is one way of generating revenue.

On reserve.... The misnomer is that Indians don't pay tax. It's a misnomer. We pay every tax there is. There is only one that we don't pay because of section 87 of the Indian Act: personal property income situated on reserve. That's the only one. We pay GST. We pay PST. If you own a home, you pay taxes.

That would be one way of generating revenue, giving first nations the ability to tax any company or industry operating on their ancestral lands, throughout their treaty lands. That would be my answer to that. As well, own-source revenue is another way of generating revenue. Again, that's a whole separate item unto itself—that when businesses are successful they supplement. Even from my own little gas bar, my Tim Hortons gas bar at Little Black Bear in Fort Qu'Appelle, we used to supplement our post-secondary students support program. Our position at Black Bear was that anybody from

Black Bear who wants to go to university is going to go to university, but the cap on post-secondary was there.

We supplemented that program from our own-source revenue because there's no better way out of poverty than a good education. That's one example.

Own-source revenue is another way, yes, but that's up to each individual first nation. I think, globally and on ancestral lands in treaty territories, having the ability to tax an industry operating there is the answer.

• (1030)

**Mr. David Yurdiga:** I'd like to hear from other witnesses on that topic.

**Chief Ghislain Picard:** To be very brief, lands, access to lands, that's really what it's all about. I totally agree with the national chief. The fact that we don't have the capacity to generate our own revenue and are not in a position to start our own projects limits us to having deals with companies. It's totally unfair, and it certainly lowers the capacity of our peoples to have their own initiatives and to be in a position to fund them. That's one of the problems.

If you limit yourself to the Indian Act, the total land mass of the reserves in Canada is less than 1%. It's obvious to me where there needs to be some improvement.

**Dr. Pamela D. Palmater:** First of all, all the funding that comes from the federal government is own-source revenue. All of the money that's in Canada comes from our lands and resources, so we're just talking about "let us control our own money".

Second, there's no reason why first nations couldn't be receiving a portion of all federal, provincial, and municipal taxes that happen on our traditional territories. We should be getting a royalty from all the business that's conducted on every highway, water, and land area in this territory that has only been possible through the dispossession of our lands and territories.

**Mr. Norm Odjick:** When I did my master's courses, we looked at this. One idea I had at that time was a kind of surcharge for all visitors coming into Canada either by commercial air, by bus, or by boat. Let's say it was even \$10 or \$20 per head. Millions of visitors come in. We could easily generate tens of millions of dollars that way, and it wouldn't cost Canadian taxpayers a cent.

**Mr. David Yurdiga:** Thank you.

I probably have about—

**The Chair:** Fifty seconds....

**Mr. David Yurdiga:** Fifty seconds is a lot.

Anyway, many first nations have a very strong economic program—you seem very successful. A lot of time it's where they're located. These communities do very well. They're very transparent, and you can see what they're doing. However, there are other communities that do not have that luxury, and they have no other source of developing their economy because they're isolated. What can be done to bridge that? Obviously, there's no industry around them to support that. Are there other ways to raise revenue through some kind of economic mechanism?

I'd like to address that to anyone who wants to answer it. You only have about five seconds.

**The Chair:** Your time is over, but if somebody wants to take it, that's fine.

**National Chief Perry Bellegarde:** It's important to have a flexible program. One size doesn't fit all. Everybody talks about Osoyoos doing great stuff in B.C., Membertou on the east coast, and the Dakota Whitecap. The Grand Council of the Crees are doing great stuff. They have access to capital, which is one big thing. Removing barriers to access to capital is one big issue. Then, there has to be capacity. Each reserve should have a flexible approach, in every territory, because one size will not fit all.

• (1035)

**The Chair:** Okay, questioning now moves to MP Saganash.

**Mr. Romeo Saganash:** Thank you, Madam Chair, and thank you to the presenters today.

I want to start with Pam, because I know you worked many years as senior director of INAC, and you're fully aware of this policy that we're dealing with today. I'd like you to speak to that experience first and the lessons that you learned from it. Beyond the specific recommendations that you've outlined, I was wondering if you could elaborate on that experience first.

**Dr. Pamela D. Palmater:** Thank you for your question. It's true, I did about 10 years' hard time in the feds. I'm almost rehabilitated, but one of the really eye-opening things about working at INAC, especially as a director of lands, was that we'd sit around a senior management table and have to make decisions about who gets put into intervention and who doesn't.

One of the reasons I'm no longer at INAC is that more than half of the time, the reasons for putting first nations into INAC's intervention policy were political. Someone was not agreeing on a particular treaty stance, or over a court case, and then that became a clash with INAC. Another reason would be a first nation saying I no longer want to discriminate against my people, and I'm going to provide services to those both on and off reserve. When INAC says, "No, that's going to cause problems for us", then they get put into intervention.

None of the triggers that you see in the policy, in my experience in 10 years there, were ever used as a legitimate reason for putting someone into third party management. Of course, once you're in third party management, because of the costs to first nations, that just becomes a spiral, and first nations languish in intervention. It was literally individuals around the table making political decisions, not financial management decisions. That's one of the things that has really stuck with me and it's why I wanted to come and testify before this committee. It is not as the policy says it is. It simply isn't.

On the ground, it's far worse in some regions than others. Manitoba is one of the worst, but it used to be that the Atlantic region was one of the worst regions, where that was just a bullying tactic. If you didn't like your contribution agreement, then they were going to put you in third party or they were going to put you in co-management. For every first nation you see that's ever been in intervention, there are at least four more—four times that number—that have been threatened with it to force them to sign an agreement or take a specific political position.

**Mr. Romeo Saganash:** I have difficulty comprehending.... The mandate of this study is to improve a policy, the intervention policy. That's a bit troubling for me. Is that why you refer to the mandate of INAC? Should this study include that aspect?

**Dr. Pamela D. Palmater:** That's exactly it, because of everything that INAC is mandated to do. While there are 5,000 employees and billions of dollars appropriated by Parliament, we only get half of that. If the reason is to improve our lives and to improve social and economic well-being, then do it. Everything that's not contributing to that needs to be axed or substantially revised, and this is one of those policies that—if we were to sit in a non-public forum and talk about it—we all know very well doesn't help anybody.

**Mr. Romeo Saganash:** Thank you.

[*Translation*]

Mr. Picard, if memory serves, you used the words "archaic" and "outdated" to describe the policy. I think we are unanimous in saying that the chronic underfunding of first nations is the main reason why they are in intervention situations like the ones related to this policy.

I think you have partially answered one of my questions when you talked about the possibility of using other funding sources for first nations.

Could that go any further?

For instance, I'm thinking of the revenue sharing for resource development on our territories. Perhaps that's one solution.

In your view, are there other solutions?

For instance, we could consider a constitutional amendment to change the equalization formula applied across the country and to include the first nations, the poorest of the poor.

•(1040)

**Chief Ghislain Picard:** First, everyone is turning their backs on the prospect of another round of constitutional discussions. However, there have been missed opportunities in terms of first nations issues and it is important to keep that in mind.

There are a number of aspects to this issue. Access to revenue other than the revenue from the government should not prevent us from having access to what is accessible to all levels of government across the country, and the equalization formula would give us this guarantee.

Everything related to the financial relationship is at the heart of the issue raised today. In your work, you are reviewing the current policy. But this policy should be thrown in the garbage and we should develop a completely new one. The country's policies and laws must be in line with the principles set out in the UN Declaration on the Rights of Indigenous Peoples. This may be our opportunity to change the course of history and finally restore to first nations a much more gratifying status.

[English]

**Mr. Romeo Saganash:** Thanks.

**The Chair:** The questioning is a little bit shorter than normal.

You can have about three and a half minutes, MP Massé.

[Translation]

**Mr. Rémi Massé (Avignon—La Mitis—Matane—Matapédia, Lib.):** Thank you, Madam Chair.

That's a bit unfortunate, because I would have had a dozen questions about this.

I would first like to thank our witnesses for participating in the committee's work; that is very much appreciated.

Mr. Picard, in your opening remarks, you said that you were hesitated to appear before the committee because, although you have made an effort to give testimony here on a number of occasions, not much has come out of it, in your view. I therefore sincerely hope that the committee's work will produce the desired results.

I will first ask you a general question. In your opening remarks, you mentioned that, in Quebec, the region that you serve, a small percentage of communities must resort to third-party management. Could you elaborate on that? What are the best practices? What are the lessons learned? What makes the challenges seem less significant?

You said that some communities are on the brink of intervention, but generally speaking, why are there fewer problems?

**Chief Ghislain Picard:** The question was partially answered by my colleagues here. Despite all the challenges and obstacles, we have kept the solution that provides for a degree of cohesion in the efforts and know-how of our communities, particularly through tribal councils.

As my colleague Norm Odjick said, the directors general of communities meet twice a year, always with a view to pooling knowledge and expertise. That can generate results.

Basically, we are exporting some expertise to our communities, and, at the end of the day, that is important. There are about 15 or 16 communities that are on the brink of intervention, which shows the shortcomings of the policy. Why wait until the communities are knocking at the door before intervening? That's the question I'm asking.

In terms of the only case with a third-party manager, isn't there a way to think of something more in line with the expectations and needs of the community? Accounting firms across the country must not fill their pockets on the backs of the communities. It has been more than 10 years in the case of Lac-Barrière, and we have seen this in other communities before. I think the situation is completely unacceptable and we must do something about it.

I go back to my colleague Norm Odjick's recommendation. Without reinventing the wheel, could we not make an effort to use the expertise we have? The intervention would then be for the communities that feel they need to call on outside expertise to address their situation.

Thank you.

•(1045)

**Mr. Rémi Massé:** Thank you.

**The Chair:** Thank you very much.

[English]

That concludes our opportunity. We're slightly over our time. Thank you for coming. *Meegwetch.*

The opportunity to delve in is limited by the structure of the committee. As you expressed, you've shared this with government before. We must continue to share our views.







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