

The Gitksan Traditional Concept of Land Ownership

JOHN J. COVE
Carleton University, Ottawa, Ontario

RÉSUMÉ

Cet article porte sur le système traditionnel d'occupation foncière chez les Indiens Gitksan. Plutôt que de concentrer sur certains droits précis où sur les principes d'allocation du sol, nous examinerons les rapports qui prévalent entre culture, nature, et le surnaturel. Une telle perspective cosmologique passe par plusieurs formes d'expression symbolique (mythique, artistique, rituelle) qui permettent aux Gitksan de définir leur rapport à la terre.

Anthropological research on the Northwest Coast has taken two distinct directions in the past decade. The first is to applied questions, due largely to the importance of Native land claims. The other is in response to changes in the discipline, particularly to the increased interest in symbolic systems. These seemingly disparate orientations do, however, overlap with respect to one problem area; a factor which may have important implications for both types of research.

The fact that most Northwest Coast societies did not sign treaties has raised questions concerning extinguishment of their aboriginal titles to land (Canada 1981: 1-12). The possibility of using litigation and negotiation to settle such claims, and to prevent further incursions in the form of development projects, has encouraged Native organizations to sponsor research. One of the central problems examined is land tenure, focusing generally on land use and occupancy.

In contrast, investigation of Northwest Coast symbolism has been academic in nature. Oddly, it is in the area of cosmology

where one finds an intersection with applied research. The work of Goldman (1975: 42-44) and Walens (1981: 70-76), for example, deals with Kwakiutl land tenure indirectly; as a manifestation of relations to spirits and animals. Although not fully developed as a field of symbolic research, explorations of this kind could provide an important adjunct to land use and occupancy studies.¹

This paper will attempt a systematic description of the traditional Gitksan conception of land relations. The Gitksan inhabit the upper Skeena Valley of British Columbia, and are considered as a cultural sub-division of the Tsimshian. The purpose of the discussion is to determine: (1) their view of land ownership, (2) the principles from which it derives, and (3) the relevancy of this view for contemporary land claims.

Given the lack of detailed ethnographic information on the subject, the task will be approached as a modelling activity. The intent is to bring together and interpret a range of data in order to approximate a Native model.² The following will present the elements of that model and the relationships among them. The conclusions will briefly consider its implications for litigation.

I. TERRITORIES

Gitksan land holdings are generally known as territories. To understand how they were viewed traditionally, it will be necessary to begin from a vantage point outside of the culture. Given the importance of salmon for subsistence and trade, along with their characteristics of high densities and spatial-temporal predictability, it can be argued that they were the basis of territoriality (Dyson-Hudson and Smith 1978).

Permanent fishing sites, and frequently fixed technologies such as weirs and traps, were adaptations to this resource; ones that permitted permanent settlement patterns. Fishing sites were distributed along the migratory paths of salmon, with junctions of rivers

¹ The Gove case from Australia supports this conclusion. In part, the judge's decision was based on the religious nature of an aboriginal concept of ownership (Hodgson 1971).

² Given cultural similarities with Nishga and Coast Tsimshian, data from these sources is used in the analysis. My special thanks to Scott Clark for his criticisms from the field, and to Jacques Chevalier for his contributions.

and spawning streams being key locations. A spawning stream can be seen as the territorial locus. Not only did it provide control and access to a portion of salmon runs, it has natural features for delimiting boundaries – the river at its mouth, a valley, and a mountain source. As McNeary suggests (1876: 113-114) it cross-cuts three resource zones: riverine, mid-slope, and alpine. A territory so defined facilitated a year-round cycle of activities which included fishing, trapping, hunting, berry picking, logging, and mining.³

Using a number of sources (Barbeau and Beynon 1915-1956; Cove 1979; Halpin 1973), it is estimated that the average Gitksan territory was in the order of two hundred square miles. As Ridington's analysis indicates (1969) this is well within the limits of manageable size for a permanently settled group.

II. HOUSES

In considering territories as the property of some social unit, there are two sources of ambiguity. The first is conceptual and deals with the imposition common-law definitions of property. As Cromcombe states (1974: 8-9), ownership refers to rights in property, not property itself. These rights are probably never exclusive to any one social unit, but rather are distributed among a number of parties. The critical question is to determine if something analogous to a proprietary right exists, who has that right, and what it implies. Following the judgment in the Gove case (Hodgson, 1971: 12), a proprietary right minimally means, "the right to use or enjoy, the right to exclude others, and the right to alienate". For purposes of this paper, that bundle of rights will be referred to as title.

The second area of ambiguity is ethnographic in that a number of social units have been discussed in the literature as having title to territories. Adams (1973: 21-37) provides the most comprehensive presentation of those units in his reconstruction of a typical pre-contact Gitksan village. He describes it as consisting of two major resident groups, called Sides, each made up of members from one of the four totemic divisions or clans, (*pdek*) – Wolf, Eagle, Frog, and

³ This is not to argue that all territories were single holdings around spawning streams, or that every territory had the same mix of resources and activities.

Fireweed. These are further broken down into local sub-clans (*wilnad'ahl*) which share common myths about place of origin.⁴ They, in turn, are made up of corporate units known as Houses (*wilp*). The ethnographic record tends to support that Houses were the principle territorial unit. However, there is also mention of *wilnad'ahl* (Adams 1973: 23) and Sides (Duff 1959: 37) as having titles.

Three possibilities present themselves. The first is there was variation among the Gitksan villages as to which unit had title. The second is that the ethnographic record is wrong in certain places. The third is that all three units did have rights of different kinds. Title may have been vested in Houses, with non-House members of the same more general collectives having more specific rights of access and use. Alternately, one of the larger units may have had title, with member sub-units having the specific rights. Finally, different types of title may have been involved at different levels similar to the distinction between sovereignty and fee simple. For present purposes, it will be assumed that only Houses had proprietary rights.

Wilp has two meanings which will be important later. As previously mentioned, it refers to a corporate unit; whose membership was defined by the matrilineal rule of descent. It was this meaning which designated the entity having title to territories. *Wilp* also denotes the traditional dwelling in which certain House members resided along with non-House members. Typically, the household consisted of adult male members of the House and their wives and offspring, who were from different Houses due to rules of exogamous marriage and avunculocal residence.

Non-House members of the household were generally granted restricted rights of access and use to House territory. These rights would be terminated upon divorce or death of the spouse or father, although they might also be extended. One type of restriction that was imposed on non-House members was that resources taken from House territories could not be used for activities such as feasting by their Houses (Garfield 1951: 17).

⁴ The term *wilnad'ahl* appears to refer to a number of different kinds of collective; localized sub-clan being one. Similarly, Sides is an analytic concept with no counterpart in Gitksan terminology.

III. ANCESTORS AND SUPERNATURAL POWERS

A House was deemed to have title to a territory because it had merged its essence with a piece of land (Cove 1979). That essence was its stock of supernatural powers acquired by ancestors of the House from spirits (*naxnox*) who had taken on physical forms to live in the same domain as humans.

These supernatural beings and their powers, also known as *naxnox*, were associated with specific locations which participated in that being-power (*spanaxnox*). A human entering that space and meeting such a being in its physical form could acquire powers from it. They might be presented, as a gift in return for services, or out of pity. They could also be taken by force or deception, and oral tradition indicates that the encounter itself might be sufficient for acquisition of powers (Barbeau and Beynon 1915-1956). The recipient of powers was thought to be transformed by them, becoming a "real person" (*semooget*). Real here implies that the person has transcended the ordinary human condition and existed in a cosmic sense, able to act with other real and supernatural beings. In a sense, those powers did not belong to the recipient; rather than individual embodied them, providing an alternate form of physical existence in the world.

In becoming more than human, one was not divorced from human origins and involvements. One's House was seen as a major source of physical and spiritual being, as was one's father's people (*wilksiwtxw*). The Gitksan believed in reincarnation. It was thought that a person took on the soul of a matrilineal grandparent (Adams 1973: 30), and hence that one's continued existence was insured by the House. With respect to acquired powers, the recipient would embody them in different incarnations. Since, in theory, there was a generational skip in which the soul of the deceased lived in the realm of the dead; a designated House member would be required to hold those powers and give them existence during that period.

Acquired powers therefore became part of a House and were given life by it. Since they have a physical association with a particular locale, *spanaxnox*, that place also became part of the House – its territory. However, just as supernatural beings could move and invest their powers in other locations, so might a House. It too

could put its powers into new areas, making them a manifestation of its being (Duff 1959: 23-24, 27). The theme of immobility with respect to Houses is common (Adams 1973: 6), which tends to suggest that territories were unchanging. It can be argued, however, that this theme was partially symbolic; referring to human permanency in contrast to resources like salmon than were migratory. Oral tradition mentions migration as an element of every House's history (Barbeau and Beynon 1915-1956). Over long periods of time, a House might have to abandon its territories, claim new ones, or be without them at certain points.

Resources on a House territory were not seen as "things" merely there for its members use. Rather, a House had a special and exclusive relationship not only to its lands but to everything in or on them. A territory was a House's sacred space which it shared with other beings fundamentally no different in kind from humans; all having similar underlying form, consciousness, and varying degrees of power. Relations to them were not seen as unilateral and exploitative, but rather reciprocal and moral.

To illustrate, salmon will be used as an example (Cove 1979). They too belong to specific Houses which recognized human ones. Salmon Houses sent their members to their human counterpart's territories, and thereby provide them with food. In return salmon received new bodies from human House territories, which would then be taken on by the souls of other salmon for a generation. In one party violated that relationship, the other could withdraw from it. Salmon could decide to go to another human House territory, or use their powers against a House that had acted inappropriately.

The acquisition of supernatural powers, therefore, was not merely a means of getting territory. Its possession meant recognition by other beings, and gave the capacity to interact with them for mutual benefit. Without powers, a House could not exist nor could it participate in the maintenance of a universal system of relations. Since each House's powers were unique, its presence was vital for both the human and cosmic order.

IV. CRESTS

The term crest covers a number of Gitksan concepts. The first is *pdek* which refers to the four general totemic categories previously

mentioned. The second is *ayuuks* which means specific House crests. Crests of this kind generally stand for the powers acquired from a supernatural being, representing the physical form taken by it as encountered the ancestor-recipient.

Each crest was deemed to be the unique and exclusive property of a specific House. The main exception was if a House fissioned into two separate units. Both Houses retained those crests which were common to their history, and added others through later supernatural encounters. A House could also grant another the privilege of displaying a crest in a significant service or as compensation (Barbeau 1929: 44). In such instances, the crest privilege generally did not carry with it power or territorial associations.

The linkage between a crest and House was expressed in different ways. Every crest was named, and the name of the principle House crest was also the name of the House dwelling. Crests had other concrete manifestations as well, the most common being on totem poles and dancing blankets. Beynon (1915-1956) calls these *dzepk*, which means both to own and to make. These expressions not only assert a property relation, but allude to the necessity for a being-power to have physical form to exist in the human world which a House can provide.

On dancing blankets, worn only on major ceremonial occasions, crests publically stated a House's stock of powers and the fact that they were given life by its members. *Ayuuk* has a second meaning, to put on, again referring to the *naxnox* assuming a particular external appearance. Humans similarly put on that outer form, thereby equating themselves with the supernatural donors of power. Depicted on totem poles, there is another complete statement of acquired powers and their origins. This representation provided a connection between a House and its territory. Placing a totem pole in the ground was, in part, a means of putting a House's powers into it, acting as a "deed" to a territory (Duff 1959: 12). A House without territory would not erect totem poles, since the component of its being did not exist.

The various meanings of the term crest symbolized a set of relationships. The primary one was among a House, supernatural beings-powers, and territory. It also expressed membership in larger collectives that included other Houses, both human and non-human. Affinities were felt with species whose forms had been assumed

by supernatural beings from whom powers had been received, since House members stood in the same relationship to those spirits. Houses sharing the same sources of power, as manifested by assumed species-forms, had a common identity. It could be argued that the social organization of the Gitksan, in terms of units and relations, were ultimately based on their concept of supernatural powers.

V. NAMES

The Gitksan had a number of different types of personal names, some of which were associated with acquired powers and territories. The most common personal names are what Sapir (1915: 26) calls cross-phratric in that they state the crest (*pdek*) of one's father. As previously mentioned, father's people were important in a number of ways. Not only did they contribute to an individual's physical and spiritual being, and provide access to territories, they supported one in acquiring various kinds of powers throughout one's lifetime. In addition, they were responsible for carving totem poles for the deceased's House (Barbeau 1929: 11); thereby providing that physical form for a House's powers and the capacity to transfer those powers to the land. This class of name therefore denoted another set of affinities between Houses through which powers and rights were expressed.

Another type of personal name is *naxnox*, which as the term suggests refers to powers. Although distinct from crest-powers, there were commonalities. In the few cases mentioned in oral tradition where persons from different Houses met the same supernatural being, a problem occurred. Both could not claim the same relationship or powers. One resolution was to assign a crest to one party and a *naxnox* name to the other (Barbeau and Beynon, 1915-1956). In these cases, the same material expression might be given to those two relations, though only one would be deemed as *dzepek* and have territorial associations.

A third class is generally known as chiefly names.⁵ Since chieftainship is the political extension of "real" status, it may be

⁵ *Naxnox* names were sometimes also real-names.

better to call them real-names. Whereas crests stand for the form taken by a supernatural being encountered, real-names denote the ancestor who acquired powers through it. These names frequently were given to acknowledge that encounter and the subsequent transformation to real status. That original name-crest linkage was maintained by crest perogatives being assigned to those names (Halpin 1973: 107).

Real-names, like crests, were the property of Houses. They had their own existence and power, and were given life by their encumbents. At the death of an encumbent, a worthy individual in the House would be selected to take on that name. Although a sister's son or younger brother were preferred successors; personal worthiness was an over-riding consideration. Adoption from outside a House did occur, though to hold the name for a generation. In taking on such a name, the person was transformed into a real-person and could use the powers of the name and associated crest.

Each House had one name which had the greatest powers. That name not only designated the person with the highest authority in the House, its high chief, but also was the name given to the House itself. Like members of a House, the components of territories such as fishing sites, berrying picking and hunting grounds were named. Typically, the name given to the House and its principle chief was also used to denote its primary hunting ground. To a lesser extent, therefore, real-names expressed the merging of a House and its territory.

VI. MYTHS AND SONGS

Crests and real-names can be thought of as symbolic assertions of powers and titles to territories. The actual origins of them, where and how they were received, were preserved and legitimized in oral tradition. Each House had its own myths or histories (*adaawk*) which recorded those events. They too were seen as property, and although known by non-House members, could only be narrated by those of the House. Frequently, songs were an integral part of such myths, completing them and often providing evidence for specific House claims (Duff 1959: 17, 26).

As records of encounters by which powers were acquired, myths and songs also legitimized rights to names and crests. A

House's title to territory was similarly presented, either as a direct consequence of receiving powers or of putting those powers into the land. The incidents stated in myths could also act as precedents for laws governing the relations among beings of different kinds. What we would consider as resource management practices were concrete expressions of rules learned through these encounters. Finally, myths were used to record conflict resolutions over competing claims to crests, names, and territories. Given that myths were the property of individual Houses, and lack sequential integration as a corpus, that function could be problematic over time; particularly given House migrations.

VII. FEASTS

Properly speaking, title is not a proprietary right, but evidence that such a right exists. In the Gitksan case, it can be argued that title was vested in House myths, songs, crests, and real-names. The institution in which evidence of this kind was formally presented was the potlatch, or feast.

A House wishing to make a claim did so by acting as a host, either alone or with other Houses from its village. The guests consisted of members from other Houses falling into two broad categories. The first were those most effected by the claim due to social or physical proximity; and the other were neutral witnesses (Adams 1973: 51-56). In essence, their recognition of a House's claim represented a total one; since they represented universal collectivities which included non-human members.

The invitation itself had significance. It showed that the hosts were a corporate entity with resources and a dwelling at their disposal. Both presenting and accepting an invitation indicated membership in a moral community in which those claims had importance.

Title to territory tended to be a secondary claim, an aspect of a more general one to powers. This could be either for newly acquired ones, or to re-affirm existing powers. The feast provided a public forum for validation of those powers, their origins, and associated rights such as title to lands.

The most common feasts relevant to such statements were due to the death of a real-person. Through its myths, songs, crests

and names a House defined its powers and their sources. In terms of their being given life for another generation, a successor was selected and presented to the community. He/she was shown to be a member of the House, chosen by it, worthy of the name, and hence the proper person to embody it.⁶

The giving of gifts to guests had multiple meaning. It was both an endorsement of the successor, and a demonstration of his/her worthiness as expressed by generosity. It represented the importance of those powers not only for the House, but for everyone; who through those gifts were fed and made wealthy. It further recognized the powers of other Houses and their relative standings through differential payments to guests. Finally, compensations were made for services rendered to the deceased and the House, both in life and in death.

The series of feasts surrounding the death of a real-person involved more than a transfer of names. One requirement was the raising of a totem pole, which was not only a memorial to the deceased, but stated in another way a House's powers and territory. In addition, the continuity of rights to that territory by outsiders was either terminated or extended. This applied particularly to the spouse and offspring of the deceased.

Other types of transfers could also be validated through feasts. If portions of a House territory were given over to another to fulfill an obligation or as compensation for injury (Garfield 1951: 14), at some future time it would be stated at a feast and publically recognized. A House which had migrated would use a feast to legitimize placing its powers into a new territory. The critical issue here would be the absence of claims to those lands by other Houses.⁷

A final issue in which feasts were important was conflict resolution. If two Houses claimed the same crest or territory, each could resort to a feast to present its case. If both did, then the decision as to which claim was valid would be made by those

⁶ An additional type of feast would be used to remove shame attached to a real-name (Cove 1981). Although shame to a name would effect the incumbent's authority, and the overall status of the House, it was not included in the discussion since it bears no direct relevance to land titles.

⁷ If a House abandoned its territories, another could claim them.

Houses invited as guests. Their decision would be based on the evidence provided, the worthiness of the claimants, and more general knowledge of the situation. Similarly, non-acceptance of an invitation would be a public statement of non-recognition of a claim. Given that conflicts of these kinds ultimately involved powers, they would be deemed as disruptive of the cosmic order; and considerable public pressure would be used to bring about a peaceful settlement. In general, feasts assisted in asserting and maintaining that order; part of which consisted of territorial relations.

VIII. SUMMARY AND IMPLICATIONS

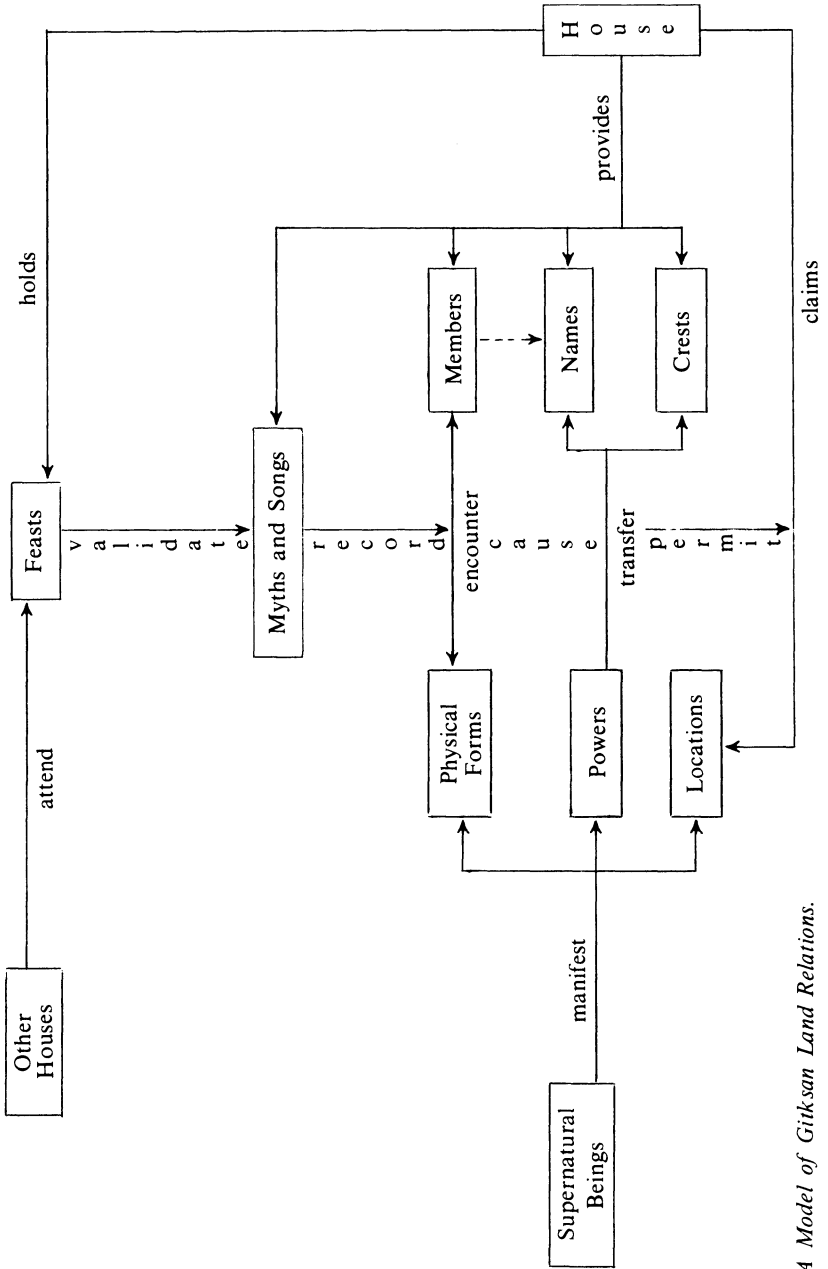
Traditional Gitksan relations to their lands has been presented as part of a more comprehensive system. Their concept of proprietary rights can be seen as an extension of a cosmology which defined the acquisition of supernatural powers as central to human, if not cosmic, existence. Through a range of symbolic modes, ownership of territories was expressed as an element of that totality (see Figure 1).

It can be argued that a large portion of that general system still exists for the Gitksan. Although the traditional conceptualization has been eroded by acculturation; they still retain many of the more concrete features. Myths, names, crests, songs, feasts and Houses are integral components of contemporary culture; as are traditional patterns of resource exploitation on House territories. Gitksan involvement in the land claims movement can be seen as an attempt to re-establish in a more complete way their relations to those territories.

Litigation is one vehicle for achieving this objective. If it were used to establish aboriginal title, their claim would have considerable ethnographic support. The data indicates that their traditional concept of proprietary rights is consistent with common-law. Confirmation of specific boundaries and owners could be provided through mythology, songs, names, and crests.

Ethnographically, much more can be done. Further research is required on the wider range of rights relevant to land relations. As well, the body of traditional law governing those relations needs explication. Finally, the actual judicial processes of the feast with respect to violations of these laws should be recorded.

FIGURE 1



A Model of Gitksan Land Relations.

Given cultural similarities on the Northwest Coast, the Gitksan example is probably not unique. Anthropologists involved in researching traditional land tenure systems of this kind should, however, be aware of the limitations of their work. Even if it supports aboriginal title, it is likely that questions of extinguishment by subsequent legislation will be ultimately more important (Sanders 1973: 16-18). If used as a basis for injunction, recognition of a right may not be sufficient to stop intrusions on Native lands; as shown in the Baker Lake decision (Denhez 1980: 57-68).

In conclusion, anthropologists interested claims research of the type discussed might consider the advantages of combining cosmology with land use and occupancy. Similarly, cosmologists may wish to apply their knowledge to more practical issues.

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