First Nations Reconciliation as a Path to a Stronger Canadian State: A perspective from Tsimshian Chief Niisgitlobe

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より強力なカナダ国家への道としての先住民族の和解: チムシアン首長ニースギットローブの視点

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Abstract

As a nation, Canada is the second largest in the world, with a small multinational population. It is sometimes referred to as a country of immigrants, but that leaves out the first nations people of Canada. With just around 2% of Canadian citizens being recognized as 'Status Indians', and another 2% identifying a native, what are their perspectives on how Canada can better govern its citzens? This interview, with a Chief of the Tsimshian Nation shows a qualitative research approach to draw attention to some of the issues.

Keywords: Canadian Studies, Reconciliation, Tsimshian

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抄 録

カナダは国家としては世界で2番目に大きな国ですが、多国籍人口は少数です。移民の国と言われることもありますが、カナダの先住民族は除外されています。カナダ国民のわずか約2%が「地位インディアン」として認識されており、さらに2%が現地人であると認識されている中で、カナダがどのようにして国民をより良く統治できるかについて、彼らはどのような見解を持っているのでしょうか? チムシアン族の首長とのこのインタビューでは、いくつかの問題に注目を集める定性的研究アプローチが示されています。

キーワード:カナダ研究、和解、チムシアン

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"To live, man must hold three things as the supreme and ruling values of his life:

Reason-Purpose-Self-esteem" Ayn Rand *Atlas Shrugged*

INTRODUCTION

While Winston Churchill may or may not have stated that "History is written by the victors", the adage often rings true (Phelan 2019). It is also the victors who are also the state-makers as de Jasay (1985) best articulates this in the beginning of his book "States generally start with somebody's defeat" (p. 16). Some might argue that Ayn Rand was in a sense, a cynical victim of the historical narrative of the history writing continuum when she espoused in her 1974 West Point speech where she declared the Indian people have no right to live in America (Rand 1974). Those whom she referred to were of course those on the losing end of centuries of warfare and persecution that has been called genocidal (Helin 2006, 2011). The Indigenous native population of Canada is currently at 4%, and while a fraction of the citizenry they hold vast areas of the country in fee simple and in disputed land claims. The laws of the country need to be reconciled, and amended in order to strengthen the country and to ensure that it remains strong, stable and projecting itself as a pillar internationally.

THE LAW AND STATE OF CANADA

Canada is the second largest country by landmass in the world behind Russia, ahead of China with just under 10 million square kilometers. While physically large it is roughly the same size as the world's largest city- the greater Tokyo area (the Kanto Region of East Japan) with 37 million people, making it one of the most sparsely populated countries in the world. A large territory it has the longest undefended border in the world, with the United States, and sharing a polar territorial border with Russia, Denmark (Greenland). A bilingual country, it is a member of the G7, and regularly contributes to international aid and peacekeeping, while geopolitically tied to its southern neighbor.

European settlement started in the 17th century, but prior to that it has had a long history of human habitation-theories go back as far as 30,000 years (or more). The most widely accepted theories are that the crossing of the Bering Strait through a land bridge brought the first inhabitants. Political boundaries were not drawn by the first European explorers – by most counts the Vikings, but the relationships were most likely belligerent. In an account of Greenland Vikings, murders and killings were the norm (Diamond 2005). While records in Newfoundland were completely rid of the indigenous "problem" as they

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With the original inhabitants of the country, government policy of the British was not as explicitly open to reigning in and killing the natives as the Americans (the Indian Wars and policies of President Jackson, for example). There are the historical policies that document a difficult relationship, with the most egregious example of contaminated blankets handed out in order to spread smallpox (Barras & Greub 2014). There were also policies of assimilation through residential schools and breaking the connection to the tribal ancestral homelands when intermarriage took place. All of these policies led to a huge decline in the native population, as high as 98% (Smith 2017).

Projecting itself as a peace-loving country across the world, this was expanded by the current Prime Minister Justin Trudeau's father Prime Minister Pierre Elliot Trudeau. Most Canadians polled see the country as a nation that is democratic, law abiding and projecting 'Canadian Values' (Lawson 2015). During his first interview with the New York Times in 2015, he explained that he was interested in projecting the campaign slogan of "sunny ways" into the administration and onto the world stage (2015). Canada has one of the highest rating for democracy and international recognition, as the government continues to push it's image (McMillan 2018, Gill 2019). The policy works well, according to studies where "Canadians know what their values are" (Gill 2019), and that is reflected in the bright phrase of the prime minister.

Soft power is a termed put forth by Joesph Nye (2004) to describe the influence of a nation as it is projected through influence and without hard tactics. However, Trudeau's *sunny image* does not reflect the reality for one segment of the populace as the biggest group of Canada's the poor and destitute are its first nations groups. Along with being destitute, alcoholism, drug abuse, homelessness, suicide and poverty are endemic (Helin 2006). As Canada's track record the claims of freedom and human rights seem to be valid as a projection globally, for the first peoples of the country, they are not, and redress is important to them-as has been recognized. Any redress must rectify past transgressions as thoroughly as possible while allowing for self-determination, with the specific answers. What the country can do to fulfill its international goals and maintain its stature within the international order is to solve the domestic issues, and for Canada, that means the issue with first nations sovereignty.

THE INDIAN PROBLEM

Self-determination is fundamentally critical for the success of any people, and First Nations are no different (Helin 2006). Without self-determination, there tends to be a move towards what Tsimshian lawyer Helin (2011) calls a "dependency trap". It is a hangover of the past that the current situation of reservations finds itself in a decidedly post-colonial process that is still highly centralized through the Department of Indian And Northern Development in Ottawa. This should be no surprise as Ludwig von Mises (1985) pointed out the historical context of colonial policies when he stated: "The initiative for the great colonial projects came not from finance and business but from governments" (p. 99).

In the early 20th Century the South African government visited Canada to study the reserve system as a model for the problems that the government was trying to find solutions for the "black problem". The result was the South African Apartheid system modeled on Canada's reserve system that was to last for 7 decades. In a twist of irony, it was the reconciliation system that Canada had adopted to address some of the issues that were facing the government from the native groups.

After centuries of division finding a successful ending to it are bound to have numerous barriers that will need to be overcome before there is any successful resolution. The nation needs to settle the land-claim issue through reconciliation. It takes time, as the historical record shows with the marginalization of the indigenous population-for example there was no vote for native Canadians in government elections until 1963 when there was universal suffrage.

However, agreements are often pushed with timelines that are not in the best interest of the native groups. This is explained by native lawyer Cameron (2014) who explained "... it is the First Nation's belief that a tightening of the timelines in the Act is again contrary to their interests, as, with the limitations on resources and increasing numbers and complexity of proposals and associated information, First Nations need more, not less, time to review project materials". This was further reaffirmed by Tsimshian elder Niisgitlobe (2019), who recommended a pause of "at least 15 years".

Economic poverty, combined with exponential demographic changes (native demographics are something Helin refers to as a 'tsunami'), mean that clear land titles, ownership and negotiating powers are also important to the country. The projected native population growth will also mean greater responsibilities to ensure that overall they

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are better situated to deal with the laws and continue to project the so-called 'Canadian values' of liberal democracy onto the world, and even "as a leading proponent for bettering the lives of Canadian Indigenous people but lately has been backsliding" (Niisgitlobe 2019).

The result of hundreds of years of mismanagement has been a dependency culture that disempowers the local native populous-resulting in abject poverty and a low rate of education. Study after study has shown that underprivileged youth whose parents were uneducated were likely to stop formal education at an early age (Helin 2011). What needs to happen is: "indigenous peoples across Canada pursue higher education while retaining our culture, and decolonize our collective thinking and actions!" (Niisgitlobe 2019).

TSIMSHIAN FIRST NATION

An example of a tribe is the Tsimshian tribe that is located mostly on the banks of the Skeena River in northern British Columbia and south-east Alaska. They are currently in negotiations with the Government of Canada in treaty negotiations. The Tsimshian First Nation has had many of the same issues with economic dependency and assimilation as have other native groups (Campbell 2005, Helin 2006, 2011).

Within Tsimshian culture, "Elders were the ones who passed on moral values" (Campbell 2005). So, traditionally, the need for elder wisdom is shown in the Tsimshian slur "Wah niyaa" which refers to those without a grandfather's wisdom to guide them (Helin 2007).

In order to get better insight, a semi-structured interview (Appendix I) took place in May 2019, with Tsimshian Elder, Niisgitlobe (Richard John Miller). He states that while laws have changed, power remains centralized, though often transferred from the federal government to the provincial government which complicates the resolving of issues. According to elder hereditary chief Niisgitlobe's perspective the relations are frosty, as: "Our overall relations with the Federal Government of Canada is improving at a glacial pace." This is due to the primary dependent factor of which political power is in office, as governments tend to change (2019).

CANADIAN INTERNATIONAL RELATIONS

Though Canadian foreign policy has had a long history of a globalist country heavily influenced and supportive of international organizations such as the UN, explains Papp

(1988), threats to Canadian federation (as with Quebec) threaten Canadian federation (pp. 289-290). And this undermines the nation state, something that has confounded the country for over half a century. One solution to all of those factors is considering greater economic freedom within the country, would there be economic cooperation with local areas. This is because as a threat to Canadian federal unity, there have been historical threats precedents coming from the French speaking province of Quebec. In the late 1960's prime minister P. E. Trudeau went on a trip to Franco Africa to stop Quebec from creating their own identity through direct links (Axworthy 1990). That was following the time the province was at the center of a diplomatic dispute when on July 24th, 1967 Charles de Gaulle during a speech stated "Vive le Quebec libre", stoking separatist movements that continued the increase to undermine the federal government (Papp 1988).

There are several factors that make Canada's future economic prospects positive, thereby possibly creating risks if the internal situation is unstable, as other great powers have more vested interest in the country. Robert Kaplan (2012) points out that Canada has most of its population living much further south (close to 90% one hour drive to the US border), than Russians, Canada is set to continue to become a bigger world power. In fact, with a growing population and a warming planet that might change, with development of the north. The tendency for greater economic advantage for various things due to climate change (at least for a few decades) will mean greater yields in the country – what Ian Morris (2010) calls "the unfairness of geography" (p. 601).

Within the context of globalization and change, the country is set to grow as a world power, according to some predictions, such as the National Globe and Mail (Atchison 2016) with the population continuing to grow through immigration. In fact, the Trudeau government has pushed the number of immigrants that the country accepts, creating a need for reconciliation, which will only become more difficult with new arrivals if there are no changes with the issues that have been outlined.

RISKS IF THE PROBLEM PERSISTS

Historically, what has been credited for the early status of Canada was that the country was built on using trade with the Indians, and this was through the "staples model", which led to later success. In other words, the initial wealth and success of the country was based on trade with the remaining natives. "The staples model was first put forward by Harold Innes to explain Canadian performance in terms of a succession of export staples: first furs (seventeenth and eighteenth centuries), then timber (late

Miller: First Nations Reconciliation as a Path to a Stronger Canadian State: A perspective from Tsimshian Chief Niisgitlobe eighteenth and nineteenth), and finally cereals (mid-and late-nineteenth century) (Landes 1998 p. 294).

It is important that these issues be resolved within the country as "The subjugation and dispossession of indigenous peoples resulting from European expansion has left a legacy of problems yet to be fully resolved" including "the moral legitimacy of the state" (Keal p. 253). So, more than just the soft power of the state is at stake, with the possibility that its entire existence is being questioned. This is because: "It follows that until such issues are resolved through mutual negotiation between states and their indigenous inhabitants, the moral legitimacy of particular states will remain in doubt" Leading to potentially morally illegitimate international society (Keal 2014 p. 253).

The risk then is the rise of new international powers may lead to a multipolar system (China, Russia, possibly India). With that, there are also competitive considerations that must be taken into consideration, in particular the northern border with Russia, and the opening of the Northwest passage. Predictions by the Canadian military of a new 'Great Game' taking place between Canada and Russia with natural resources the prize are one threat (Killaby 2005). Additionally, sea routes with the Northwest passage require a strong and unified nation that cannot be hampered.

Being a democracy with commonalities and values that it shared with America means that it does not need to ally itself with other countries to counter this neighbor. (Huntington 34) It goes further, however, with America who ensures its northern neighbor as what Bernholz called a "buffer state" (1985), and a weakened Canada risks incursion by the southern neighbor to ensure geopolitical stability.

SOLUTIONS

Creating solutions requires a process of native education, successful outcomes of treaty negotiations that create situations without dependency, and encouraging free enterprise. Economic freedom along with free markets are necessary for self-determination, and creating a strong segment of Canadian society. It is only by freeing those who are currently nurtured as a group and allowing the freedom that all humans require for success, the results will be powerful and create a stronger state. But, first there needs to be the allowance of that to occur (Helin 2011).

Decentralized government is a model that when viewed historically has the results of

localized sovereignty being positive. Sovereignty Association is a term that the separatist Quebecois bantered about in the country – so, that term can be loaded and divisive. However, as a model that is the framework for the settlement of land claims and possible successful treaty resolution, it is something that the government needs to address.

The fragmentation of medieval politics had the merit of making all institutions weak and each army small, and as Jean Baechler (1976) showed in his work on the origins of capitalism, it was medieval anarchy that helped create the dynamism of the first capitalism, both in the northern Italian and Flemish communes and in the markets of France (p. 75). The weakness of politics was the strength of the merchants (and vice versa). He stated that a careful reexamination of the past can be a means of regaining efficient strategies for liberty (p. 60).

Further, the more individualistic (and market-oriented) a social order is, the less prone it will be to be belligerent. Conversely, the more collectivist the mood in a society, the greater its propensity for bellicosity (p. 164). So, as Helin (2006, 2011) indicates, with more self-reliance, the human spirit will take over and allow for economic growth and wealth creation.

As economic conditions of first nations improve, so will relations within the country. Linklater (2011) defines minority nations and indigenous peoples (in Canada and others) as group rights, which have become important transnational movements "... trying to promote a global political culture that accords a central place to group rights" (p. 535). Those wishing to fit into Canadian values would then fit within what Linklater later describes as those promoting "... greater respect for 'difference' (and to solve the interrelated problems of economic inequality, marginalization, and discrimination" (p. 535). Though there have been differences in addressing racism, the ideology of the government needs to be reflected in the way that native groups are treated. After all, economist Ludwig von Mises (1949) "... racial hatred is not a natural phenomenon innate in man. It is a product of ideologies ... overcome as humans cooperate" (p. 168-9).

Solutions are needed because correcting the past and current laws from divergent viewpoints is important, as an example Von Mises (1949) stated: "For libertarians, it is impossible to accept criminal behavior if carried out by the lawmakers. It must be condemned just as when simple citizens act in the same manner" (p. 52).

CONCLUSION

So, Canada today is a country of contrasts. Warm and welcoming when it comes to immigrants, that CNN calls a "friendly stance" (Hughes 2019), while much of the original native inhabitants live in poverty. As Alan McMillan points out in 2017 during the 150th birthday, "Indigenous peoples feel that they have little to celebrate" (p. 1). That is explained as First Nations are consistently ranked the lowest in almost any metric. From economics through education, it is what Bill Helin called 'underclass', and any improvements are incremental at best. Recent news reports that many of the Reserves are, as reported in The Washington Post as '3rd world conditions' (Coletta 2018) were suicide is endemic and the number of alcohol and drug related diseases are rife. In the urban centers of the prairie provinces cities such as Winnipeg there are a number of "Native" street gangs that grew to what the Native news 'First Nations Drum' called 'crises proportion' after a government report documented what many already knew (Dolha 2009).

Improving a country's standing abroad requires that it keep its own domestic house in order. While the political scientist Bernholtz (1985) points out that "countries are simply the area that is currently occupied by those in power", but that power can be threatened if that power is not nurtured and stabilized.

Over a century ago the native doctor Wassaja gave a speech at Ohio State University with a plea that still resonates to this day: "All who understand the Indian as a man know that his possibilities, given half a chance, are limitless. They know that there is nothing in the world he cannot master. For four hundred years we have pleaded, begged-yes, sacrificed our lives-to receive fair treatment" (Montezuma 2011 p. 14). So, the issues are not new, but the geopolitical realities require expedited redress.

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APPENDIX I

Interview of Niisgitlobe of the Tsimshian Nation on how Canada can improve its laws towards reconciliation. Dates of interview MAY 10-11, 2019

Q. Can you please provide some background to yourself?

A. A summary of My Background? Sure: I was born in Port Essington British Columbia on March 22nd, 1941. I graduated from Booth Memorial High School (Prince Rupert, BC) in 1960, and I graduated with a Bachelor of Science in Electrical Engineering from the University of Saskatchewan 1971. After 20 years in the Canadian Air Force, from 1982 to 1994, I was employed in the Canadian Federal Government Indian and Northern Affairs Canada (INAC), and the Department of National Defense (DND) in various Management and Engineering positions. Of note, I was at the highest level of the engineering profession when I quit to return to this part of the world, Northern British Columbia, in 1994. Upon my return to the Pacific NorthWest, I first worked as the Executive Director in the Tsimshian Tribal Council until 1999, then worked as the Executive Director of Kermode Friendship House from 2000 until I retired in 2002. In 2006 in a Potlatch Ceremony I took the hereditary chief name Niisgitlobe of the Tsimshian Nation, and since then I have been a chief of the tribe as well as an elder.

Q. In your opinion, what is the state of the relations between the government and the nations within the country of Canada?

A. Our overall relations with the Federal Government of Canada is improving at a glacial pace. Primary dependent factors are: Which political power is in office. Invariably, when it is the Conservatives our relations with the government backslide. With the Liberals, it's two steps forward and one back. To be fair to the Liberals, it also depends on who is in charge. Whereas with the Conservatives, we almost always backslide, or march on the spot for the duration of their tenure.

Q. In 1982 the constitution was brought home to Canada. What should be added to the constitution in your opinion?

A. First of all I would need to review sec 35 of the constitution to ascertain it's substance. I do believe it states that we need to conduct discussions with the Federal governing party on a Nation-to-Nation basis regarding out fundamental rights and title to our traditional territories. The Feds have delegated much of its power to the relevant Provincial Governments. So, in practice this notation of Nation-to-Nation discussions has

all but being manipulated out of existence by both levels of government; i.e. Federal/Provincial authorities. Exacerbating this dilution with the intent of Nation-to-Nation negotiations out main 'treaty leaders' have fallen into line with both levels of government and are now marching to the governments tune. Here in North West British Columbia (NWBC), I am a member of the Kitsumkalum reserve. Our main treaty negotiators only have grade school educations, which is proving to be a real detriment for us in achieving a fair deal. Much more strategic thought on the part of indigenous people has to be applied to this very important endeavor.

- Q. What recommendations would you give to both sides in this treaty process?
- **A.** In light of this perceived dilution with Nation-to-Nation negotiations my prime recommendation is to pause all talks for at least 15 years. This would give our younger generation, many of whom are acquiring and have a much better education then our current negotiators, time to research in order to conduct valid Nation-to-Nation negotiations to take place.

Here are some recommendations:

RECOMMENDATION 1

In light of recent Supreme Court of Canada (SCC) rulings in our favor, I don't see many advantages in modifying Sec 35 (1) of our constitution. However, I recommend we remain forever assertive and diligent in protecting our hard fought established 'rights and title'.

RECOMMENDATION 2

My second recommendation is that we indigenous peoples across Canada pursue higher education while retaining our culture, *and decolonize our collective thinking and actions!* In other words, eradicate stereotypical judgements of one another and promote indigenous peoples who have a proven track record of various forms of success.

RECOMMENDATION 3

Pause all BC Treaty Negotiations for at least 15 years while continuing to affect our legal rights in our day-to-day operational challenges.

I have found many references to Sec 35 (1) of our constitution re: it's advantages and potential drawbacks; I think from studying some of the more germane references and combining them with our own experiences, we could determine what/if any changes might be made to Sec 35 (1). One caution, the references, although good and still valid, could be somewhat dated in that subsequent decisions rendered by the Supreme Court of Canada (SCC), have made rulings which clarifies and expands on Sec 35 (1) after the references were published. So, it behooves us to stay up to date in all recent court rulings in our favour and become knowledgeable on ways that can benefit us.

Q. Can vou elaborate?

A. As an example about three years ago, the SCC established through the Tsilhgot'n v SCC case that Tsilhgot indigenous now have title to their traditional territory as established prior to contact. Sec 35 (1) only addresses our rights; not title. Now in our negotiations we can and should include 'Rights and Title'. Had the Tsilhgot'n pursued this demand for title prior to 1982, it probably would have failed, as experienced by the case of 'Calder v the Attorney General of BC' in 1973. Frank Calder, who is a Nisga' a, was also after indigenous title to their traditional territory. Believe he lost by one vote @ the SCC RvS.

I was reading a book written by Borrows, "Measuring a Work in Progress: Canada, Constitutionalism, Citizenship and Aboriginal Peoples." As Borrows stated "recognition of Aboriginal rights in Sec 35 places the issue squarely in the public eye-crucial for the Canadian public's acceptance of pre-existing Aboriginal rights." The book was written prior to the above mentioned Tsilhgot'n v SCC, so does not include the title.

Another very important SCC ruling in our favor is the Delgamuukw Supreme Court decision in December 1995, recognizing that our indigenous "Oral history" is valid and permissible in Canadian Court of Law. Prior to Delgamuukw our oral history has been dismissed by most constitutional scholars and politicians.

Q. How can First Nations further rectify this?

A. Currently, it has been established that the Federal Government will not reopen the Canadian constitution for minor changes and except for relying on SCC rulings, we don't have institutional means to resist violations of our Sec 35 (1) rights. Also, up until now, not enough efforts have been made by us indigenous people at large to really become knowledgeable with our inherent rights and title. I'm included in this group and have to be careful how I present myself to you ... don't want to make any misleading statements.

- **Q.** Canada shows itself to the world as a leading advocate of freedom, democracy and "Canadian Values". From an elder in the first nations community, what do you think of the way that our current Prime Minister, Justin Trudeau, portrays the country to the rest of Canada, and to the world?
- **A.** On the world stage Trudeau is lauded by the majority of countries as a leading advocate of freedom, democracy and "Canadian Values". On the world stage he is still viewed as a leading proponent for bettering the lives of Canadian Indigenous people. In Canada the reality was that he did get off to a good start early in his tenure, but lately has

being backsliding. At home, he started out pushing the truth and reconciliation process but that process has slowed significantly in the past two years and Trudeau is not seen to putting enough energy into this process. He also lost much credibility when it was discovered he was bullying his own Indigenous cabinet minister and ultimately fired her.

Many reservations in Canada suffer from inadequate housing, no drinking water, and inadequate health coverage. Across Canada Indigenous education is woefully underfunded in comparison to mainstream education, largely due to funding. In other words, two steps forward and one step back.

Q. Currently, what are the biggest problems that you see?

A. On a micro sense, there needs to be a system that is truly set up by both levels of government so that there are two tiers for people living there. This is creating havoc because the common person does not have a 3rd party to appeal to-an appellate court if you will. Now where the federal government will not get involved-they will only get involved in big cases.

One personal example was my brothers' house on KitsumKalum Reserve. He had rented it out and the renter had simply stopped paying. Eventually the RCMP had to get involved as the band council simply refused to do anything about it (the tenant had strong connections to the council).

Q. As Kitsum Kalum continues with its treaty process, can you comment on the Nishga Agreement, as they border on Tsimshian territory?

A. They have a treaty that was signed in 1995, so it is now almost a quarter century old. The biggest advantage that they had at the time they signed was their size. It is roughly three times larger than KitsumKalum (with three villages joining whereas there is only one with us), so they were better positioned with more resources.

The two-tier problem is in place there, with elites running everything a they have taken over. The example I cited earlier with my brother and the renter would not be resolved in the Nishga nation if it occurred there under the same circumstances.

The Nishga have a constitution, and the Tsimshian are using some parts of it as they proceed towards a treaty. But the issue becomes one of the ability of those negotiating as the process moves forward. The band council at Kitsum Kalum are lacking in a critical area, and that is formal education, so they are not qualified educationally. The chief councilor, for example, only has a grade four education, and no one on the entire council has even graduated from high school, to my knowledge. This leaves open the possibility of manipulation due to lack of understanding and an inability to properly

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negotiate. On countless occasions the council could not answer important questions on the treaty process along with general running of the band that I have raised over the years. I suspect that the nefarious intent of the government is to maintain this status quo, as it is in the governments interest to do so. In my opinion, the solution is to train specialists in different fields such as anthropology, legal, forestry, and mining-that is why I would like a moratorium that might last decades. After all, the bigger issue, then, is still that there are uneven levels of people being created within the different societies.

THANK YOU

NOTES

The Tsimshian Tribe is located in Northwest British Columbia and Southeast Alaska, consisting mainly of 7 first nations, bordering The Nishga, Tlingit, and Haida. The spelling of the tribe In addition, the interviewee Niisgitlobe, (Richard John Miller) is the father of the author (Richard Dean Miller).