

# Treaty 101: The Land Question

## A Brief History of the Nisga'a Final Agreement



**Nisga'a Lisims Government**

**Sayt-K'ilim-Goot**

one heart, one path, one nation

# The Land Question

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1793 – Nisga'a first contact with European travelers, George Vancouver visits Observatory Inlet near Gingolx

1830s – European settlers and Hudson's Bay Company invade northern BC

1864 – Missionaries arrive in Gingolx, forced assimilation begins

1876 – Parliament of Canada enacts the Indian Act to further suppress the rights of the Indigenous

1887 – Simgigat led by Israel Sgat'iin travel by water to Victoria to affirm the land rights of Nisga'a; they were turned away from the legislature by Premier William Smithe

1890 – The first Nisga'a Land Committee is established

Nisga'a Chief Israel Sgat'iin



# The Canadian Encyclopedia's description of the Indian Act, 1876

The *Indian Act* is the primary law the federal government uses to administer Indian status, local First Nations governments and the management of reserve land. It also outlines governmental obligations to First Nations peoples. The *Indian Act* pertains to people with Indian Status; it does not directly reference non-status First Nations people, the Métis or Inuit.

First introduced in 1876, the Act consisted of a number of colonial laws that aimed to eliminate First Nations culture in favor of assimilation into Euro-Canadian society. A new version of the Act was passed in 1951, and since then, has been amended several times, most significantly in 1985, with changes mainly focusing on the removal of discriminatory sections. It is an evolving, paradoxical document that has enabled trauma, human rights violations and social and cultural disruption for generations of Indigenous peoples.

# The Land Question

History of the Nisga'a Final Agreement

Nisga'a Land Committee 1913



1913 - Nisga'a Land Committee petitions to the British Privy Council in London; they are directed to the Canadian Justice system and are ignored.

1927 – Indian Act Amendment: Ottawa prohibits Indigenous people from raising money or hiring lawyers to pursue land claims; marginalization

1951- Parliament repeals provisions that outlawed land claims activities

1955 – Nisga'a Land Committee is re-established as the Nisga'a Tribal Council & Frank Calder is elected as its first president



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History of the Nisga'a Final Agreement



NISGA'A LAND COMMITTEE - 1913

Nisga'a Land Committee 1913



NTC at the Supreme Court in Vancouver

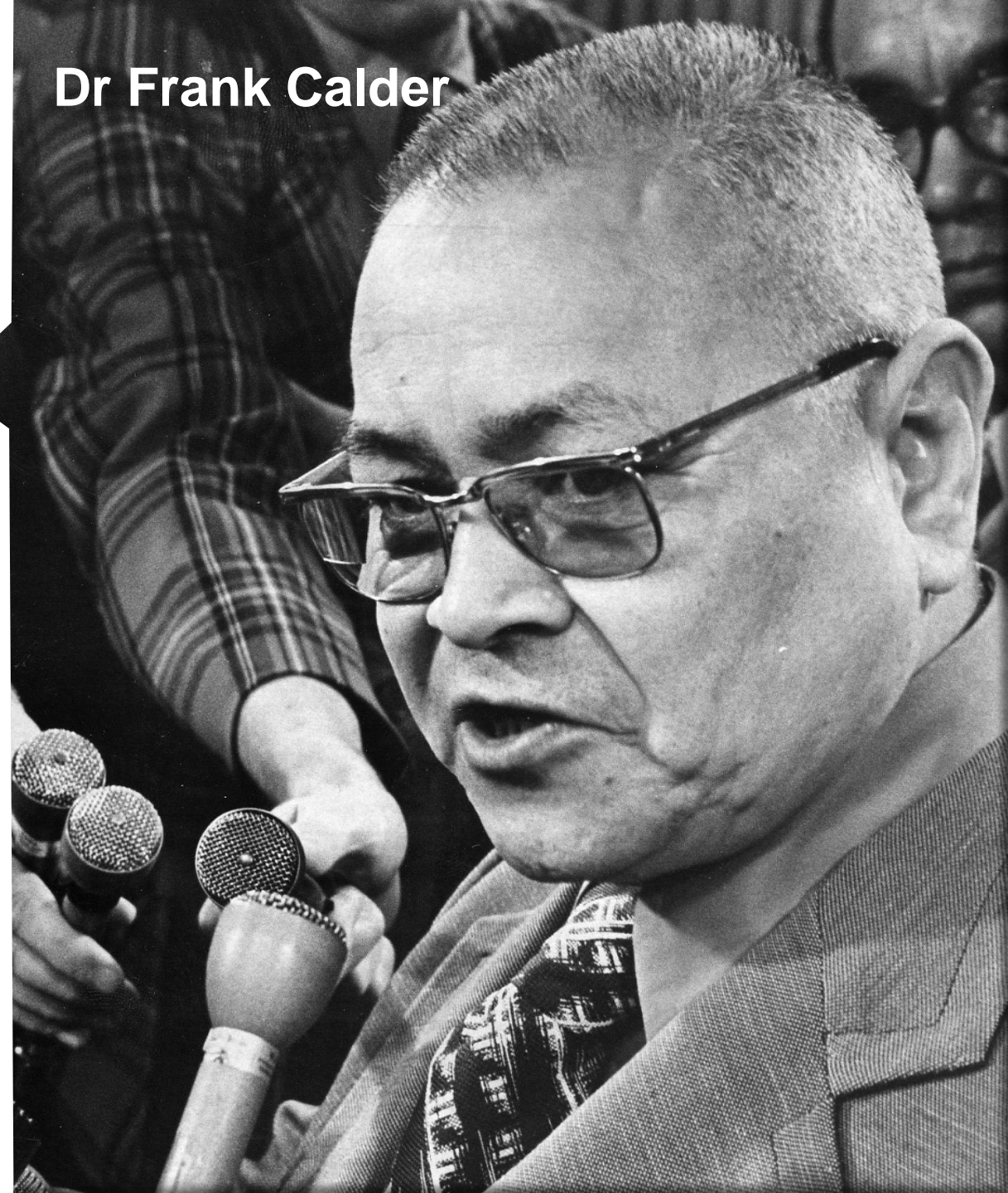
# 1973 – The Calder Case

In 1967 Dr. Frank Calder sued the government of British Columbia. He argued that the Nisga'a had not lawfully given up their rights to the land by agreement or any other means.

The Provincial Court and the Court of Appeal decided that if the Nisga'a did hold any title to the land before colonization it had since been extinguished. Dr. Calder brought the case to the Supreme Court of Canada, where the decision was split. The judges found that the Nisga'a did indeed hold "Aboriginal title" to the land since the Nisga'a had inhabited the territory since time immemorial. However, the judges were split in terms of whether the "Aboriginal title" had been extinguished.

In 1973, the Supreme court came to a decision after finding that there was no clear legislation cancelling "Aboriginal title", therefore Nisga'a title to their territory had not been intentionally, or specifically extinguished.

Dr Frank Calder





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## History of the Nisga'a Final Agreement

1973 – Decision of the Calder case led to the federal government implementation of the Comprehensive Land Claims policy

1976 – NTC begins negotiations with Canada, BC observes

1990 – BC finally enters in negotiations with the Nisga'a and Canada after 14 years

1991 – A tripartite framework agreement signed between Nisga'a, BC, and Canada

1996 – Parties sign the Nisga'a Agreement in Principle

1998 – Aug. 4<sup>th</sup> the Nisga'a Treaty is initialed in Gitlaxt'aamiks



Dr Joseph Gosnell holding the Final Agreement, 1998

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2000 – May 11 the Nisga'a Final Agreement comes into effect

- September 14, Wilps  
Si'ayuukhl Nisga'a (WSN) and  
Lisims Government & Administrative  
building opens in Gitlaxt'aamiks

Dedication of the new NLG Building, 2000

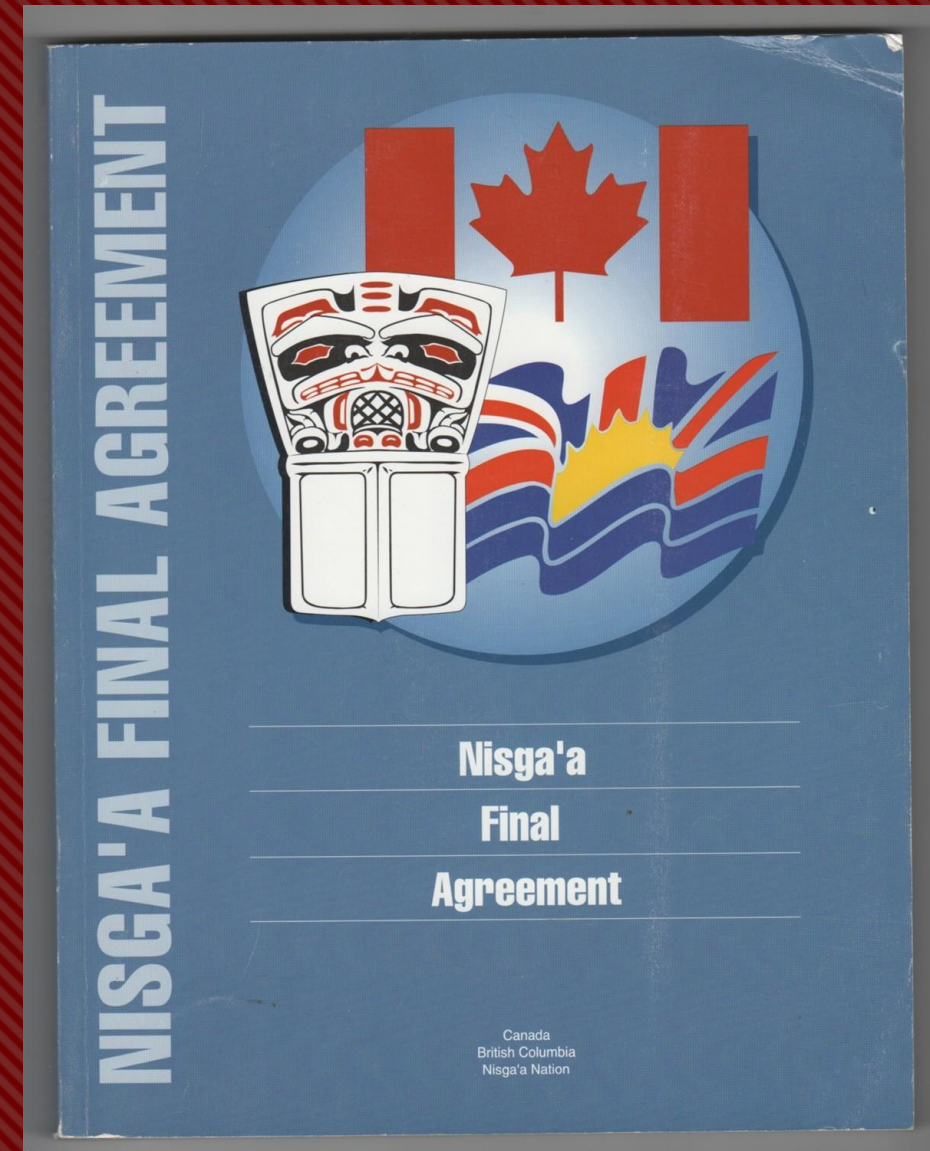




The Nisga'a Final Agreement is the first modern day treaty in British Columbia. A tripartite agreement between the federal government of Canada, the provincial government of British Columbia and the Nisga'a nation.

Tripartite: Involving 3 parties

When the Nisga'a Final Agreement came into effect, the Indian Act no longer applied to the nation. The agreement marked the end of a 113-year journey for the Nisga'a and provides constitutional certainty in respect of an Aboriginal people's Section 35 right to self-government. It recognizes Nisga'a Lands and opens the door for joint economic initiatives in the development of the Nisga'a Nation's natural resources.



Constitution Act 1982 Sec 35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

# Chapters of the Nisga'a Final Agreement

- |                                  |   |
|----------------------------------|---|
| 1: Definitions                   | 12: Administration of Justice             |
| 2: General Provisions            | 13: Indian Act Transition                 |
| 3: Lands                         | 14: Capital Transfer and Negotiation Loan |
| 4: Land Title                    | Repayment                                 |
| 5: Forest Resources              | 15: Fiscal Relations                      |
| 6: Access                        | 16: Taxation                              |
| 7: Roads and Rights of Way       | 17: Cultural Artifacts and Heritage       |
| 8: Fisheries                     | 18: Local and Regional Government         |
| 9: Wildlife & Migratory Birds    | Relationships                             |
| 10: Environmental Assessment and | 19: Dispute Resolution                    |
| Protection                       | 20: Eligibility and Enrollment            |
| 11: Nisga'a Government           | 21: Implementation                        |
|                                  | 22: Ratification                          |



# Bits of Nisga'a History



1976 - School District 92 Nisga'a was created as the first aboriginal school district in the province

1989 - Nisga'a Valley Health Authority is established



1992 – Nisga'a Fisheries Management Program is established

1993 - Wilp Wilxo'oskwhl Nisga'a is established to provide Nisga'a-based post-secondary programs in Nisga'a communities and select urban centres.



# Bits of Nisga'a History

2002 - Nisga'a Highway 113: In December, the 28-kilometre Nisga'a Highway Gingolx Extension Project is complete, and in 2005 The Nisga'a Highway 113 Upgrade Project is complete. The project includes the upgrading of 90 kilometers of gravel source road to a paved, two-lane, 70 km/h year-round highway.



2011 - On May 11, 2011, the Nisga'a Nation officially opens the Nisga'a Museum. This facility houses the Nisga'a artifacts repatriated from Canada and BC under the Nisga'a Final Agreement and is a permanent place for all peoples to experience the rich life and legacy of Nisga'a Nation



## Other Sources:

- YouTube video: "Dancing in Both Worlds" by BC Treaty Commission, 45 minutes
- CBC Video archive "The struggle of B.C.'s Indigenous Nisga'a people in 1978", 22 minutes
- Nisga'a Final Agreement
- NLG Implementation Reports
- Let Right Be Done: Aboriginal Title, the Calder Case, and the Future of Indigenous Rights by Hamar Foster (Editor), Heather Raven (Editor), Jeremy Webber (Editor) available on Amazon
- Nisga'a Lisims Government website: [www.nisgaanation.ca](http://www.nisgaanation.ca)

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