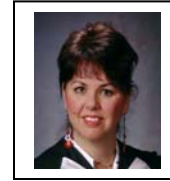


Summary of Three Comprehensive Land Claims and Self-Government Settlements

Lynn Gehl



Many are already aware that the Algonquins of Ontario are presently in the process of attempting to negotiate a land claims and self-government agreement with the provincial and federal governments. The land base, as illustrated in the accompanying map, consists of 34,398 square kilometres. Many are beginning to ask questions such as, What's in it for Algonquin people? In my need to know how well Algonquin people might fare, I was driven toward the literature. This being said, I have conducted a literature review of what various scholars have had to say regarding three land claims and self-government settlements. In an ethic of sharing, I offer a short summary here.

The James Bay and Northern Quebec Agreement, established in 1975, was the first to resolve a contemporary comprehensive land claims settlement while negotiating self-government along with it. The Cree and Inuit received 5,544 and 8,151 square kilometres of fee simple land respectively for the over 1,165,286 square kilometres surrendered, after which two other categories of land consisting of diminishing rights was achieved. In addition, the Cree and Inuit received \$225 million in compensation, no subsurface and no mineral rights along with municipal style self-government with limited jurisdiction such as education, social services and the right to define their own membership.

In 1991, 18,000 Inuit of Nunavut negotiated a new territory in their settlement agreement and achieved jurisdiction in certain areas that resemble provincial jurisdiction. In exchange for the 1,900,000 square kilometres of the land claimed they received control of 350,000 square kilometres as fee simple ownership as well as mineral rights to one tenth of this land base and the right to hunt, trap, fish and participate in land management of Crown lands. The Inuit of Nunavut also received over 1 billion dollars in financial compensation as well as gained some of the federal government's jurisdiction in their self-government agreement. The latter, though, is vulnerable in that these self-government rights are not constitutionally protected.

In 2000, the Nisga'a, with a membership of 5,500, settled for 1,900 square kilometres and \$190 million, or as Nisga'a citizen Rod Robinson states \$240 million in adjusted dollars, in financial compensation for their claim area of 24,000 square kilometres. Although not constitutionally protected, the Nisga'a also received one fourth of the Nass fishery as well as a share of the forest industry. In addition, it should be noted that First Nations or registered bands, such as the Nisga'a, have been known to relinquish their sales and income tax exemptions.

Further, through this settlement the Nisga'a achieved municipal style self-government with jurisdiction over the right to define their own membership as well as matters pertaining to culture and education. This jurisdiction did achieve constitutional protection, a giant step in comparison to other agreements. Despite this achievement, in all other areas of jurisdiction the Nisga'a fall under the authority of the federal and provincial governments.

After becoming more familiar with settlements, I have come to understand and know that the contemporary land claims and self-government process merely provides lump sum payments and very small quantities of fee simple land ownership in return for the extinguishment, or in the case of the Nisga'a, complete definition of their land rights. Further, with the exception of the Inuit of Nunavut, possibly because they are the majority population in their homeland, who achieved some jurisdiction similar to the provinces, within these settlements, Indigenous peoples merely achieved municipal style governments with minimal jurisdiction over areas such as education, social services, policing, culture and establishing membership.

For me nothing crystallizes the limitations of the land claims and self-government process more than a closer look at the Nisga'a settlement where, although it was determined due to processes of colonization Nisga'a losses over the years amounted to over \$4.3 billion, in their settlement the Nisga'a merely received \$240 million and one fourth of the Nass fishery, where the latter, it must be noted, did not receive constitutional protection. Further, despite the fact that the Nisga'a achieved limited self-government such as the right to define their own membership, the Nisga'a as a Nation appear to be non-viable in the long term due to potential financial issues. This is stated because in settlements where resources such as mineral, forestry and fishery rights are established, these rights are minimal at best and also remain vulnerable in that they are not constitutionally protected and thus can simply be unilaterally eliminated through acts of parliament. Another huge issue with the Nisga'a final agreement is that it merely entrenched the Indian Act's system of government.

To this end, at a glance, and based on my mathematical calculations, the James Bay and Northern Quebec Cree and Inuit merely retained ownership of 1.17% of their original land base whereas the Inuit of Nunavut retained 18.4% while the Nisga'a retained 7.9%. Further to this, and again based on my mathematical calculations, the James Bay and Northern Quebec Cree and Inuit received \$0.79 per acre, the Inuit of Nunavut received \$2.61, and the Nisga'a received \$44.00 per acre for the land that they surrendered. When compared to the amounts paid in the historical numbered Treaties 1 and 2 of \$3.00 per person per year, one has to ask, Is \$44.00 per acre any better? And further, upon closer analysis I have come to appreciate that contemporary settlements fall well below real estate market value.

Finally, through the literature and my analysis I have come to understand that unfortunately, Algonquin peoples will not achieve a fair deal through the contemporary land claims and self-government process as I had once hoped. The process remains, on the part of the provincial and federal governments, a practice that forces Indigenous peoples to sell their Earthly mother for a mere pittance in return for small parcels of land. Succinctly, the process is nothing more than a poor real estate deal, and a really really poor one at that, versus establishing a new relationship with the Crown through treaty making on a nation-to-nation basis.

Lynn Gehl is a Indigenous Studies Ph.D. student at Trent University where her thesis topic is the contemporary land claim and self-government process. Further, Aboriginal Legal Services of Toronto represent her in a Constitutional Challenge regarding the continued discrimination in the Indian Act.

A version of this short article will appear in Anishinabek News, March edition

