

Reclaiming Haida Gwaii: The Haida's Road to Co-Management

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This paper aims to explain how the Haida came to be stewards of Haida Gwaii after a century of oppression. When the British began to colonize Haida Gwaii, they removed the Haida people from all decision-making processes on their land base. They over-harvested the archipelago from the early 1900's until the early 2000's with very little oversight by any regulatory institution. This practice decimated the landscape that was once full of biodiversity, all while preventing the Haida people from practicing traditional activities on their land. The conflict became more intense in the 1980's when environmentalists began supporting the Haida in reclaiming their land, and peaked when blockades were formed that prevented the large forest companies from accessing timber. This conflict led to the Canadian Supreme Court deciding that the government had not accommodated First Nations interests to the extent they deserved, and stated that the Haida must be involved in all decisions made on their land. The decision led to a co-management council that now oversees forestry activity on the island and is made up of both Haida and government leaders.

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Key Words

Haida Gwaii, First Nations, Forestry, AAC, Supreme Court of Canada, EBM

Abbreviations

AAC: Allowable Annual Cut

EBM: Ecosystem Based Management

HGMC: Haida Gwaii Management Council

SLUA: Strategic Land Use Agreement

TFL: Tree Farm License

FRPA: Forest Range and Practices Act

Introduction

In 2004, logging in Haida Gwaii changed forever. After a long history of conflict between environmentalists, First Nations and industry, the Supreme Court of Canada decided that the government did not adequately accommodate First Nations interests in their attempt to transfer the rights of TFL 39 from Weyerhaeuser in the early 2000's. (Haida Nation v. British Columbia, 2004). These conflicts led to an unprecedented joint decision-making council formed by the Haida people and the Canadian government (Kunst'aa Guu – Kunst'aayah Reconciliation Protocol, 2009). The agreement was counted as a victory not only for the Haida but also for all First Nations' bands fighting to get their voices heard across British Columbia. After years of dispute, the Haida had finally succeeded in acquiring the right to make decisions on their land base, one of the last forest regions representative of the coastal temperate rainforest (Takeda, 2015). This paper gives a context of the history of logging on Haida Gwaii, examining the events that led to the conflict between the Haida and government. In addition, it describes the policy changes to land management that have occurred since the Haida have returned as stewards of Haida Gwaii. It concludes with an explanation of the role of the new licensees who are responsible for managing the area under the guidance of Haida and government.

Haida Gwaii

Haida Gwaii, previously known as the Queen Charlotte Islands, is a cluster of islands located off the west coast of British Columbia, south of Alaska. The words "Haida Gwaii" mean "Islands of the Haida people". (Takeda, 2015) The two most populated islands of the archipelago are Graham Island and Moresby Island, with another 150 smaller islands

surrounding them (Takeda, 2015). Haida Gwaii is rich in cultural history. For thousands of years the Haida lived off the ocean and land developing close cultural ties with nature, especially bears, salmon and many tree species, particularly cedar. (Our Islands, 2013)

The Haida's reign on the islands was undisturbed until the era of colonization when Haida Gwaii was visited by famous explorers such as the Juan Perez (Canadian Wildlife Service, 2002). Haida Gwaii didn't attract a lot of international interest until its sea otter population was recognized. In the early 1800's demand in China and other Asian regions for sea otter pelts was high, and brought hunters wealth (White, 2006). The pelts were used for clothing, specifically coats and vests (White, 2006). European merchants began trading with the Haida for their coveted sea otter pelts (White, 2006). Sea otter hunting became so intense that the population became extinct before the end of the century, souring relations between the Haida and merchants, resulting in the Haida becoming hostile, taking ships captive, and even sinking boats and killing their crew (Keller, 2014). The relationship between the Haida and the Europeans led to more problems, as disease brought over by European traders decimated the local Haida tribes, as well as many others in the province (Takeda, 2015). Smallpox reduced the Haida population from over 10 000 to 600 by the late 1800's (Lee, 2012). This left the Haida nation weak, and resulted in Britain claiming sovereignty over the islands without consulting the Haida people (Takeda, 2015).

History of logging

Logging on Haida Gwaii has been occurring for as long as the Haida have populated the archipelago. They have used trees for many traditional purposes, from creating longhouses, to building totem poles and large war canoes that could accompany up to 30 people (White,

2006). This process was slow, as they did not have any sort of mechanized system. Trees had to be felled using axes, then cut into smaller sections and pulled through the forest. It was therefore a much lower rate of harvest and more sustainable, mimicking natural small-scale disturbances. This resulted in the age class of the forest remaining natural throughout the Haida's reign on the islands (.

The arrival of Europeans in the late 1800's and early 1900's brought industrial forestry to the islands, and with it, better technology. Logging was still laborious, with Europeans having to hand fall trees, but steam driven machinery, "Steam Donkeys", were used to haul fallen trees out of the forest to the ocean where they were collected. As time went on, technology evolved to the point where logging became far more efficient, and in the late 70's and 80's more wood was being taken out of the coast of BC than ever (Gowgaia Institute, 2007).

Confrontation with Haida

Whilst the British began the colonization of the Haida islands, the local tribes resisted the imposed colonialism. Refusing to be conquered, the Haida fought back against British gold miners who were given land by the government in the Chilcotin and Fraser Canyon Wars in the late 1800's (Takeda, 2015). They also fought back peacefully by petitioning King Edward VII to improve substandard living conditions brought on by the Indian Act in the late 1800's (Takeda, 2015). The Indian Act was put in place by Canada's first Prime Minister, Sir John A Macdonald, who stated that, "The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change" (Hanson, 2009).

The act banned traditional Indian gatherings, prevented Indians from holding land and owning a business and forced their children to attend Christian schools away from their parents (Takeda, 2015).

The Haida pursued legal action against the government for years but the department of Indian Affairs would not grant First Nations their rights (Takeda, 2015). Tribes across British Columbia were becoming frustrated and formed the Allied Tribes of British Columbia in 1916, in an attempt to strengthen their case (Takeda, 2015). In 1927, after years of lobbying and protesting The Special Committee of the House of Commons agreed to oversee the case for recognition of Aboriginal title in Haida Gwaii (Takeda, 2015). This resulted in not only a rejection of the case but an amendment to the Indian Act that prohibited First Nations from hiring lawyers in order to prevent further dispute over land claims (Takeda, 2015).

Over the next 25 years, little could be done in the progression towards First Nations rights. It took WWII ending and a paradigm shift in attitudes towards First Nations in the early 1950's to lead to the repeal of the amendment that prevented First Nations from disputing land claims (Takeda, 2015). This coincided with the start of the environmental movement in North America, bringing renewed energy to the conflict on Haida Gwaii. During this period in time, the large forestry corporations such as Rayonier were logging at huge scales on the island, displacing local Haida people and their businesses such as fishing and boat building. (Takeda, 2015) The Haida were frustrated with their lack of decision-making power on their own land. Consequently, when logging began to intensify on Moresby Island and Burnaby Island, the Islands Protection Committee was formed. The committee was made up of Haida and non-Haida islanders, and was the first of its kind in the battle for the

Haida islands (Takeda, 2015).

The Islands Protection Committee lobbied against the government for more environmental protection, and the creation of a wilderness area. The government refused, stating they were still planning on logging Lyell Island (Takeda, 2015). Unfazed, the committee continued lobbying for increased protection and criticized licensees for their poor management strategies. This began to raise public awareness of environmental degradation in the region and in response the government created the Public Advisory Committee in 1977 to oversee logging operations on the islands (Takeda, 2015). The Public Advisory Committee concluded that Lyell Island was being over harvested by 30%, primarily by Rayonier (Takeda, 2015). The Ministry of Forests ignored these results and planned to renew Rayonier's tree farm license two years later. The Island Protections Committee filed a petition, encouraging the Ministry of Forestry to conduct a full public enquiry before renewing the license to TFL 24 (Takeda, 2015). The government rejected the petition as the renewal had not occurred yet but stated that petitioners should be consulted before the renewal occurred. The consultation was successful but the government didn't accept any of the changes that the Island Protection Committee proposed (Takeda, 2015).

Logging continued on Lyell Island and as a last ditch effort to save their land, the Island Protection Committee organized a blockade at Sedgwick Bay and Windy Bay on Lyell Island in 1985 (Takeda, 2015). Western Forest Products, who had recently bought the license from Rayonier, was granted an injunction from the government, which led to the arrests of many Haida elders participating in the blockade (Takeda, 2015). The arrests were broadcast across the country, and raised support for the Haida among the Canadian public

(Takeda, 2015). This pressured the government into creating The South Moresby National Park Reserve, located on the southern part of Moresby Island (Takeda, 2015). The park pleased the Haida but they still wanted their rights acknowledged by the government, which it continued to refuse. Negotiations went on for 5 years before the Gwaii Haanas Agreement was signed between the Council of the Haida Nation and the government in 1993 (Takeda, 2015). The Agreement stated that the newly named Gwaii Haanas National Park Reserve and Haida Heritage Site were to be co-managed with priority given to Aboriginal rights, allowing the Haida to hunt and fish in the park (Takeda, 2015).

In 1995 TFL 39 was replaced without consulting the Haida, even though the court encouraged the Crown to do so after the Haida initiated litigation regarding its replacement (Takeda, 2015). This happened again in 2000 after MacMillan Bloedel sold the rights to TFL 39 to Weyerhaeuser. The Haida took their argument to the BC Supreme Court claiming that they should have been consulted and accommodated. They went so far as to strengthen their case by providing evidence that asserted their title on the islands for the last 200 years, showing that they had to be consulted and accommodated according to law (Haida Nation v. British Columbia, 2004). The case would take 4 years to resolve.

A Time of Change: Bringing Power to the Haida

In 2004, The Supreme Court of Canada found that the government did not adequately accommodate First Nations interests in its attempt to transfer the rights of TFL 39 from

Weyerhaeuser in the early 2000's (Haida Nation v. British Columbia, 2004). This was a landmark case as it determined that First Nations must be consulted even when title has not been granted. The source of this decision arises from a necessary part of the, "honorable reconciliation process" demanded by section 35 of the Constitution Act, 1982. The Crown must act honorably, and so cannot simply use resources "as it chooses," or "run roughshod over Aboriginal interests." (Constitution Act 1982 as cited by Haida Nation v. British Columbia, 2004). The court goes on to further strengthen its argument by using the constitution to prove that because Europeans never conquered the Haida nation, the Crown has a duty to consult and accommodate First Nations interests. This also comes from section 35 of the constitution. Another important part of the Haida case was that the court determined that the level of accommodation by the government should be dependent on the strength of the claim and the potential impact it will have on First Nations interests (Haida Nation v. British Columbia, 2004). The case is clear, however, that Aboriginal people do not have a veto prior to final proof of Aboriginal Title or Rights. The court stated, "Accommodation involves balancing interests. The government is subject to a standard of reasonableness in this balancing exercise." (Haida Nation v. British Columbia, 2004). This means that if the government decides that the proposed project provides greater rewards for Canadians then it will go head with it even though it comes at the expense of First Nations interests.

The enormous pressure created by the blockades on Haida Gwaii and mounting support for the Haida among Canadians forced the Canadian government to take the Haida's needs seriously. The government determined that in the case of the Haida, due to the strength of their claim, and the potential impact of not accommodating them, that they should be

accommodated. In order to better accommodate the Haida's interests, the Haida Gwaii SLUA was created (SLUA, 2007). It was developed by the government and the Haida people to generate better communication in terms of creating management objectives and land use zones that were more appropriate for the complexities of managing forests that have so many different values and uses (SLUA, 2007).

The SLUA had two objectives. The first was to address the Haida's land-use planning process recommendations promoting a government-to-government relationship (SLUA, 2007). This was important for the Haida, as their previous conservation objectives had not been accommodated due to their lack of political power. The Canadian court system redistributed this power in the favor of the Haida, allowing them to play a much larger role in the decision-making process, as seen in the Canada court rulings on the matter (Haida Nation v. British Columbia, 2004). The second objective was to confirm strategic land-use zones and provide a framework for EBM. EBM is defined in the SLUA as "an adaptive, systematic approach to managing human activities, that seeks to ensure the co-existence of healthy, fully functioning ecosystems and human communities." (SLUA, 2007). While this definition does not provide clarity on the implementation of EBM, it defines a balance between ecosystems and human communities.

In Haida Gwaii, the community is closely tied to the environment, especially to species such as cedar. Implementing EBM provides a platform for better management of these resources. This is demonstrated in SLUA's management objectives, which have criteria that compensate for the lack of clarity defining EBM. The SLUA uses objectives, indicators and targets to establish clear standard on how to manage certain aspects of Haida Gwaii that the Haida people and the government deem important. An example of this can be seen with

the objective “to maintain the natural ecological function of high value fish habitat”. To achieve this objective the land manager must have a measure of 0% damage with the indicator being the “percent reduction in the natural amount of old riparian forest within 2.0 tree lengths of streams, lakes, wetlands and estuaries classified as high value fish habitat” (SLUA, 2007). By having defined objectives and targets the SLUA improves upon traditional methods by allowing the government and Haida to explicitly evaluate their management using the indicators provided in the framework of the agreement. This creates accountability on the part of those managing the forests.

Important management objectives include the preservation of monumental cedar as well as many cedar species such as western red cedar and yellow cedar (SLUA, 2007). Other objectives consist of terrestrial and aquatic habitat protection and the protection of biodiversity on the islands. (SLUA, 2007). These are important steps forward in accommodating the Haida’s management objectives.

In the past, management objectives have not been as stringent, as is clear in the comparison of fish habitat management. FRPA states: “An authorized person who carries out a primary forest activity must conduct the primary forest activity at a time and in a manner that is unlikely to harm fish or destroy, damage or harmfully alter fish habitat.” (FRPA, 2002) This is a stark comparison of the SLUA’s previous mention of fish habitat as the SLUA states that there must be protected areas instead of saying that fish must try be protected. This is just one example of a change from results-based management to practice-based management taking place on the island.

After the SLUA was created in 2007, the government continued towards reconciliation with

the Kunst'aa guu – Kunst'aayah Reconciliation Protocol. This translates into “the beginning”. It has many objectives, but its most important was the creation of the Haida Gwaii Management Council (HGMC). Its focus on joint decision-making is evident with the council consisting of two people from the Haida tribe and two government employees. The council is overseen by a chairperson who is approved by both parties. If the two parties cannot come to a consensus on a given decision, it is the chairperson's responsibility to make a decision (Ministry of Aboriginal Relations and Reconciliation, 2009). The main purpose of the HGMC is to oversee the implementation of the SLUA and its objectives. Other purposes include: determining the AAC for the Haida management area (not including federal reserves, municipalities and fee simple lands), approving management plans and developing policies and standards for identifying conservation and heritage sites (Kunst'aa Guu – Kunst'aayah Reconciliation Protocol, 2009). The decisions that the HGMC make on resource use will be passed along to a “solutions table”, with members of the government and the Haida nation (Kunst'aa Guu – Kunst'aayah Reconciliation Protocol, 2009). The solutions table is responsible for working with stakeholders to implement and support the HGMC's decisions in an operational environment (Ministry of Aboriginal Relations and Reconciliation, 2009). This joint decision-making process creates a more efficient environment to create policy and implement the SLUA.

New AAC

In 2012 the Haida Gwaii Management Council (HGMC) determined the Annual Allowable Cut (AAC) to be 929 000 cubic meters for all commercial harvesting in the Haida management area (Ministry of Forests, Lands and Natural Resource Operations, 2012). This was the first time that anyone other than the province's chief forester had made the

decision, and a lot of preparation went into making the final determination. A timber supply review was conducted prior to the determination, which encompassed the entire Haida Gwaii area. The Joint Haida-BC Technical Working Group (JTWG) then did a timber supply analysis. The working group was made up of members from the Council of Haida Nation as well as the BC Ministry of Forests, Lands and Natural Resources Operations (MFLNRO). In this analysis, a “base case” was established: “an initial harvest level of 895,266 cubic meters per year is possible and can be maintained for 80 years before rising to a long-term sustainable level of 923,558 cubic meters per year” (Timber Supply Review, 2012). The purpose of the review was to minimize timber shortages in the future and keep a steady supply of wood to feed mills. The recommendation was used to provide an idea of the amount that can be harvested to maximize long term sustainable yield, not as a recommendation of the AAC. These results, as well as others, were summarized in a public discussion paper that had a 45-day review period allowing members of the public to provide input on the decision and how it would affect them.

The AAC rational provides a lot of insight into the decision-making process behind the determination. Management on the island has changed greatly with the decision to allow the HGMC to oversee land management on the islands. Nowhere is this more evident than in the significant fall of 47.8% of the AAC. (Ministry of Forests, Lands and Natural Resource Operations, 2012). Much of this change has come from the Haida Gwaii Land Use Objectives Order, which defines how forestry is to be practiced on Haida Gwaii.

New Players

Another momentous change due to the Haida’s empowerment was the introduction of Taan

Forest, a Haida owned forestry company that is a subsidiary of the Haida Enterprise Corporation (Haico). Haico is a corporation that develops resources on Haida Gwaii with the intention of providing jobs for the Haida people. (Hamilton, 2012) The word “taan” translates to “bear” in Haida, and is significant as the Haida people have a close spiritual relationship with bears. The name is a metaphor for the goals of the company, which are, “to maximize the benefits from the forest resource on Haida Gwaii and for the Haida Nation. Specifically, manage for long term sustainability, increase the number of local logging and manufacturing jobs on Haida Gwaii, extract the best value possible from the areas harvested, and manage the business prudently and effectively”(Taan Forest, 2012). Taan manages TFL 60, formerly TFL 39, which was owned by Western Forest Products. It was purchased from Western Forest Products for \$10,000,000, using funds given to the Haida nation as a result of the Kunst’aa guu – Kunst’aayah Reconciliation Protocol (Hamilton, 2012). TFL 60 is 121 787 ha with a timber harvesting land base of 52,218 ha. It is mainly situated on Graham Island with minor sections located on Louise Island and Moresby Island. AAC for TFL 60 is 340 000 cubic meters, of which the contribution of red and yellow cedar should not exceed on average, about 133,000 cubic meters. The main communities associated and contained within the TFL are Skidegate, Port Clements, Sandspit, Masset and Queen Charlotte City.

The transfer of TFL 60 to Taan Forest Products stands to benefit the Haida people. In the past, companies who held the land, like Western Forest Products and Weyerhaeuser, were large companies, and therefore their work on Haida Gwaii was a small part of their business. They hired workers from all over British Columbia, resulting in workers being imported from other regions of the province. Raw logs, on the other hand, were being

exported from the islands, as many large companies were tied to mills in the Greater Vancouver area as well as southern Vancouver Island. In 2006, over 95% of timber harvested on the island was produced off-island (HGMC, 2013). The export of jobs created a major strain on relations between the Haida and the major licensees, as they were not only logging on their traditional land, but they were not providing ample opportunity for employment of the Haida people. The evidence can be seen in the 21% decline in working age adults between 1996 and 2011 (HGMC, 2013). Many left the island to find better employment opportunities, creating a positive feedback loop with fewer working families, and therefore fewer children. Social services and schooling were reduced, making it harder to attract people to stay there, resulting in more families leaving (Haida Gwaii Management Council, 2013).

Taan aims to end this trend through providing meaningful employment opportunities to the Haida people (Taan Forest, 2012). Unlike larger companies, it is not tied to any larger mills, and due to the fact that it controls almost half of the AAC on the island (Ministry of Forests, Lands and Natural Resource Operations, 2012), it is in a position to have a significant impact on the future of logging on Haida Gwaii.

Conclusion:

The road to co-management on Haida Gwaii has been long and filled with conflict. The Haida have had to deal with many setbacks, from the restrictions of the Indian Act, to the arrests of over 100 band members in the blockades on Lyell Island (Takeda, 2015).

Through the entire process, the Haida have shown that they will do whatever it takes to achieve not only what they feel they deserve, but also what they feel they are responsible to

do as stewards of the Haida islands for thousands of years. Though it has not come easy, they have been able to realize their goal of having their voice heard. With the introduction of HGMC, they have been able to reduce the AAC and make meaningful decisions on their land base; something their community has fought to do for over a century.

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