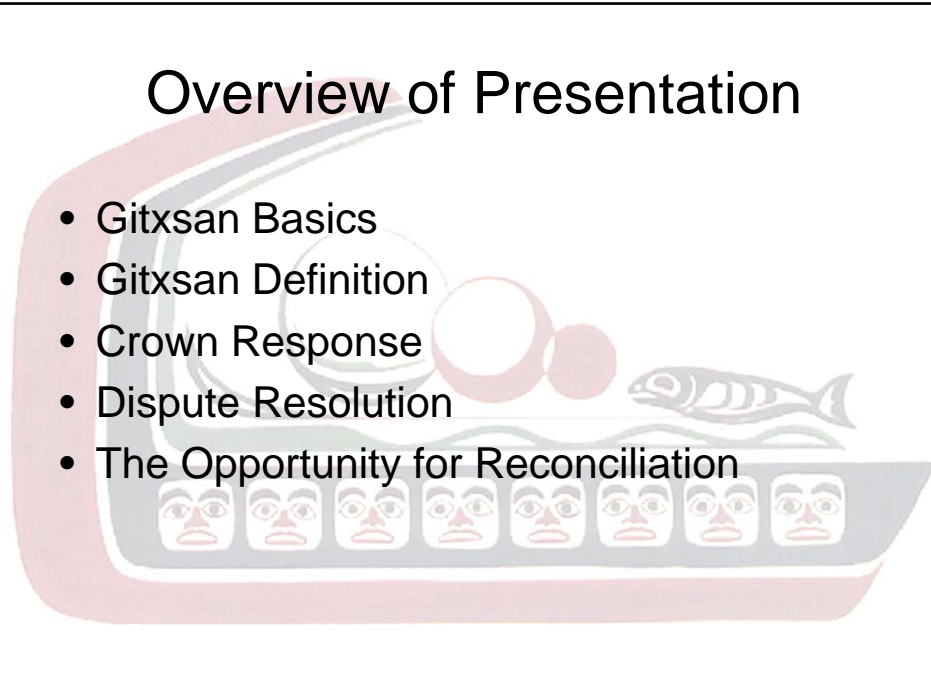


**Gitksan Hereditary Chief's**  
Powerpoint Presentation National  
Forum on First Nations  
Citizenship  
Presented by Gwaans  
Fall 2011



**Overview of Presentation**

- Gitksan Basics
- Gitksan Definition
- Crown Response
- Dispute Resolution
- The Opportunity for Reconciliation

## Gitxsan Basics

- Gitxsan Society is **Matrilineal**; that is, membership to and inheritance of property follows the mother's side
- The most fundamental entity of Gitxsan society is the **Wilnaathl** (sometimes referred to as the **Wilp** (singular) or **Huwilp** (plural, traditional large extended families each with a population estimated between 200-600). Each Wilp holds 2-5 lineage lines that determine rank within the Wilp of the Simoogit, Wing Chiefs & membership

## Characteristics of Gitxsan Society

- *Liligit*: The feasting is where one witnesses the daxgyet (power) of Gitxsan through a protocol that publically declares Wilp business for witness and endorsement of the Huwilp Gali Ax Gitxsan.
- *Ayokim Gitxsan*: Ancient laws that dictates the conduct of the Gitxsan Simgiigyet & Huwilp around inheritance, succession, marriage, adoption, access to property, territory & its resources, trespass, injury, redress of injury, and other nation business.

## Gitxsan Gwalyeinsxw

Each Wilphl Gitxsan has it's wealth; in inheritance assets that are real and unreal handed down from generation to generation forever, never diminished or extinguished. Wilnaatahl, lax yip, adaawx, ayook, limx oo'ii, waaim taa, these are parts of the Gwalyeinsxw held by the Wilp and Huwilp, and collectively as a nation.

## Important Dates for the Gitxsan

- The Gitxsan have had many important dates marking historical events:
  - Late 1800's first contact
  - Indian Act implemented 1951
  - 1977 Gitxsan Wet'suwet'en Declaration
  - 1984 Filing of Writ for Delgamuukxw & Gisday'wa
  - 1987 Court commences Delgamuukxw & Gisday'wa
  - 1991 1<sup>st</sup> decision for Delgamuukxw

## Important dates cont'd

- 1993 2<sup>nd</sup> decision from the B.C. Court of Appeal
- 1997 Supreme Court of Canada Decision
- 1998 Reconciliation with the B.C. Crown
- August 2001 Return to Treaty Negotiations
- Dec 2002 decision in Yal vs. MOF re: Forestry
- June 1, 2003 Interim Forestry Agreement w/ MOF
- August 6, 2006 Short Term Forestry Agreement
- Spring 2007 EA Decision RE: Kemess recognition of Gawa Gyaani and oral histories
- 2006 onward Reconciliation and Exploration process with B.C. & Canada

## Gitxsan

“Gitxsan” means a person that is of a wilp (house) ancestry, and

1. his/her mother is born into the matrilineal system of the wilp
2. is in accordance with the Gitxsan customs and laws and
3. is a person that is born from the womb of a Gitxsan woman and as a result, is born as a house member into this woman's clan: Fireweed, Frog, Wolf, or Eagle

## Gitxsan Citizen

- “Gitxsan Citizen” is a house member that was adopted into a clan, and may include the following:
- A person, born from a non-Gitxsan woman and a Gitxsan father, adopted as a house member into a clan and the terms of his adoption has been set out in a li’liget where that person has been accepted by the Simgiigyet to be a member of that clan in the presence of the Simgiigyet of that village

## Gitxsan Citizen Cont’d

- An adopted person, born from a non-Gitxsan woman, has limited rights and shall not be included in the Gwalx ye’insxw (inheritance) passed through a Gitxsan woman.
  - An adopted person, born from a non-Gitxsan woman, shall not attain status as a Simogyat, Sigidimahanak or otherwise

## Gitxsan Citizen Cont'd

- *[was adopted as a child, under laws recognized in Canada or under Gitxsan custom, by an individual eligible for enrolment;]*
- *is a [matrilineal] descendant of an individual eligible for enrolment.*
- has no inheritance through Gitxsan father, adoption is a privilege granted to persons with Gitxsan fathers, and persons that have neither mother or father that is a Gitxsan exceptions are made in the case of baby adoptions

## Adoption Laws

- We have laws of adoption and when an adoption is enacted in our lilligit it states clearly the terms and conditions of the adoption.
- Adoption of matrilineal Gitxsan have been used to deal with depletion on Wilp membership
- An adopted person will not have full rights in a matrilineal system but will enjoy the benefits of the system as a full citizen



## Impacts on the Gitxsan

The Gitxsan have experienced the full force of Colonialism. From the flu epidemics, tuberculosis outbreaks, Residential Schools, Welfare sweeps of the 70's, Racism that has been institutionalized, to the Policies of the Crown designed to assimilate them completely into Euro-Society. Yet despite this our ancestor's held firm and actively resisted these continuous and repeated attacks on their "Oojin"(personal spirit)



## The Challenge

Canada has said in Negotiations to be Gitxsan is to infringe the Charter of Rights and Freedoms. Does this Mean that the Indian Act can infringe our identity but we can not be Gitxsan. We say no and we have worked with a Consitutional Lawyer that says there is no case law to support Canada's Assertion

## Gitxsan and the Canadian Charter of Rights and Freedoms

“Could the interplay between Sub-sections 15(1), and 15(2) and sections 25,28,and 35 effectively act as a shield for the matrilineal system even if the charter is applicable? If I am correct in my view that the Charter does not apply to the Gitxsan Traditional Government institutions the question of the application of sections 15,25 and 28 does not arise.”

## Canadian Charter Cont'd

“It is my opinion that an argument can be made to support the view that the governments concerns that rights refused to Gitxsan citizenship limited to martimonial descent may lead to Charter claims of descrimination based on gender are not well founded”

Roger Tasse, O.C., Q.C. 2011

## Delgamuukxw 1997

- The Supreme Court decision recognized the Pre-existence of Gitxsan Society and it is the intent to have reconciliation of this with the Crown. If the Crown is going to infringe this basic premise then they must consult and accommodate this issue not unilaterally make allegations about it without fulfilling it's legal obligations. The test for rights and title in this case was premised on Gitxsan Social Structure and the Crown must live within this case law.

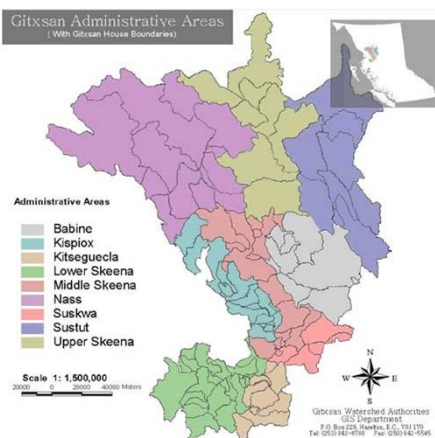
## Dispute Resolution

- We have laws for dispute resolution and they involve the use of Wilp, the Wilsaleks (Father's Side), the Niidihl ( Opposite Clan in the village) and if necessary the Niyheet (Grandfather's clan)
- The Niidihl is a witness as is the Niyheet and if called upon and agreed to by all may give guidance.
- The laws of dispute resolution are to discuss the issue until consensus is achieved that is mutually beneficial to both parties
- Then there is a public declaration of the business that is endorsed by the Gali Aax Gitxsan or by the gal tsup depending on the issue.

# Citizen Disputes with Federal Indian Act

Impacts on Gitxsan: Band membership (no consultation with hereditary chiefs)- person not born to a Gitxsan woman is eligible and obtains membership (including status) in a Gitxsan band. As well, such band membership does not obtain s.35 rights of a Gitxsan person until adopted into a wilp, with restricted rights.

## Gitxsan Administrative Areas



- Gitksan Territory covers 9 distinct watershed administrative areas
- Covers approximately 33,000 sq km. of territory
- Each watershed has an Inter Wilp agreement to work on collective issues of interest.
- Each watershed has signed a watershed Trust document that acknowledge each Wilp in the Territory
- Accommodation of Gitksan Interests is the goal of reconciliation in agreements with Crown, or third party interests

## Objective to Protect Gitxsan Huwilp

- Protect Section 35 rights
- Protect lawmaking within the structure of Sections 91 & 92 of the Constitution with the proviso of full accommodation of our interests
- Gitxsan Hereditary system includes governance structure
- Gitxsan continue under the Canadian Constitution rather than a “Gitxsan Constitution” s. 92

## Opportunity

- Create a system that gives full recognition of the Gitxsan within Section 35 and as a Hereditary people
- Does not limit or infringe our rights in order to get a treaty or legal tripartite agreement as it is the means of reconciliation but should not infringe us in the process
- Delgamuukw 1997 reconciliation of the pre-existence of Gitxsan Society with the Crown

# Gwis Gyen

“All Gitksan people use a common law. This is like an ancient tree that has grown the roots right deep into the ground. This is way our law is. It’s sunk. This big tree’s roots are sunk deep into the ground, and that’s how our law is”.  
Delgamuukwxw 1987

