

THE PATHFINDERS: Nipissing First Nation's Dwayne Nashkawa on what it means to transition out of the Indian Act



The Rebuilding First Nations Governance Project is chatting with movers and shakers advancing First Nations' inherent right to self-government in Canada. Part Q&A and part F.A.Q., The Pathfinders features members of our project and others talking about why self-government matters to them and why it should matter to you.



Dwayne Nashkawa (pictured) is helping [Nipissing First Nation](#) put its bundle of laws back together. Hailing from Saugeen First Nation in the Bruce Peninsula, Dwayne came to Nipissing in the 1990s and has been helping the northern Ontario community govern itself ever since.

He's currently the nation's strategic advisor responsible for negotiating with Canada to protect and preserve Nipissing's rights. Dwayne's handywork appears in countless community projects at Nipissing—he's one of the folks behind its constitution, land claim agreements, and its upcoming project to build a Roundhouse. Dwayne is also the Numbered and Pre-Confederation Treaties Co-Leader at [The Rebuilding First Nations Governance Project](#), where he supports its mission to help First Nations govern themselves.

In this edition of The Pathfinders: What it means to transition out of the Indian Act, how transitioning out of the Indian Act impacts First Nations communities, what challenges making the transition presents, and what excites Dwayne about First Nations self-government

On a basic level, what's the difference between the inherent right of self-government and Indian Act administration?

Very basically, it's control, right? Under the Indian Act, the minister decides the minute you're born if you're an Indian or not. And throughout the course of your life they have traditionally made all the decisions, right through to your death. And then wills and estates are still administered by Indian Affairs even today. So the difference really is who gets to make those important governance decisions. Is it our people, the way we did for thousands of years before settlers arrived, or is it a colonial government?

When we transition to governing ourselves, an inherent right we have as First Nations, we make those decisions on our own.

What does it mean to transition out of the Indian Act into inherent rights government?

It means that the focus shifts from First Nations being accountable to Canadian bureaucrats and being dependent on the Canadian government to First Nations [becoming accountable to our citizens and making decisions on our own terms](#). This shifts our mindset from worrying about what settler governments think is best for us to deciding on the path forward for ourselves and being accountable for those decisions.

What are inherent rights?

RFNG's lead partner, [The Centre for First Nations Governance](#) explains the inherent right of self-government [this way](#):

"Prior to the arrival of Europeans in North America, Indigenous peoples were organized as sovereign nations. We had our own cultures, economies, governments and laws. We were generally in exclusive occupation of defined territories, over which we exercised governmental authority (jurisdiction). We also owned the lands and resources within our territories, and so had property rights, subject to responsibilities placed on us by the Creator to care for the land and share it with the plants and animals who also lived there.

The inherent right of self-government that we have today in Canadian law comes from the sovereignty we exercised prior to contact with Europeans. It is inherent because it existed before European colonization and the imposition of Euro-Canadian law. Aboriginal rights to lands and natural resources are also inherent because they pre-date European colonization. They are communal rights that come from occupation and use of the land by Indigenous peoples as sovereign nations."

You were one of the movers and shakers at Nipissing who helped the community with its ongoing transition to self-government—what was that process like for you?

Well you know, it started long before I got here. I think there was always this very strong sentiment at Nipissing that we should be doing things ourselves—that there was the capacity in the community to take on these governance functions.

Nipissing's transition to inherent rights governance started in the early 90s. In 2003, the nation passed their land code, which took them out of sections 53 to 60 of the Indian Act. Nipissing had also written their own electoral code in the 90s. So there was a culture of strong governance here. And that's what drew me to Nipissing.

I was fortunate to start to work with the chief and council and staff here on fisheries law development, where we sort of took over responsibility for managing the commercial fishery and pushed the Ministry of Natural Resources out of any role that they thought they had there. We wrote our own constitution in the

late 2000s and adopted that in 2012. We settled the land claim, which provided a lot of resources we didn't have. And then we wrote our own financial administration law. All of those self-government agreements take us out of elements of the Indian Act.

If you're someone living on a reserve and your community decides to transition to an inherent right government, are you going to notice a difference?

Maybe not in a day or a week, but for sure, over time. Let me tell you a little story about an element of that here.

So in 2012, Nipissing First Nation passed its [Gichi-Naaknigewin](#)—its constitution. That constitution was an articulation of who the Anishinabek of Nibisiing or “Nipissing” were—what the responsibilities of citizenship were. And it created space to write our own citizenship law, which we're doing now. It talked about how government would run and the responsibilities for transparency and accountability

And it was remarkable how quickly our Debendaagziwaad—our members—started to say, when we would announce a public consultation, “Is this in line with our constitution? Are you guys following our Gichi-Naaknigewin here?” Another example is that our constitution says Anishinaabemowin is the first language of Nipissing First Nation, so people started to demand some services in their language.

What is rewarding about that process of transitioning to governing under your inherent right?

Well, it was that the expectations were changing and that the focus was not on what external funders or other governments thought was important but what the Anishinabek who live in Nipissing thought was important. So that can be as simple as hearing the language being openly spoken in the administration office without people saying, “well, what are you using that language for?” Like, no. We use this language because it's our first language. People aren't afraid to do that anymore. And that's really rewarding.

I wonder, were there any hard lessons learned in that whole process of making the transition?

We're still in the early days of the transition, right? There's a lot of work to do yet. So there are tonnes of challenges. I wouldn't say that everybody's fully on board with this kind of change. Dealing with change in a community is a big process.

It's challenging when everyone leads very busy lives now. What's the best way to have a conversation? There are lots of challenges from how we communicate to how we really govern in our own way, how we write laws, and wrestle with Western concepts of privacy or liability or other things.

We're working hard to write our laws, but a big challenge is enforcing them. We don't want to do things in an adversarial way like the Western system is set up with the court system. We've worked hard on trying to build restorative approaches to problems in the community. All that takes a lot of thinking. There aren't a lot of models out there to draw on. So you really have to build the models yourself and understand that they're probably going to have flaws and that you're going to have to pay attention to them and fix them.

Why should the average person living on a reserve care about self-government?

I think when we do things ourselves, generally speaking, the track record is we do it much better. For example, the fishery on Lake Nipissing is a walleye fishery and for many years, it was quite stressed. It had been overfished by recreational fishermen, by tourist outfitters, and by commercial fishermen, but we seem to wear all the blame in the mainstream media for it, especially in the '90s in the 2000s.

But when the council [decided to exercise its right to manage the fishery](#), we started to see some real impact. There was no way you were ever going to have the Ontario Ministry of Natural Resources resolve the problems that were on the lake by persecuting and prosecuting First Nations harvesters exercising their inherent right to fish. But by working with people, we've resolved that issue. The fishery is not fully recovered, but it's in a healthy state.

What excites you about self-governance? What makes you want to have a role in ushering it in?

I'm excited and interested because we've been disrupted for so long. I watched my grandmother and her brothers and sisters act in a very resilient way through all they've been through but always remind me that we used to do all this ourselves. And in many respects, they still did. There was just a workaround. But now, for us to be able to do this openly and to share our laws and work with other nations, it's exciting for me. My kids have all taken Anishinaabemowin classes. They're learning the language. They're interested in their culture.

The days of not wanting to admit you're Indigenous are long gone. That's what I find very satisfying—to see how proud our young people are of who they are and that they feel hopeful about their future.

How do you picture the future of Nipissing's self-governance?

I picture a steady process of, you know, putting our bundle back together—our bundle of laws that has our values and our principles at the centre of it. And I picture us creating our own tools to round that bundle out. I'm hopeful for the day all our schools have Anishinaabemowin immersion programs or strong elements of it in the curriculum where people can feel good about exercising their rights without being prosecuted or chased off the lake or off the land. We've got a lot of momentum, and I can't see anything undermining that now.

Don't miss out on last month's **THE PATHFINDERS**

RFNG's Amsey Maracle on youth leadership and why First Nations self-governance matters

"I think a lot of the youth today are waking up to the history of colonization, and they're not accepting of it. They know what they've been robbed of, and they're not wanting to live under the Indian Act for another generation."



Read **THE PATHFINDERS** at carleton.ca/rfng

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