

## Witsuwit'en Governance and Current Events in Our Classrooms

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Teachers are encouraged by the Ministry of Education to teach the Big Ideas, Core Competencies, Curricular Competencies, and essential Content of the curriculum with innovative approaches that foster critical thinking and communication skills and addresses “real-world” issues. The curriculum also supports the authentic and respectful inclusion of Indigenous ways of knowing, providing BC students the opportunity to develop empathy, respect, and good citizenship. “The integration of Aboriginal perspectives and knowledge in the curriculum serves as an important step to begin to address misunderstanding of Aboriginal cultures (*and issues*). With a more in-depth knowledge of Aboriginal people and their history, all students in BC will have a foundation for developing mutual understanding and respect.” (*Ministry of Education, 2016*)

As our community, province, and country currently deal with the consequences of colonialism and colonial policy, educators are responsible for teaching BC students the facts and perspectives of our colonial history and its impacts on Canadians, specifically First Peoples, as outlined in the curricular competencies and content in various curricular subject areas. As educators, we have the delicate task of navigating this important learning opportunity while simultaneously demonstrating respect for the values, beliefs, and perspectives of our individual students. The methods and pedagogy in which educators teach this content is determined by their unique classroom contexts. The following guidelines may be helpful in any classroom to ensure a respectful dialogue amongst students and educators, and to set the stage for deep learning.

- Establish a safe and respectful environment in the classroom. Racism and derogatory comments are not tolerated.
- Teach the facts. Explore various perspectives, values, and beliefs.
- Provide opportunities for students to form their opinions based on facts as well as their personal values and beliefs.
- As public educators we serve the entire community and respect their perspectives and belief systems.

This information package is intended to be a starting point for educators to build their knowledge about Witsuwit'en governance and Aboriginal title. Educators are encouraged to seek additional information to develop a deeper understanding of Canada's colonial history and how it continues to impact Indigenous Peoples today.

## Witsuwit'en Hereditary Government

### The Origin of the Witsuwit'en Hereditary Government

The Witsuwit'en had ways of organizing and governing themselves for centuries, if not millennia. The Witsuwit'en governance system has been in place since time immemorial. The balhats, a potlach or feast, became a way of life. Witsuwit'en are born into 5 different clans which are further organized into 13 house groups headed by a hereditary chief. Hereditary chiefs govern the Witsuwit'en people within their territories with laws upheld in the balhats.

### Structure

The Witsuwit'en have a hereditary governance system that is led by thirteen house chiefs and many advisors called wing chiefs. The Witsuwit'en hereditary government is a matrilineal system: chief roles and names are inherited from the mother's clan. Chiefs are chosen by elders and clan members. Traditionally, they were trained from childhood and must know the history, territory and laws of the Witsuwit'en. Chiefs are responsible to their house group members. Hereditary chiefs can be removed from their positions if there is consensus amongst all chiefs and their clan members.

### Jurisdiction

The Witsuwit'en hereditary chiefs govern their house group territory. The size of Witsuwit'en territory is 22, 000 km<sup>2</sup> and includes the towns of Smithers, Houston, and Burns Lake.

### Decision Making & Responsibilities

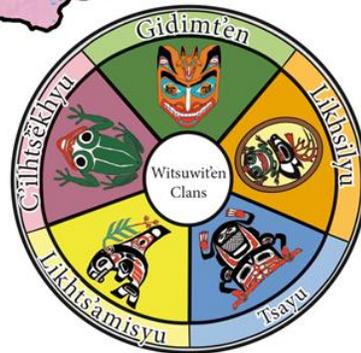
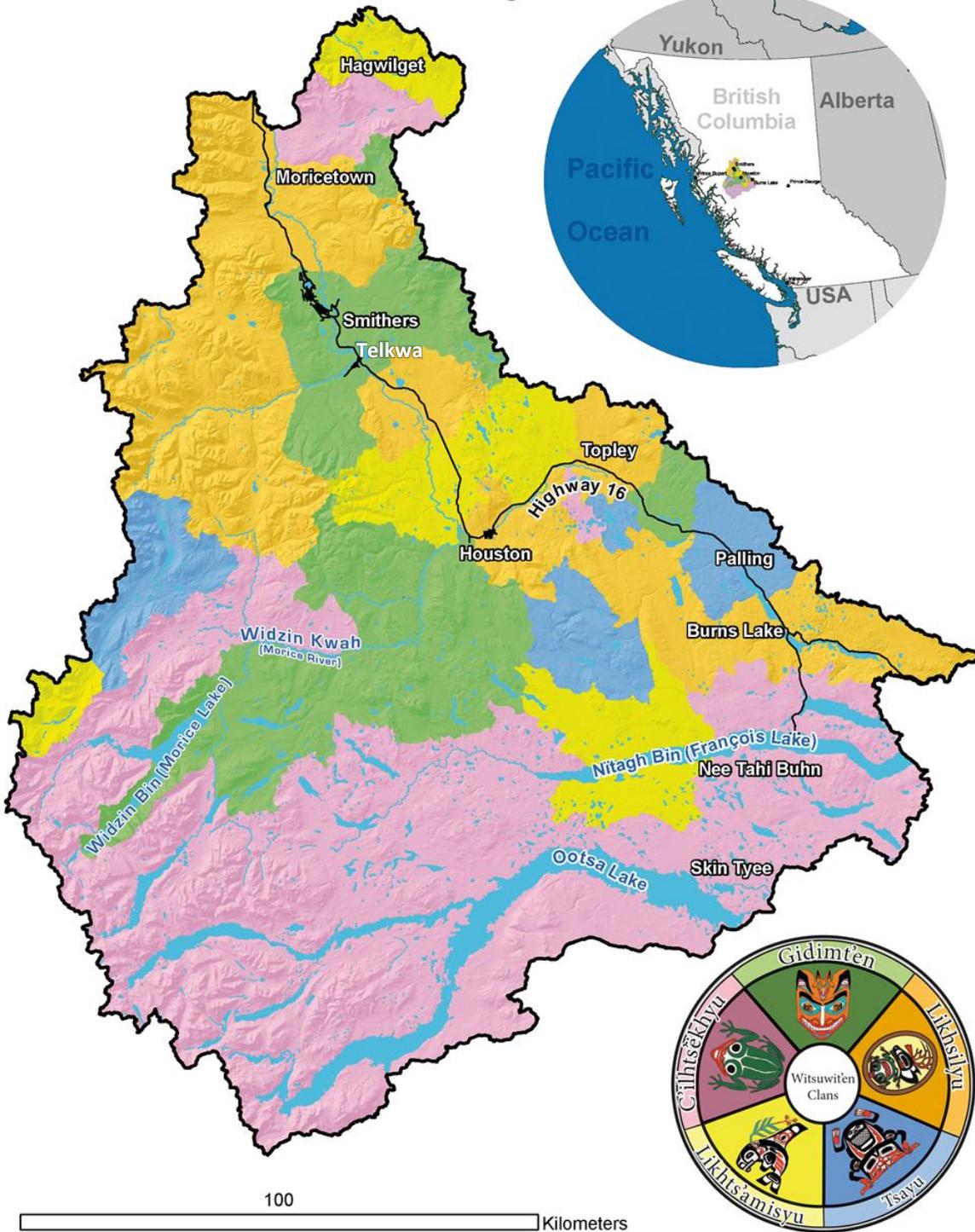
Decisions are made within the house groups. House group members share their concerns and opinions with each other in family or house group meetings, and then with their house chief. The house group can host a tea with other clan members to discuss the issue further. Once consensus is reached and a decision is made, the house group and their clan host a feast to share their decision and actions they will take. The balhats provides the opportunity for all the Witsuwit'en people to be aware of the house group's decision and the actions they will take based on that decision.

The hereditary chiefs maintain order and enforce laws on their territory with the help of wing chiefs and house group members. The chiefs also try to support the well-being of their house group members.

## Witsuwit'en Social Organization & Governance

Crest Clan	House Group House Group House Chief		
 <b>Gidim'ten</b> Bear / Wolf Clan	<b>Cas Yikh</b> Grizzly House Was	<b>Këyikh Winits</b> House in the Middle of Many Gisdewe	<b>Insggisgi</b> Where it Lies Blocking the Trail Midik
 <b>C'ilhts'ëkhyu</b> Big Frog Clan	<b>Yikh Ts'iwit'an'</b> Thin House Gguhlat	<b>Yikh Tsawilggis</b> Dark House Nedibis	<b>K'iy Yikh</b> Birch House Simuyh
 <b>Likhsilyu</b> Small Frog Clan	<b>Tsë Kal K'iyikh</b> House on Top of the Flat Rock Ut'akhgut	<b>Kwin Begh Yikh</b> House Beside the Fire Ut'akhw'its	<b>C'inegh Ihay Yikh</b> House of Many Eyes Hagwilnekhlh
 <b>Tsayu</b> Beaver Clan	<b>Tsa Kën Yikh</b> Beaver House Kw'is		<b>Namoks Yikh</b> House of Namoks Namoks
 <b>Likhts'amisyu</b> Fireweed / Killer Whale Clan	<b>Sa Yikh</b> Sun House Smogilhgim		<b>Misdzi Yikh</b> Owl House Lho'imggin

# Witsuwit'en Territory



## Band Council Government & the Witset First Nation

### The Origin of Band Council Governments

The European style government system was first introduced to Indigenous Peoples in 1869 in the *Gradual Enfranchisement Act*. In this act, the Canadian government established laws to assimilate Indigenous Peoples into the settler society. The Gradual Enfranchisement Act contained legislation to replace traditional Indigenous governments with a European style government, later known as the band council government. The Gradual Enfranchisement Act later became The Indian Act in 1876.

The Indian Act is a series of laws made to govern all Indigenous people in Canada. The purpose of the Indian Act was to assimilate traditional cultures into the European colonizer's society. Indigenous Peoples were mandated to move on to reserves from their traditional territories. A reserve, or group of reserves, became a band.

The Indian Act continued to enforce policy as an attempt to replace traditional Indigenous governments with the Band Council government. The Indian Act initially called for elections to be held every two years. In 1920, a law was included in the Indian Act to ban the hereditary government. The ban was later repealed.

Band council governments exist today. Many policies have changed in the Indian Act since 1876 and Indigenous Peoples have more, but not complete, control in the way their band councils operate.

The band councils are located on reserves and govern band members registered to that band. Some bands are also called a First Nation. The Witset First Nation government is a band council government.

### Witset First Nation Government Structure

The council is elected by the band members every two years in Witset, but some other bands in Canada have four year terms. Any band member over the age of 18 can run for a chief or councilor position. In any band council in Canada, there is one chief and one councilor for every 100 members of the First Nation (a minimum of two and maximum of twelve councilors). The Witset First Nation government has 1 chief, 1 deputy chief, and 10 councilors.

#### **Band**

*Legally, in Canada, a band is defined as a group of Indians for whom land has been set aside (a reserve), or who have been declared a band by the Governor General (no reserve). A band might have a number of reserves, but can also have no land reserved at all.*

Vowell, 2016

## Jurisdiction

The Witset First Nation band council government has jurisdiction in Witset and serves all band members, even if they live off the reserve. Band members are people registered to the band or First Nation. The Witset First Nation community includes 7 small reserves that connected to each other to make one larger village. The total area of the reserves that make up Witset is about 15 km<sup>2</sup> in total.

### Did you know?

Area of Smithers, BC → 15.27 km<sup>2</sup>

Area of Houston, BC → 72.94 km<sup>2</sup>

## Decision Making & Responsibilities

The band council meets in the council chambers in the band office. The band council votes on issues to make decisions. The band council government is accountable to the Department of Indigenous and Northern Affairs Canada, a ministry under the Canadian federal government. Sometimes, the band council is required to have the Department of Indigenous and Northern Affairs approve some of their decisions.

Band councils are responsible for governing the reserve and managing education, housing, water and sewer, maintenance, health care, social services and reserve land use. Band members that do not live in Witset have some access to services provided by the band council. These services can include educational support and social services.

## Aboriginal Title

Summarized from [https://indigenousfoundations.arts.ubc.ca/aboriginal\\_title/](https://indigenousfoundations.arts.ubc.ca/aboriginal_title/) and “Aboriginal Rights, Title, and the Duty to Consult” by Indigenous Corporate Training

- The inherent Aboriginal right to land or a territory.
- The Canadian legal system recognizes Aboriginal title which is unique and distinct from the rights of other Canadians.
- Aboriginal title predates colonization. It is the “result of Aboriginal peoples’ own occupation of and relationship with their home territories as well as their ongoing social structures and political and legal systems”.
- Court decisions have contributed the definition of title
- The Royal Proclamation of 1763 recognized Aboriginal title during European settlement. King George III declared that Aboriginal title can only be extinguished by the Crown and Aboriginal land can only be sold or ceded to the Crown, and not directly to settlers.

*There remains a significant difference between what Indigenous Peoples see as being our ‘Original Title’ to the land and its resources, and the Canadian legal notion of ‘Aboriginal Title’.*

Union of BC Indian Chiefs

## Aboriginal Title in BC

- Treaties were not negotiated between the Crown and Aboriginal People throughout most of British Columbia.
  - Some Aboriginal peoples argue that they legally have jurisdiction of their territories because Aboriginal title was never extinguished.
- After the law preventing Indigenous Peoples from hiring lawyers to pursue land claims was repealed in the 1950s, Indigenous leaders began working toward solving land issues.
- Court decisions continue to define Aboriginal title.

### **Calder Decision 1973**

The Supreme Court of Canada ruled that Aboriginal title had existed during contact with Europeans. The court was divided on whether or not Aboriginal title continued to exist. This landmark case set the stage for addressing Aboriginal title.

### **Guerin Decision 1984**

The Supreme Court of Canada ruled that the Crown / federal government has a fiduciary responsibility to protect the interests of Aboriginal Peoples and their lands.

## Delgamuukw & Gisday Wa

Summarized from *Niwhts'ide'nī Hibi'it'ën The Ways of Our Ancestors: Witsuwit'en History & Culture Throughout the Millennia*. 2<sup>nd</sup> Ed. pp. 337 – 346, and other sources.

- 1960s: Witsuwit'en and Gitksan leaders decide to work together to solve land issues.
- 1977: The Gitksan-Wet'suwet'en Tribal Council send their official declaration of sovereignty to the government.
- 1984: Gitksan and Witsuwit'en Hereditary Chiefs make their formal statement of claim against the Province of British Columbia to recognize their ownership of their traditional territories.
- 1987: Trial by judge begins in Smithers. The Gitksan and Witsuwit'en submit a substantial amount of oral and written evidence of their use and occupation of their traditional territories.
- The financial burden for the Gitksan and Witsuwit'en is challenging.
- 1991: Chief Justice McEachern releases his Reasons for Judgement.
  - He dismissed the Royal Proclamation, claiming the Crown did not know Witsuwit'en and Gitksan lands existed; rights and title was lost when the colony of BC became part of Canada in 1871.

- McEachern described the life of First Nations before colonization as “nasty, brutish, and short” because they had “no written language, no horses or wheeled vehicles...”
- Other arguments:
  - Indigenous people did not use the land as Euro-Canadians did so they had no claim to it.
  - Witsuwit’en lost their culture and identity because they live, eat, and dress like Euro-Canadians
  - Witsuwit’en were not civilized because they had wars with other nations, slaves and starvation throughout history.
  - Witsuwit’en oral history is unreliable and mythical
- 1993: The Gitksan-Wet’suwet’en Tribal Council appeal and much of the lower court’s decision was reversed (the Gitksan and Witsuwit’en have unextinguished non-exclusive rights). But the court also stated that they did not own or have authority over their territories.
- 1997: The case is brought to the Supreme Court of Canada.
  - Landmark ruling: Aboriginal rights and title exist, but must be test by the following criteria:
    - The land must have been occupied before European contact
    - There must be a continuity between pre-sovereignty and modern times
    - At the time of sovereignty, the occupancy must have been exclusive
  - Oral histories are acknowledged and used for evidence.
  - The court does not reach a decision regarding the Gitksan and Witsuwit’en title to the land due to technicalities in the case. The court recommended that the Gitksan and Witsuwit’en bring the case to court for a new trial or negotiate an agreement with the government. The Witsuwit’en continue working to affirm their rights and title to their land today.
  - The case clarifies the consultation duties of the Crown and how the Crown might infringe on Aboriginal rights.

#### **Haida & Taku River Tlingit Decisions 2004**

The Supreme Court of Canada rules that the Crown has the responsibility to consult and accommodate First Nations Peoples in a meaningful and timely manner. Consultation must occur even if Aboriginal title has yet to be proven in court.

#### **Tsilhqot’in 2014**

The Supreme Court of Canada ruled in favour of the Tsilhqot’in Nation, granting Aboriginal title to 1700km<sup>2</sup> of land. The Tsilhqot’in have exclusive rights to use the land and received benefits and profits derived from it.

## Court Cases Influence & Impacts

The Delgamuukw case is an important one in Canadian law because it provides information about the definition and content of Aboriginal title. The ruling also clarified the government's duty to consult with Indigenous peoples, and affirmed the legal validity of oral history. After the case, other First Nations, most notably the Tsilhqot'in people in 2014, used the Delgamuukw decision in their own land claims cases.

Despite the importance of the case, treaty negotiations between the two nations, the province and the federal government continue. Various companies operate in their traditional territories without permission, and there is division within the community over participation in large energy projects, such as the LNG pipeline that is planned to run through traditional lands. In December 2018, Wet'suwet'en people prevented some Coastal GasLink representatives (whose pipeline is supposed to transport natural gas to the scheduled LNG facility) from passing through Indigenous territory. The RCMP arrested 14 people associated with this incident on January 7, 2019. Three days later, Wet'suwet'en chiefs and the RCMP reached a deal to allow road access for pipeline workers. Therefore, while the Delgamuukw case raised and clarified issues relating to Aboriginal title, it did not outright resolve them.

From: <https://www.thecanadianencyclopedia.ca/en/article/delgamuukw-case>

## Recommended Reading

### **21 Things You May Not Know About the Indian Act.**

Book by Bob Joseph (2018). Indigenous Relations Press.

Website / blog: <https://www.ictinc.ca/blog/21-things-you-may-not-have-known-about-the-indian-act->

### **Aboriginal Rights, Title, and The Duty to Consult: Summaries of Supreme Court of Canada rulings that have formed Aboriginal rights, title, and the duty to consult.**

By Indigenous Corporate Training Inc.

<https://www.ictinc.ca/aboriginal-rights-title-and-duty-to-consult>

### **Degamaukw Case.**

by Gerald A. Beaudoin and Michelle Filice. The Canadian Encyclopedia.

<https://www.thecanadianencyclopedia.ca/en/article/delgamaukw-case>

### **Government Policy.**

UBC First Nations Studies.

[https://indigenousfoundations.arts.ubc.ca/government\\_policy/](https://indigenousfoundations.arts.ubc.ca/government_policy/)

### **Indigenous Writes: A Guide to First Nations, Metis, and Inuit Issues in Canada**

by Chelsea Vowel.

Highwater Press. Winnipeg: Canada.

### ***Niwhts'ide'nī Hibi'it'ēn The Ways of Our Ancestors: Witsuwit'en History & Culture Throughout the***

***Millennia.*** 2<sup>nd</sup> Edition. By Melanie H. Morin . (2016). SD54 & Witsuwit'en Language & Culture Authority.

Smithers: Canada

### **Land Rights.**

UBC First Nations Studies. [https://indigenousfoundations.arts.ubc.ca/land\\_rights/](https://indigenousfoundations.arts.ubc.ca/land_rights/)

### **UN Declaration on the Rights of Indigenous Peoples.**

UBC First Nations Studies.

[https://indigenousfoundations.arts.ubc.ca/un\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples/](https://indigenousfoundations.arts.ubc.ca/un_declaration_on_the_rights_of_indigenous_peoples/)

## Media

*This pipeline is challenging Indigenous law and Western law. Who really owns the land?* Globe and Mail.

January 13, 2019. Retrieved on January 22, 2019 at <https://www.theglobeandmail.com/canada/british-columbia/article-a-contested-pipeline-tests-the-landscape-of-indigenous-law-who/>

<https://www.theglobeandmail.com/canada/british-columbia/article-a-contested-pipeline-tests-the-landscape-of-indigenous-law-who/>

*Peter Grant breaks down events on Wet'suwet'en territory.* APTN. Retrieved on January 22, 2019 at

<https://www.youtube.com/watch?v=QY9tRJM5wE>

## Resources Used in this Document

Aboriginal Affairs and Northern Development. (2017). *First Nations Profiles Interactive Map*. Retrieved

from <http://fnpim-cippn.aandc-aadnc.gc.ca/index-eng.html>

Beaudoin, G.A., & Filice, M. (2019). *Delgamaukw Case*. Retrieved January 2019 from

<https://www.thecanadianencyclopedia.ca/en/article/delgamaukw-case>

- Chinook Multimedia. (2018). *1869 – Gradual Enfranchisement Act*. Retrieved January 2019 from <https://canadianhistory.ca/natives/timeline/1860s/1869-gradual-enfranchisement-act>
- Crey, K. (2009). *Enfranchisement*. Retrieved January 2019 from <https://indigenousfoundations.arts.ubc.ca/enfranchisement/>
- Hanson, E. (2009). *Aboriginal Title*. Retrieved January 2019 from [https://indigenousfoundations.arts.ubc.ca/aboriginal\\_title/](https://indigenousfoundations.arts.ubc.ca/aboriginal_title/)
- Henderson, W.B. (2018). *Indian Act*. Retrieved January 2019 from <https://www.thecanadianencyclopedia.ca/en/article/indian-act>
- Indigenous Corporate Training Inc. (2018). *Aboriginal rights, title, and the duty to consult*. Retrieved January 2019 from <https://www.ictinc.ca/aboriginal-rights-title-and-duty-to-consult>
- Indigenous Corporate Training Inc. (2012). *First Nations chiefs traditional or elected roles and responsibilities*. Retrieved January 2019 from <https://www.ictinc.ca/blog/first-nation-chiefs-traditional-or-elected-roles-and-responsibilities>
- Indigenous Corporate Training Inc. (2015). *Indian Act and elected chief and council system*. Retrieved January 2019 from <https://www.ictinc.ca/blog/indian-act-and-elected-chief-and-band-council-system>
- Lane, R.B. & Parrott, Z. (2018) *Tsilhqot'in (Chilcotin)*. Retrieved January 2019 from <https://www.thecanadianencyclopedia.ca/en/article/chilcotin-tsilhqotin>
- Morin, M. H. (2016). *Niwhts'ide'ni Hibi'it'ën The Ways of Our Ancestors: Witsuwit'en History & Culture Throughout the Millennia*. (2<sup>nd</sup> Ed.) SD54 & Witsuwit'en Language & Culture Authority. Smithers: Canada
- Robertson, A. (2016). *Gradual Civilization Act*. Retrieved January 2019 from <https://www.thecanadianencyclopedia.ca/en/article/gradual-civilization-act>
- Vowel, C. (2016). *Indigenous writes: a guide to First Nations, Metis, and Inuit issues in Canada*. Highwater Press. Winnipeg: Canada. (p. 31).