



In-Depth Case Study: Cowichan Tribes' Child and Family Wellness Law Project



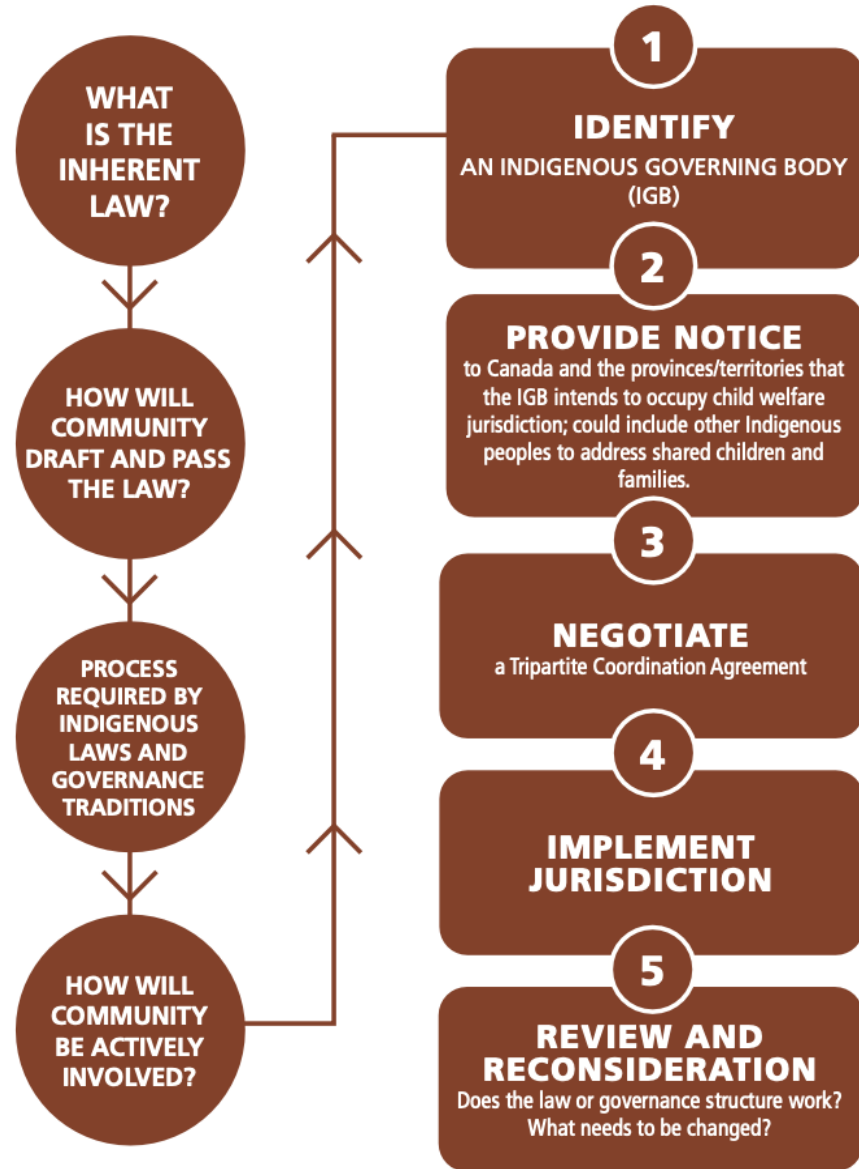
Jurisdiction: Authority

The Act recognizes and affirms the inherent right of self-government in relation to child and family services, including the authority for Indigenous Governing Bodies to:

1. Draft their own CFS laws (legislative authority);
2. Administer & enforce these CFS laws: s. 18(1); and
3. Provide dispute resolution mechanisms: s. 18(2).



Jurisdiction: Routes to Indigenous Law Recognition



Jurisdiction: Pathways

Indigenous Peoples have choices about the types or extent of CFS laws they pass. Some options are:

1. Comprehensive (all-in);
2. Incremental (some areas, not all); and
3. Guiding.



Why is it important to have our own child & family laws?



Why is it important to have our own child & family laws?

1. We have our own teachings, our *snuw'uyulh*, that govern us.
2. It is our inherent right to be self-governing, including the right to make decisions about our children and families.
3. Our own laws would be more legitimate within our community.



Why is it important to have our own child & family laws?

4. Provincial laws are not consistent with our culture and teachings.
5. Provincial laws do not recognize the importance of children to our community well-being.
6. Provincial laws do not provide our families with enough time or resources to overcome challenges.





How did this project begin?

“We don’t want our children to be in the system. We want our children to be taken care of by their family, not unknown people ...”

—Dora Wilson, Cowichan Tribes’ Elder





Timeline

1976 – single social worker

1980s – discussions with Canada began

1991 – Chief & Council passed a resolution about child welfare services

1993 – Cowichan/BC signed agreement to begin the transfer of services

1995 – Cowichan responsibility for foster homes & provision of guardian services

1996 – Cowichan delegated authority





- In 2010, Lalum'utul' Smun'eem submitted proposal to the provincial government
- Proposal accepted
- Hired a project coordinator, special projects assistant and established working groups:
 - Guiding Committee
 - Working Group Committee
 - Research Committee
- Community meetings



Initial Community Consultation



- In February 2012, LS undertook a **community driven approach** for the development of the legislation model
 - Community meetings
 - Family visits
 - Two community forums
 - Presentations to Cowichan Tribes
 - Elders luncheons
 - Presentations to community agencies
 - Community focus groups
 - Community BBQs
- Approximately 1500 band members were involved in the consultations



Findings from Initial Community Consultations

Four Main Themes:

1. Culture
2. Family
3. Teachings
4. Governance



Findings from Initial Community Consultations

Family:

“Everyone in the family had a role and responsibility. All children had a purpose. Grandparents watched grandchildren and groomed them based on their strengths. Aunties, uncles ... each has a role.”



Findings from Initial Community Consultations

Culture:

Culture:

“Our culture makes us strong, it identifies who we are.”



Findings from Initial Community Consultations

Teachings:

- *“Teachings are a life long, everyday practice.”*
- *“Respect.”*
- *“Teachings are lost in the English translation.”*



Findings from Initial Community Consultations

Governance:

- *“Elders were our social workers and decision-makers regarding our families.”*
- *“Hereditary chiefs would come together to make decisions about community.”*



1st Draft of Legislation Complete



- 3 Pieces of Law:
 - Cultural Code
 - Prevention Law
 - Protection law



Some Considerations

- Laws relating to Care and Connection
 - What were/are laws, practices, teachings
 - Connecting children and families who have been disconnected
 - Practices and teachings related to those with special exceptionalities and needs;
 - When care of children needs to extend to adulthood
- Laws relating to decision making
 - What are teachings, practices and processes used to make decisions about children
 - Who is a part of decision making
- Laws for addressing differences among Nation members: parents, families, etc.





Moving Forward

- The reason for having Cowichan Nation-based legislation is to stop the forced removal of our children.
- The *CFCSA* was not written by or for Cowichan people (or any other particular group of people) so, by definition, it misses the unique cultural foundation, strengths, ways of knowing and ways of being that characterize Cowichan people.



LOU Signing January 2019



Cowichan Family Law Justice Project

Interim project

- Purposes:
 - Improve relations with Cowichan Tribes and the family law justice system
 - Decrease the number of Cowichan children in care
 - Ensure that our Cowichan family law processes are part of the our community members' experiences
- Works with the justice community to improve our community members' experiences in child welfare issues:
 - Community members
 - Social workers
 - Judges
 - Lawyers, etc.



Co-ordination Agreement

- October 2020 Cowichan Tribes gave notice under s. 20(1) of the Federal Act
 - Tripartite discussions
 - Subcommittee work
- October 2021 – requested an extension



Next Steps

- External
 - Co-ordination Agreement
 - Questions around concurrent law?
 - Questions around administering laws?
 - Questions around funding?
- Internal
 - Governance Model(s)
 - Finalize Legislation
 - Finalize Service Delivery Model
 - Community Consultation and Ratification



See “*Wrapping our
Ways Around Them*”



SECOND EDITION

WRAPPING OUR WAYS AROUND THEM

INDIGENOUS COMMUNITIES AND CHILD WELFARE GUIDEBOOK



Questions?

