



The Nisga'a Treaty

**Self Government and
Good Governance:
The Jury Is Still Out**

**By Joseph Quesnel
and Conrad Winn**



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Cover photo: Then President of the Nisga'a Tribal Council Joseph Gosnell and Indian Affairs Minister Jane Stewart display the Nisga'a Final Agreement in Ottawa on May 4, 1999. The Canadian Press/Fred Chartrand.

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Note to reader: Some words in this document may appear in blue and are underlined. Clicking on these words will direct the reader to relevant sites or documents using your associated web-browser.

Executive summary

- The Nisga'a have been controversial, enacting a far-reaching self-government agreement and allowing full property rights for members—a first in Canada.
- In the 13 years since the 1998 Nisga'a agreement, apparently no systematic efforts have been undertaken to collect and analyse information to help evaluate the effects of the agreement or to assess the Nisga'a treaty as a prototype for other First Nations communities. This study aims to achieve that.
- For reasons of close cultural and economic characteristics, four nearby Tsimshian First Nation communities—currently under the Indian Act—were used for comparative control purposes in the study.
- Professional, computer-assisted telephone surveys of both Nisga'a and Tsimshian respondents were conducted by COMPAS, a polling firm. The study also involved interviews with 30 Nisga'a and Tsimshian key informants. These more in-depth interviews were meant to capture more nuance.
- The results show the Nisga'a trust their government more than all others (and more than the Tsimshian trust theirs), and they think it is more honest than it was a decade ago, although key informants have issues related to governance.
- The Nisga'a also think their government performs better in delivering health and education services. However, they think that their government is consulting less often with the people and that it has not delivered on economic development.
- Interviews with Nisga'a key informants reveal that poor governance habits adopted under the *Indian Act* are hard to remove, as the Nisga'a villages are dealing with issues such as nepotism, family-related voting and the lack of separation of business and administration from politics.
- The results of both studies confirm that the Nisga'a treaty has not harmed the Nisga'a people and has in fact created more trust in their government as well as a sense that their government is more honest. However, it shows there is much work to do in ensuring institutions are accountable and transparent.
- Economic development should be a significant priority for the government, as many Nisga'a think they are not doing better after the treaty. The adoption of limited property rights and the creation of a strong political framework to facilitate economic development will be essential for future success.

Introduction¹

The first modern treaty in British Columbia, the Nisga'a self-government agreement of 1998 set off a firestorm of controversy. Some thought it granted too many powers to the small First Nation community, but the controversy did subside, at least for some time. In 2009, the Nisga'a attracted more attention when Parliament passed the *Nisga'a Landholding Transition Act*, which allowed members to assume full property rights over small residential lots. A first in Canada, the move set the Nisga'a apart among Native communities.

The idea of Aboriginal self-government has not been a consensual issue in Canada. A generation ago, the proposed Charlottetown Accord promised to enshrine a recognition of Aboriginal self-government and a form of Aboriginal political representation in the Constitution. The proposed accord was defeated by referendum, in no small part because of some Canadians' misgivings about the Aboriginal provisions.

Both before and after the Charlottetown discussions, First Nations activists and community leaders promoted the idea of self-government as a way out of many socio-economic problems.³ Academics commenting on the issue have normally taken their side.⁴

In the 13 years since the 1998 Nisga'a agreement, apparently no systematic efforts have been undertaken to collect and analyse information to help evaluate the effects of the agreement or to assess the Nisga'a treaty as a prototype for other First Nations communities. Author and former B.C. Liberal leader Gordon Gibson put it this way: "The Nisga'a treaty is held out as an example of the right way to settle Indian claims and yet we simply do not know how it is working after

seven years and cannot trust any of the three governments involved to tell us of problems."⁵

In the end, Aboriginal self-governance may well be the archetypal solution. But Gibson may have a point about the difficulties eliciting full and valid information about the situation. In the course of our research efforts, one of several findings to take us by surprise was encountering a segment of seeming Nisga'a political refugees. They were dissatisfied Nisga'a who had voted with their feet, resettling among the Tsimshian. Nisga'a opponents of the treaty sought and obtained band membership in a nearby Tsimshian community. These new Tsimshian residents still identify as Nisga'a, maintaining close cultural ties with their community of origin. They nonetheless continue to repudiate the treaty and remain uninterested in participating in Nisga'a political life.

The loss of the Indian tax exemption was the main catalyst for their departure. Many thought the Nisga'a had "sold out" when signing the treaty that led to the loss of the tax exemption. For many of these Nisga'a residents of Tsimshian communities, the tax exemption is a part of their Indian

We have no one to blame but ourselves for our missteps. We can't blame INAC any longer. It's very exciting to not be dependent on DIA or to always have to run to DIA for things.²

- Nisga'a President Mitchell Stevens, 2010

identity, and it is also an economic benefit they feel they cannot live without. More study of these political emigrants would be worthwhile. An intriguing issue is whether a successful Nisga'a economy will motivate their return or modify their resistance to taxation.

While the issue of tax-driven outmigration is intriguing, any assessment of the socio-economic fallout from the Nisga'a treaty will contribute to a polarizing debate between competing theories of economic progress. On one side lies a self-government theory of progress⁶ that holds that advancement of First Nations requires some form of autonomy, devolution, quasi-sovereignty or a kind of collective self-actualization. On the other side lies a cultural development theory of advancement⁷ that deems psychocultural progress as the essential requirement for economic progress.

First Nations activists and their advocates in academe embrace the self-government theory of progress. A sense of conquest and socio-economic subordination is rarely a recipe for individual or collective success, no less when decision-making under the *Indian Act* is all too often located thousands of kilometres away. For its advocates, the devolution of authority and the creation of self-government would lead to resolution of purpose. Empowering Nisga'a self-government would enable Nisga'a people to identify with, hold accountable and reward local officials based on the quality of their performance. Nisga'a residents would not only have more practical experience and expertise than would distant officials on the shores of the Ottawa River but they would also be better able to enforce accountability.

A perspective based on cultural development theory would hold that the Nisga'a have lacked the culture of individualism and entrepreneurship necessary for political autonomy to be

fruitful. In the history of Western countries, it has long been considered axiomatic that individualism and the decline of clan and extended family have been the key to accountability and the other essential requirements for good government. Clan, kinship and hereditary chiefs have been central features of Nisga'a life. From this perspective, according to cultural development theory, the Nisga'a treaty could well lead to false expectations and failure.

Between these two competing theories is a middle ground that sees political autonomy as an antecedent condition necessary for cultural development. As long as Ottawa remains the source of benefits and the centre of decision-making, First Nations communities retain every incentive to think and behave as collectivist-minded negotiators. Once decision-making devolves, First Nations communities will acquire new incentives to become more entrepreneurial. They will lose the inclination to be "rent-seekers," to use the economists' term for people who seek to construct government rules and policies for their own benefit.

The purpose of this paper is to shed light on the experience of the Nisga'a agreement and to identify findings of relevance to the competing self-government and cultural development theories of socio-economic progress. Legal-constitutional controversy over the treaty itself is not our focus, although we devote a brief Appendix to a summary of some of these issues.

The passage of more than 10 years since the agreement allows the possibility of examining the impact of self-government and freedom from the *Indian Act*, at least through the eyes of the Nisga'a who lived the experience. To this end, we carried out a representative sample survey among Nisga'a. A much smaller representative subset of survey interviews was carried out among the Tsimshian as a quasi-control or

comparison group. The Tsimshian speak a similar language, have a similar culture and live nearby but continue to function under the *Indian Act*. We also carried out in-depth interviews among Nisga'a leaders to gain their expert perspectives.⁸ We consider the survey data drawn from interviews with the Tsimshian quantitative data while the other interviews, few in number, are best treated as qualitative.

The Nisga'a and Tsimshian—Cultural and Economic Similarities

The Nisga'a and the Tsimshian control group are culturally- and linguistically-related coastal peoples of northwest British Columbia, the latter operating under the *Indian Act*, the former not. Approximately 2,500 Nisga'a live in four villages in the Nass Valley and another 3,500 live elsewhere in [Canada](#), primarily in Vancouver, Terrace and Prince Rupert in British Columbia. The four Nisga'a villages are [Gitlakdamix](#) (New Aiyansh), [Gitwinksihlkw](#) (Canyon City), [Laxgalts'ap](#) (Greenville) and [Gingolx](#) (Kincolith). The four Tsimshian communities⁹ chosen to act as a control or comparative group for the Nisga'a are Kitsumkalum First Nation, Kitselas First Nation, and Metlakatla First Nation.^{9a}

The two groups have economic and cultural features in common. Both peoples depend on fishing and forestry. Both are matrilineal societies organized by tribe, house and clan. Both societies place great historical importance on inherited rank and privileges. Chiefs and nobles held high-controlled titles and ranks and controlled access to group-held territory and rights. The clan system is tightly administered, including the existence of cultural taboos on intermarrying outside clans.

Nisga'a Treaty: Brief History and Features

Formal negotiations began in 1976. By August 4, 1998, the Nisga'a and provincial and federal negotiators had initialled the final agreement. On April 22, 1999, the B.C. Legislature ratified the treaty 39 to 32.¹⁰ It received legal effect on April 13, 2000, when Parliament passed the *Nisga'a Final Agreement Act*.

The Nisga'a approved the treaty by a 70 per cent vote.¹¹ The agreement recognized Nisga'a ownership of 1,992 square kilometres of land (about eight per cent of total Nisga'a traditional territory) and ratified the transfer of \$190-million in capital to the Nisga'a Nation over a period of 15 years. In legal and constitutional terms, the treaty substituted Aboriginal title with this fee simple grant to the Nisga'a Nation.

The Nisga'a received forestry, fishery and wildlife resources beyond the boundaries of the land granted under the agreement. The treaty permits participation in wildlife and fisheries management over a much larger area known as the Nass Wildlife Area. In this area, the Nisga'a have specific hunting, fishing and trapping rights. The *Nisga'a Final Agreement Act* also laid out the jurisdictions, authorities and rights of the Nisga'a. In particular, the treaty made Nisga'a laws paramount in the following areas:

- Nisga'a citizenship;
- Structure, administration, management and operation of Nisga'a government;
- Nisga'a land and assets;
- Regulation, licensing and prohibition of businesses, professions and trades;
- Preservation, promotion and development

- of Nisga'a language and culture;
- Direct taxation of Nisga'a citizens;
- Adoption;
- Child and family services;
- Pre-school to Grade 12 education;
- Advanced education;
- Organization and structure of healthcare delivery;
- Authorization and/or licensing of Aboriginal healers;
- Annual plans for the harvest and sale of fish and aquatic plants;¹² and,
- Nisga'a wildlife and migratory bird entitlements.

The government of the Nisga'a Nation is composed of an elected Nisga'a Lisims Government (NLG) and four elected Nisga'a Village Governments. The senior level of Nisga'a government consists of the Wilp S'ayuukhl Nisga'a ("Body of Law"), the body responsible for considering and passing laws, along with a Council of Elders. The existence of this council reflects the traditional laws and practices of the Nisga'a Nation known as Ayuukhl Nisga'a.

Methodology

Our key informational objective was to assess whether the Nisga'a made greater progress than the Tsimshian control group over the 13 years and whether all or some of the differences can be attributed to the treaty. We saw the task as exploratory rather than definitive. The elapse of a mere 13 years is too short for definitive conclusions. Accepting that our task was exploratory rather than definitive, we erred in the direction of eliciting at least some evidence, information and impressions from a multiplicity of sources rather than securing an overwhelming abundance of evidence from any single type of source.

In practice, we collected information and evidence on perceptions of the quality of governance based on the following:

- A representative sample survey among Nisga'a, carried out by COMPAS Research (n=121),¹³ and a smaller, entirely exploratory¹⁴ sample (n=26) among Tsimshian;
- In-depth interviews with leaders, local experts, and long-time residents¹⁵ among the Nisga'a communities (n=15) were carried out by Joseph Quesnel with the support of Barb McLeod¹⁶;
- Anthropological-style participant observation of community decision-making processes by the latter.

While on average, most Nisga'a expressed confidence in their government and thought it was delivering on basic public services, the in-depth interviews with key informants provided a more nuanced view of governance and the treaty's impact.

How Nisga'a perceive the Treaty After the 13-year Mark

Nisga'a Government, Transition and Trust

Assuming self-government is vital for progress, one would expect it to have helped increase trust in local officials. The findings from the COMPAS survey provide some support for that view, while the in-depth interviews yield important qualifiers. Nisga'a people, according to the survey data, do appear to trust their First Nations government to carry out any promises it makes more than they trust the provincial or federal governments to do so, as shown in Table 1.¹⁷ Nisga'a people also appear to trust their First Nations government more than the Tsimshian trust any level of government. For example, 45 per cent of Nisga'a trust their local government, scoring 5 to 7 on the trust scale. By comparison, only 24 per cent trust the federal government and 29 per cent trust the provincial government. Nisga'a who trust their local government to keep its promises outnumber by 3:2 those who do not. In comparison, Nisga'a who trust the federal government are outnumbered more than 2:1 by those who do not. Those who trust the provincial government are outnumbered almost 2:1.

While the survey data highlight evidence of trust, in-depth interviews with key informants yield a more nuanced image of trust in their community. Acknowledging that Nisga'a people's trust in their own government is reasonably high, key informants volunteered much concern on the issue of trust. They provided many examples of conflict and behaviour in the community that implied mistrust.

Paradoxically, the devolution of power apparently helped create a situation of mistrust between Lisims and villages that parallels federal-provincial-style, intergovernmental rivalry across the country. Several key informants confided their concern that the senior government, the Lisims, behaved as if it were competing with local government. The central and village governments had become more rivalrous than cohesive. A key informant highlighted the decision of the Nisga'a Lisims Government to apply for a grant that the key informant thought should have gone to one of the village governments. Several key informants called for the NLG to define its role more clearly and to come to terms with its relationship with the local bodies. Some residents of less populous villages think they are "constantly being

Table 1: Trusting Governments to Keep their Promises
(in per cent)^{18,19}

		Mean on a 7 pt. Scale	7	6	5	4	3	2	1	DNK
Local	Nisga'a	4.3	16	16	13	20	12	7	13	3
	Tsimshian	3.7	8	15	15	8	15	4	23	12
Federal	Nisga'a	3.4	5	3	16	21	20	13	16	7
	Tsimshian	3.3	4	8	12	19	27	0	27	4
Provincial	Nisga'a	3.2	5	6	18	16	13	12	28	3
	Tsimshian	2.5	0	8	8	15	15	0	50	4

outvoted” and must “fight to maintain their voice at the table,” said one key informant.

Self-dealing is perceived as a creator of mistrust. “I still think the government is operating under the old ways and is behaving like a tribal council. It is not about true governance. In the past, tribal councils would go and apply for government grants. These same people in the tribal council are now the Nisga’a Lisims Government,” said the same key informant.

Another concern is mistrust arising from intergovernmental rivalry. “Politicians are not thinking of the Nisga’a Nation as a whole,” observed another key informant. “The NLG is competing with their own villages.” Said another: “The NLG gets an overall transfer for administration, and they are keeping their piece of the pie. They are losing money for the villages because the NLG receives the administrative fees.”

Another source of mistrust arises from a conflict between traditional and modern values and the resultant beneficiaries. For example, James Robinson, also known as Sganisim Sinngaut or Chief Mountain, based much of his opposition to the Nisga’a treaty on hereditary grounds. His clan lost most of the land it had long claimed as a traditional right. As he put it in a *Globe and Mail* interview, “About 92 per cent of the hereditary lands were surrendered. That’s taking away everything of who we are. What does Chief Mountain mean without the mountains?”²⁰

The current controversy surrounding the Nisga’a Landholding Transition Act underscores the tension between modernity and tradition. Passed in October 2009, the Act provides for the voluntary adoption of fee simple property rights, whereby property can be sold, transferred or used as collateral. “A lot of young people are supporting the *Landholding [Transition] Act*. They’re excited,” confided one local official. “But, the whole concept of fee

simple is seen to conflict with tradition. Our leaders, especially hereditary chiefs, have concerns. They say we should have never introduced this law. The leaders say it conflicts with our traditions and culture. How do we blend culture with this legislation? It’s a huge struggle for us. A lot of our people are not well off. There is the temptation to sell their land for a dollar.”

Nisga’a Government Better at Promise-keeping than 13 Years Ago

If the treaty had contributed to enhanced quality of governance, one would expect Nisga’a people to report that their local government is far better at promise-keeping than it was more than a decade ago while Tsimshian people would report no change over the same period. In practice, the findings are complicated. The Nisga’a do perceive promise-keeping to have improved compared with a decade ago,

Table 2: First Nations Government Promise-keeping up over the 13 Years (in per cent)²²

	Nisga’a	Tsimshian
Better, that is, more likely to carry out its promises today than before	46	42
Worse, that is, less likely to carry out its promises than before	35	31
<i>Unprompted:</i> No change	12	15
<i>Unprompted:</i> Don’t know/refuse	7	12

Source: COMPAS, 2010

as shown in the survey data of Table 2. The data certainly lend no support to the idea that the treaty did any harm. Perceptions of Nisga'a government promise-keeping did not decline. Nisga'a respondents who say that the local government is better at promise-keeping than in the past outnumber 1.3:1 those who say the government has become worse.²¹

A problem for interpretation is that the Tsimshian people in the small qualitative sample of this study also see their local government as having become better at promise-keeping. If indeed the Tsimshian truly see their band council as improving in the quality of promise-keeping, it is possible that either (a) the post-treaty Nisga'a government is a role model for the Tsimshian or (b) the quality of perceived promise-keeping in the two First Nations is on the upswing for reasons unrelated to the treaty.

Nisga'a Government Perceived as More Honest than Federal/Provincial Governments in Hiring and Spending

If the advocates of self-government are right, one should expect the Nisga'a people to trust their local First Nations government to be honest in hiring and

spending far more than they trust federal or provincial governments to be honest. Indeed, that is the situation, as shown in the COMPAS survey data in Table 3.²³ In practice, 45 per cent of Nisga'a trust their local government, scoring it between 5 and 7 on the trust scale. By comparison, only 23 per cent trust the federal government and 30 per cent trust the provincial government. Nisga'a who trust their local government to be honest in hiring and spending outnumber those who do not by approximately 1.5:1.

By comparison, Nisga'a who trust the federal government are outnumbered almost 2:1. Those who trust the provincial government are outnumbered almost 2.5:1. It is clear that trust in the hiring and spending honesty of the First Nations government is comparatively high, though short of a consensus.

If key informants are to be believed, the Nisga'a should not be as confident in the probity of their First Nation government as they appear to be. Our in-depth interviews revealed underlying concerns about governance that did not surface so poignantly in the survey interviews with the general Nisga'a public.

Key informants expressed repeated concern about family politics in elections, particularly at the village government level. "There is still family-style voting going on," offered one observer. "Certain families at

Table 3: Honesty in Hiring and Spending (in per cent)^{24,25}

		Mean on a 7 pt. Scale	7	6	5	4	3	2	1	DNK
Local	Nisga'a	3.9	16	16	13	20	12	7	13	3
	Tsimshian	3.2	4	8	12	12	19	0	27	19
Federal	Nisga'a	3.2	5	7	18	8	18	16	24	3
	Tsimshian	2.7	8	0	8	12	19	15	35	4
Provincial	Nisga'a	3.0	4	6	13	19	10	13	34	1
	Tsimshian	2.2	4	4	4	8	12	12	54	4

the village government level will only allow certain people to get elected," volunteered another.

Familism remains a predominant factor in governance, said many. "If you're not related by blood," offered a key informant, "you're still related by marriage." Nisga'a governance needs a "thick[er] skin and a much greater sense of professionalism." Another volunteered, "A lot of organizations still have families in power. So, it's common to still see nepotism. It's so common, it's accepted. There is a big problem with nepotism." "We're supposed to declare a conflict of interest," said another, "but there are still challenges in doing that."

Key informants' criticisms of the quality of governance were frequent and strongly felt. Some complained of elected officials' "micromanaging" administrative decisions and that administrators did not observe the confidentiality, impartiality and fairness requirements of truly professional operations. The objectivity and efficiency of service delivery were unduly affected by lobbying, said some, not to mention by individual and family self-interest.

Concern about the arbitrary exercise of power was a refrain:

When we signed the treaty, the mentality [of arbitrary decision-making] was still there. We say we're self-governing, but we're still governing in DIA [Department of Indian Affairs] ways. We've changed the name of the government from DIA to Nisga'a now.

I think the treaty has given the people in government too much power. There is a concern the government is pushing through controversial legislation without full consultation.

Everything is done by the Wilp Si'ayuukhl Nisga'a [WSN, the Nisga'a legislative

body] including the *Landholding Transition Act*. It should have been done through referendum. The people don't know the impact of property. They claimed they consulted the people, but not a lot of people attended the meetings.

Concern about the arbitrary assertion of power led some key informants to confide a sense of fear. Residents can pay a high price for opposing the government, they said. "If you speak out against the government," volunteered one source, "it will affect social assistance or housing. They told me if I ever speak out, I will be in trouble." In addition to a fear of punishment for disagreeing, some key informants also expressed concern about arbitrary breaches of confidentiality in situations dealing with personal circumstances, such as health, that normally call for confidentiality.

Closely related to fear of retribution is dissatisfaction with the consensus model of governance apparently employed by the NLG. Some think that the system needs oppositional forces to act as a check on the government. As one Nisga'a entrepreneur asked rhetorically, "If we're a government, then why don't we have an opposition?"

In the extreme, some key informants complained that the NLG was a "complete waste of money." Overloaded with lawyers and undersupplied with professional administrators, the NLG is perceived by some as exercising excessive arbitrary power over the community. The Nisga'a government required a "complete revamping," volunteered more than one key informant. At the very least, said one well placed person, the Nisga'a need "an independent adjudicator or an Aboriginal ombudsman." Many Nisga'a understand the pressing need. It "was an issue raised at the recent general assembly."

No Change in Hiring and Spending Honesty over the 13 Years

Respondents were asked if local First Nations hiring and spending decisions had become more honest or less honest over the 13 years. If self-governance theory is right, one would expect an increase in the perceived honesty of local First Nations government in respect of hiring and spending. In practice, opinion is divided equally in both communities as to whether honesty in hiring and spending has increased, as shown in Table 4.

Apparent Decline since 2000 in Consulting People in the Case of the Nisga'a Government

First Nation members of bands operating under the *Indian Act* frequently complained about a lack of consultation from leaders, particularly as it relates to important decisions affecting their communities. Based on its census surveys of First Nations communities in the three Prairie provinces, the Frontier Centre for Public Policy's Aboriginal Governance Index documented a serious concern about secretiveness in every year of the annual survey.²⁸

For these reasons, it made sense to explore Nisga'a perceptions of the adequacy of community consultation by leaders. One might have expected a jump in the perception of adequate consultation because of dramatically greater proximity to the final decision-makers, now situated locally among the Nisga'a rather than on the shore of the Ottawa River.

Table 4: Any Change in Honesty in the 13 Years?
(in per cent)^{26,27}

	Nisga'a	Tsimshian
More honest, that is, its hiring and spending decisions treat everyone more fairly than before	41	31
Less honest, that is, its hiring and spending decisions favour local government leaders and their friends	41	31
<i>Unprompted:</i> No change	10	19
<i>Unprompted:</i> Don't know/refuse	9	19

Source: COMPAS, 2010

Table 5: Compared to 10 years ago, does the local First Nations government consult everyone...?
(in per cent)^{30,31}

	Nisga'a	Tsimshian
More often	39	42
Less often	51	35
<i>Unprompted:</i> No change	3	8
<i>Unprompted:</i> It does not consult everyone	2	0
<i>Unprompted:</i> It never consulted everyone and it doesn't today	1	4
<i>Unprompted:</i> Don't know/refuse	4	12

Source: COMPAS, 2011

In the public phone portion of this study, COMPAS interviewers asked respondents if local First Nations had undertaken more or less consultation with people over the decade. The Nisga'a government appears to be consulting its people a little less often, as shown in Table 5, but the apparent decline is not statistically significant.²⁹ The Tsimshian government appears to be consulting more often, but these findings are not statistically significant either.

The issue of consultation is one that came up often in the key informant interviews. These interviews confirmed the quantitative findings. Many Nisga'a interviewees thought there was little consultation with

the public about important decisions. "We are given only a few minutes to speak at our annual assemblies," observed one key informant. "It's not enough time."

Many believe the annual assemblies are not an effective means of consulting members. The annual assembly, many volunteered, is not really about gathering opinions and input but is intended to solidify support for pre-existing policy choices. Public meetings are perceived by key informants as few and far between and not meaningfully engaging the public. At one village, a Nisga'a key informant affirmed, "Public meetings are not happening like they used to. These kinds of consultations have slowed down."

Assessing Program Performance: Nisga'a Government Outperforms Tsimshian in Education and Health Services; Impact on Economic Development Not Clear

The treaty as the driver behind service quality among the Nisga'a wins some credibility from the data. Nisga'a respondents report that health care and schooling have either remained the same or possibly improved while Tsimshian respondents are convinced that both have declined, as shown in Tables 5a and 5b. Respondents in both communities report staggering declines in income, possibly more so among the Tsimshian, as shown in Table 6.

Interviews with key informants seem to confirm the survey findings of improvements in service delivery. Positive comments were made about services, particularly the educational system, but there are still concerns about the influence of family politics in this area. Some key informants spoke of "social passing" (refers to students progressing through the system

Table 5a: Compared to 10 years ago, are health services...?
(in per cent)^{32,33}

	Nisga'a	Tsimshian
Better	46	19
Worse	41	50
<i>Unprompted:</i> No change	10	27
<i>Unprompted:</i> Don't know/refuse	3	4

Source: COMPAS, 2010

regardless of their academic performance) and favouritism within the school system. Too many students are advancing through the system for reasons other than merit, claimed some Nisga'a key informants.

Furthermore, students are treated differently based on their village of origin. Many Nisga'a key informants nonetheless opine that the quality is good and that the government is "very good" about funding services.

Housing continues to be a significant problem in Nisga'a villages. As one Nisga'a administrator put it, "The struggle in terms of housing is similar in all of the villages. We have a high percentage of people with their own accommodations, but there is no space left for newer housing units. For now, when we build houses, we receive funding for that from special funding through the treaty. However, it nowhere near meets our needs. We're trying to get ahead with the treaty and become self-sufficient."

The Nisga'a official said Nisga'a housing authorities are supposed to be arm's-length from the village governments and are doing their best to achieve distance and neutrality. They are trying to run the authority like a business and separate from village government politics. In one case, the housing authority moved its office out of the village government office. The official said this was intended to "send a message" to village residents that politics is not involved.

Poor Governance Habits Die Hard

Despite a fair amount of approval for some service delivery, key informants nonetheless voiced many complaints. Excesses caused by family politics and nepotism are a general concern. "Family politics play a role in education," noted one. "What family you come from makes a difference. It never changed [after the treaty]."

More than one key informant observed that old attitudes and mentalities persist regarding public services. Expectations at the local level that the village government will provide everything are still rampant.

Table 5b: How about schooling?
(in per cent)^{36,37}

	Nisga'a	Tsimshian
Better	41	19
Worse	42	61
<i>Unprompted:</i> No change	10	4
<i>Unprompted:</i> Don't know/refuse	7	15

Source: COMPAS, 2010

Table 6: How about money?
Do people have...?
(in per cent)^{36,37}

	Nisga'a	Tsimshian
More money	19	8
Less money	60	85
<i>Unprompted:</i> No change	12	8
<i>Unprompted:</i> Don't know/refuse	9	0

Source: COMPAS, 2010

For example, wilful damage to homes still occurs, and individuals have the attitude that the village government should pay for it.

"We have to tell the people in the village that we're separate from village government." It was also noted during conversation that the terms "band" and "band office" were used instead of "village government." The slow change in the use of terms may reflect the key informants' views that the treaty brought more legal than behavioural change.

Defaulting on rent is still a serious problem, according to a few Nisga'a officials. Some villages are trying to move away from government-provided housing, but they face political pressure. "Our board of directors needs to take a strong stand on this issue," said one.

It is proving difficult for many to adjust to the new reality. One administrator said: "We're taught as First Nations, evictions are not in our tradition, but times change. It's very difficult, as board members don't want to evict their own family members. They are supposed to declare a conflict of interest, but this doesn't always happen."

In general, there are concerns about social assistance dependency and dependency on social housing. There was a sense among Nisga'a key informants that learned dependency would need time to be overcome.

A Nisga'a administrator said: "The biggest challenge is getting people away from the dependency that the *Indian Act* created. They don't even realize they're dependent. They say that it was better under the *Indian Act*. I've been trying to create self-sufficiency by encouraging parents to get involved in their children's education."

Part of the challenge, the administrator said, was in the life experience of most Nisga'a. "A lot of us have not lived self-sufficiently in a community. Like in a city, we would have to pay taxes, rent, etc. That's a challenge for us."

One Nisga'a interviewee said: "I attended a public meeting where an older person spoke up and said she wished they were still under the *Indian Act* because they were given things. How do we adjust our policies as we're basically starting from scratch? Not only are we trying to be fair, but we have to be realistic. There are problems of *Indian Act* dependency. I don't know how many times I hear people say we were better under the *Indian Act*.

I don't know why they say that. Before, things were given to us for nothing. Now we have to be strong."

Although most respondents to the phone survey said they were pleased with the quality of health services in the Nass Valley, many key informants remain worried about cutbacks. They expressed concern about the extent to which the Nisga'a government is able to cover medical-related trips to Terrace, the closest urban centre.

Data from the survey and key informant interviews are closest to each other on economic development issues. Many members of the public do not see any improvements in their economic standing. Key informants often shared a concern that Nisga'a economic policies are counter-productive and fail to contribute to economic growth. Though many key informants expressed a sense of pride over controlling the local economy, many also thought the NLG and village governments are not making good business-investment decisions. The terms "failing ventures" and "belly up businesses" were used frequently. It was thought the NLG is "wasting money on useless ventures" when money could be used to support small businesses. Several interviewees thought that resources are being squandered on failing ventures and that this must stop.

Many are concerned about what they see as the lack of business skill, knowledge and expertise in the Nass Valley. Some think outside expertise needs to be brought in to build business and capitalize on business opportunities. "They don't have the knowledge of business," noted one key informant, referring to the Nisga'a people and government. "We should get someone to get things up and running. There are people who are scared to start a business." One key informant anticipated that tourism could become a strong future driver.

A significant concern expressed among interviewees was the preparedness of Nisga'a citizens for income taxation, which comes into effect in 2013. "There is too much social assistance dependency out here for taxation [to be successfully implemented]," said one Nisga'a informant. Another interviewee described the populace as "sitting ducks who are waiting for the tax exemption to phase out. I feel the treaty only benefits the employed and certain people." The interviewee said there is concern because so many people are on fixed incomes and that for some, as much as one-third of their income could be taxed. The lack of preparedness for income tax was an issue raised at the 2010 general assembly, according to Nisga'a interviewees.

By far, the greatest concern was over the sales and income tax exemption phase out that came with the Nisga'a treaty. Many Tsimshian interviewees think support for a phase out to the tax exemption is very low in their communities. "If a tax exemption phase out is part of their land claims agreement, the community would not support it," one Tsimshian official stated categorically.

Not every key informant was pessimistic. One economic development officer is convinced that once entrepreneurialism takes off, it will benefit from the lower administrative costs—less red tape—associated with dealing with the Nisga'a authorities as opposed to dealing with the provincial government. But Nisga'a development will apparently need more than a reduction in red tape to take off. Isolated and 250 kilometres from the seaport and airport at Prince Rupert, the Nisga'a will need to boost their supply of skilled labour to attract business. Achieving this objective will be a challenge for the Nisga'a government, volunteered more than one key informant. A concern was whether the Nisga'a can increase their

reservoir of skills quickly enough to achieve adequate economic growth to contribute to the tax base necessary to make up for a planned decline in federal and provincial transfers under the Own Source Revenue Agreement (OSRA).

In practice, OSRA's goal of self-sufficiency may not be achievable. Indeed, it is unclear to what extent Indian and Northern Affairs Canada anticipated or fully planned for self-sufficiency. In a conversation³⁸ with Quesnel, Glen Nakamura, treaty manager for British Columbia at Indian and Northern Affairs Canada, expressed the view that self-sufficiency may never be achieved. In practice, the federal government apparently lacks a written plan for self-sufficiency, and it did not conduct any risk assessments for the Nisga'a treaty.

The Nisga'a leadership is not oblivious to the challenges. "A lot of people here say we shouldn't hire outsiders or bring them here, but I believe we should learn from others," said Nisga'a President Mitchell Stevens, in an interview at his office. "We need their skill sets to help us here." Future development of the beautiful Nisga'a Memorial Lava Beds Provincial Park also presents promise for the regional economy. The economic development literature says that with the right institutions and good people at the helm, the Nisga'a have a chance at success.³⁹

Lessons for Other First Nations

The Nisga'a example should teach other First Nations that Aboriginal self-government in and of itself is not an overnight panacea that will erase all problems. However, gaining jurisdictional power to take control over their destiny is the first step toward improving conditions. The Nisga'a are on their way, but they have a long way to go.

This is not a comprehensive study of the current B.C. treaty process. The study is completely separate from that political process. However, it was recognized that there is value in knowing what the Tsimshian think about the Nisga'a and if this affects their opinions about self-government.

Many Tsimshian interviewees were very concerned about the level of preparedness necessary to enter into a self-government agreement. Some thought the Nisga'a "rushed" into the process. One Tsimshian official commented that it was noticed that the Nisga'a put out notices for important positions within the administration after the treaty was enacted, rather than before.

Some Tsimshian communities are apparently putting together laws, regulations and policies that they will need in a period of transition toward self-government. Being prepared is what they learned from the "mistakes" of the Nisga'a.

Tsimshian interviewees were concerned about the cohesiveness and unity of their communities in regard to self-government. Infighting and squabbling among Tsimshian communities precluded co-operative approaches, some asserted. Given the divisiveness experienced by the Tsimshian, other First Nation communities that contemplate analogous forms of self-government might benefit from forethought and planning with respect to encouraging

co-operation with their individual First Nations.

Other First Nations may also benefit from forethought with respect to organizing their institutions by, for example, creating:

- a role for a functional Opposition to help clarify policy options and to enumerate their pros and cons in ways that are understood and appreciated by their publics, and
- the creation of ombudsman-type offices or other institutional practices that help discourage self-dealing or amoral familism.⁴⁰

Assembly of First Nations National Chief Shawn Atleo stirred up controversy when he called for an end to the *Indian Act* within five years.⁴¹ Given the experience of the Nisga'a, it would seem that this is quite ambitious, and it needs serious thought about the decisions, systems and cultural investments that First Nations may need to make prior to embarking on Nisga'a-style autonomy.

Detailed timelines and preparation-oriented changes seem to be essential to make a transition more effective. First Nations that are seeking self-government must bear in mind that their principal socio-economic challenges may even be intensified by self-government and certainly not easily attenuated. Nisga'a have to deal with the effects of learned dependency behaviours cultivated under the *Indian Act*. They must deal with many kinds of dysfunctions related to addiction, violence and poor health. The necessity of individual and group healing complicates the self-government enterprise.⁴²

Achieving the benefits of self-government will not be easy, because the First Nations culture involves dependencies that are a throwback to another era. Yet, some form

of cultural change is necessary to create the institutional framework and foundation for socio-economic achievement.

It is clear when speaking to top Nisga'a officials including President Mitchell Stevens that the vision is for self-sufficiency and economic opportunity.

Stevens even boasted that the vision is to "wean [our]selves off" federal fiscal transfers within three years. Whether this is realistically achievable is beyond the scope of this paper. Stevens recognizes "taxation is essential to self-government" and "you can't have one without the other."

Summary of Findings

Table 7: Whether Findings Provide Evidence of Improvements Following the Treaty

Subject	Public	Key Informants
Increased trust in government as a result of the Treaty	Yes	No
Perceived honesty in spending and hiring	Yes	No
Apparent decline in consulting with people	Yes	Yes
Health services improved	Yes	Yes
Education services improved	Yes	Divided
Economic conditions improved as a result of the Treaty	No	No

Conclusions

Self-government has not harmed the Nisga'a. In fact, many in the Nass Valley think it has enhanced the services and trustworthiness of the government. Moreover, acquiring jurisdiction over crucial areas such as land and resource ownership is essential, so the Nisga'a have the tools they need for economic prosperity.

Unfortunately, they still have serious concerns about governance. Political meddling in service delivery and business still occurs, according to some of our interviewees. One significant area that needs working on is consultation with the people. Our survey and in-depth interviews reveal that many people are concerned that consultation has actually declined over the years. The elephant in the room, of course, is economic prosperity. Most respondents report that their economic conditions have not improved since the treaty was enacted. Without excusing this or forgetting about the need for good economic stewardship, it should be recognized that the Nass Valley is located within an area that is economically depressed.

According to COMPAS, the interview data lend support to the conclusion that the treaty helped produce a local First Nations government that is more accountable (better at promise-keeping, more honest) than other governments. Furthermore, the Nisga'a government appears to be outperforming the Tsimshian government in delivering health and education services.

On the negative side, the Nisga'a government may be consulting with people a little less than in the past, and it appears to be almost as ineffectual as the Tsimshian local government in assuring economic development and income. Respondents in both First Nations communities report staggering declines in personal income. The lack of consultation and the problem of politicized economic development were both issues that were identified in the key informant interviews.

This leads to the conclusion that the Nisga'a treaty has improved the perception of governance and services among the Nisga'a. They seem to be more optimistic about their future under a self-governing First Nation government. However, the survey shows that the Nisga'a think this government has become more distant and less consulting of the people. This is a serious concern that needs addressing. Critically, the Nisga'a also think their government(s) have not delivered on economic development. Their standard of living as measured by personal income has declined. Clearly, despite self-government, governments need to deliver on accountability to their citizens and provide the means for prosperity. As time goes on, it will be worthwhile to see if the Nisga'a Lisims Government and the village governments can deliver these.

Endnotes

1. We gratefully acknowledge the assistance of Barb McLeod (Frontier Centre research assistants' supervisor) with the on-site interviews and investigation.
2. INAC stands for the currently-used Indian and Northern Affairs, whereas DIA is the older Department of Indian Affairs, which is still used.
3. Alfred, Taiaiake. *Wasáse: Indigenous Pathways of Action and Freedom*, Broadview Press, 2005.
4. Professors Kiera Ladner, John Borrows, Kent McNeil and many others have advocated Aboriginal self-government as a solution to First Nation problems. See Kiera Ladner, "Visions of Neo-Colonialism? Renewing the Relationship with Aboriginal Peoples," in *The Canadian Journal of Native Studies* XXI, (2001): 105-135; Kent McNeil, "The Inherent Right of Self-government: Emerging Directions for Legal Research," a report prepared for the First Nation Governance Centre, November 2004; John Borrows, "Tracking Trajectories: Aboriginal Governance as an Aboriginal Right," in 38 *UBC Law Review* 285 (2005). Frances Abele has written eloquently on these issues. See "Four Pathways to Aboriginal Self-government in Canada," (with Michael J. Prince) in *American Review of Canadian Studies*, 2008
5. Gibson, Gordon. *A New Look at Canadian Indian Policy: Respect the Collective—Promote the Individual*, Fraser Institute, 2009, 180. Emphasis in the original.
6. For a number of proponents of the self-government theory of progress, please see the authors cited in footnote 3, especially Mohawk activist Dr. Gerald Taiaiake Alfred, Director of Indigenous Governance at the University of Victoria, who argue eloquently for this side of the argument.
7. For the cultural development theory of progress, see Samuel P. Huntington and Lawrence E. Harrison in *Culture Matters: How Values Shape Human Progress* (New York: Basic Books, 2000). See also Frances Widdowson and Albert Howard, *Disrobing the Aboriginal Industry: The Deception Behind Indigenous Cultural Preservation* (Montreal and Kingston: McGill-Queen's University Press, 2008).
8. The co-authors shared the tasks of designing the survey questionnaire and the in-depth interview guide. In-depth interviews with community leaders were conducted by Quesnel or carried out under his supervision. COMPAS Research carried out survey interviews under Winn's oversight.
9. The dissolution of the Tsimshian Tribal Council was the culmination of acrimony between the Council and its member bands. See <http://www.ammsa.com/node/29006>. Accessed May 13, 2011.
- 9a. Metlakatla First Nation administration did not officially endorse or support this research. Although Frontier Centre researchers interviewed individuals there, there was no official endorsement of the research.
10. On April 22, 1999, the provincial NDP government passed Bill 51, which ratified the Nisga'a treaty.
11. The Nisga'a vote was held on November 7, 1998. Supporters of the treaty outnumbered opponents by a ratio of 3:1. Original voter turnout figures were not available in time for publication.
12. This jurisdiction covers all Nisga'a lands under the treaty. The federal and provincial governments retain responsibility for the conservation of these resources.
13. COMPAS carried out professional computer-assisted telephone interviews with representative samples of Nisga'a across the Nass Valley, interviewing individuals in each village (n=121). Nisga'a from New Aiyansh, [Laxgalts'ap](#), Gingolx and [Gitwinksihlkw](#) were interviewed. By convention, the findings from Nisga'a respondents are deemed accurate to within approximately 8 percentage points 19 times out of 20. Interviews among the Tsimshian were concentrated on Kitsumkaylum 1 and Kulspai 6.
14. Given the sample size, the Tsimshian data should be interpreted as qualitative and suggestive.
15. Throughout this study, the terms "key informant" and "informant" are used interchangeably to refer to these members of the Nisga'a and Tsimshian.
16. We spoke with service administrators, treaty negotiators, businesspeople, village government councillors, officials within the Nisga'a Lisims Government and clergy. Our sample included individuals who were supportive of the treaty and those who were critical of it.
17. It is statistically significant at the 0.000 level in two-tailed pair testing. Based on a paired sample t-test, the difference in means between the local Nisga'a and federal governments and between local Nisga'a and provincial government are significant among the Nisga'a respondents (both had a two-tailed sig. of .000). The difference between federal and provincial is not significant.
18. Full question wording: "How much do you trust the [local First Nations/federal/provincial] government to do what it promises? Please use a 7-point scale where 1 means you don't trust them to do what they promise and 7, you do trust them to do what they promise."
19. Based on an independent samples t-test, the difference between the Nisga'a and Tsimshian responses are

- not* statistically significant for local and federal government (two-tailed significance scores of .240 and .751 respectively). As for the provincial government, the difference is *near* conventional significance (.089).
20. Hume, Mark. "Nisga'a dissidents challenge landmark treaty," October 4, 2010, *The Globe and Mail*. Available online at <http://www.theglobeandmail.com/news/national/british-columbia/nisgaa-dissidents-challenge-landmark-Treaty/article1742587/>. Accessed May 13, 2011.
 21. Based on a difference of percentages test, the difference between "Better" and "Worse" among Nisga'a responses is statistically significant at the .05 level of significance using a one-tailed test.
 22. Full question: "Compared to 10 years ago in the year 2000 and before, is the First Nations government today... ." The difference in responses between the Nisga'a and Tsimshian is not statistically significant based on a chi-square Fisher's exact two-sided score of 1.000
 23. Based on a paired sample t-test, the differences in means among all three of these variables are significant among the Nisga'a responses (two-tailed sig. for federal-provincial=.019; federal-local and provincial-local were both .000).
 24. How much do you trust the local Nisga'a (or Tsimshian) government to be honest and not to favour themselves or their friends they hire people or spend money? Please use a 7-point scale where 1 means you don't trust them to be honest and 7, you do trust them to be honest.
 25. Based on an independent samples t-test, the difference between the Nisga'a and Tsimshian responses is *not* statistically significant for local and federal governments (two-tailed significance scores of .161 and .207 respectively). With respect to the B.C. government, the difference is on the borderline of conventional significance (.055).
 26. Actual wording: "Compared to 10 years ago in the year 2000 and before, is the First Nations government today ... "
 27. Based on a chi-square Fisher's exact two-sided score of 1.000, the difference in responses between the Nisga'a and Tsimshian is not statistically significant.
 28. Frontier Centre for Public Policy, Charticle, "Secretiveness Still a Defining Feature of Many Band Governments." Accessed May 2, 2011. Available online at <http://www.fcpp.org/publication.php/3284>.
 29. Based on a difference of percentages test, the difference between "Better" and "Worse" is not statistically significant among the Nisga'a responses at least at the .05 level of significance using a one-tailed test.
 30. Based on a difference of percentages test, the difference between "More often" and "Less often" is statistically significant among the Nisga'a responses at least at the .05 level of significance using a one-tailed test.
 31. The difference in responses between the Nisga'a and Tsimshian is not statistically significant based on a chi-square Fisher's exact two-sided score of .341.
 32. Based on a difference of percentages test, the difference between "Better" and "Worse" is not statistically significant among the Nisga'a responses at least at the .05 level of significance using a one-tailed test.
 33. The difference in responses between the Nisga'a and Tsimshian is *marginally short of conventional significance* based on a chi-square Fisher's exact two-sided score of .073 (marginal significance being between .050 and .100).
 34. Based on a difference of percentages test, the difference between "Better" and "Worse" is *not* statistically significant among the Nisga'a responses at least at the .05 level of significance using a one-tailed test.
 35. The difference in responses between the Nisga'a and Tsimshian *is marginally short of statistical significance* based on a chi-square Fisher's exact two-sided score of .052.
 36. Based on a difference of percentages test, the difference between "More money" and "Less money" is statistically significant among the Nisga'a responses at least at the .05 level of significance using a one-tailed test.
 37. Based on a chi-square Fisher's exact two-sided score of .101, difference in responses between the Nisga'a and Tsimshian is *just short of conventional significance*.
 38. This conversation took place around December 12-13, 2010.
 39. Jorgensen, Miriam, ed. *Rebuilding Native Nations: Strategies for Governance and Development*. Tucson: The University of Arizona Press, 2007.
 40. Edward C. Banfield argued that the backwardness of a real but fictitiously named southern, post-World War II Italian community was explained largely but not entirely by amoral familism, the inability of villagers to trust and hence co-operate for the common good with people outside their immediate family. See *The Moral Basis of a Backward Society* (New York: The Free Press, 1958).
 41. "Atleo calls for end of Indian Act within five years," Canadian Press, July 20, 2010. Available online at <http://www.ctv.ca/CTVNews/Canada/20100720/atleo-indian-act-100720/>.
 42. Warry, Wayne. *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*,

Further Reading

June 2010

The Fourth Annual Aboriginal Governance Index

<http://www.fcpp.org/publication.php/3332>

January 2011

Defending Matrimonial Property Legislation

<http://www.fcpp.org/publication.php/3572>

April 2011

Ngâi Tahu: A Model for Indigenous Success?

<http://www.fcpp.org/publication.php/3713>

April 2011

Band Governments Make Farce out of Native Governance

<http://www.fcpp.org/publication.php/3726>

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