

NEWS RELEASE

Custom-made First Nations election systems can lead to abuse and discrimination

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VANCOUVER—Custom-made election systems for individual First Nation bands—instead of Indian Act rules—may produce more accountable and transparent government but may also lead to abuse of power and discrimination, finds a new study released today by the Fraser Institute, an independent, non-partisan Canadian public policy think-tank.

“Before committing to custom election rules, First Nations should fully understand the bad as well as the good inherent to any new rules they create,” said Tom Flanagan, Fraser Institute senior fellow and professor emeritus of political science at the University of Calgary.

The study, [*Custom Election Codes for First Nations: A Double-Edged Sword*](#), finds that 57 per cent of First Nations in Canada have discarded the Indian Act election system and created their own rules for chief and council elections.

But whereas the Indian Act gave the federal government oversight authority over the election process, custom systems—once approved by Ottawa—are no longer subject to federal oversight, even if the election rules initially approved by Ottawa evolve over time.

Some First Nations with custom codes have experienced abuses of power and discrimination.

For example, some First Nations have tried to ban members who live off-reserve from running, or even voting in band elections, in violation of the Charter of Rights and Freedoms.

Others have used language requirements to ban disqualify people from running in band elections, and others still have banned people of certain ages—and even in certain types of marriages—from running for elected office.

Crucially, the study recommends First Nations adopt constitutions to help protect election systems from abuse and reduce the use of the courts to settle election disputes—which is not only costly but also destabilizing for the First Nations community as it can take years to determine who should form the local government.

“As First Nations move away from Indian Act election systems and work towards better self-government, enshrining rights in law and preserving the integrity of the election process would be a good step towards improving community well-being,” said Joseph Quesnel, Fraser Institute senior fellow and study co-author.

“Good government, which can unlock economic potential and improve members’ standards of living, should be the goal of all First Nations election reforms.”

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