

Social welfare: aboriginal land claims in canada argumentative essays example

[Technology](#), [Development](#)



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When the Europeans established contact with the Aboriginals in Canada, they started to make treaties and agreements with the Aboriginal people since they saw an opportunity of expanding their territory. Once European settlement began, the original inhabitants of the land found that the civilization they had developed for themselves faced the threat of extinction. The foreigners had no respect for their culture and lifestyle, and their sole purpose was to modify the land to meet their .

Through their treaties, the Europeans had carefully ensured that the Aboriginal people would give up their title to any property in Canada in exchange for a few benefits and rights. The majority of the agreements comprised of reserving certain pieces of land which would be reserved solely for the Aboriginal people, which eventually came to called “ reserves”.

However, in recent times, the Aboriginals in Canada are trying to promote new agreements for land through the process of negotiations .

In modern times, there are over 2, 300 reserves in Canada, covering a combined area of more than 28, 000 square kilometers. The Aboriginal inhabitants of the country seek a quality of life which other Canadians have taken for granted. The Aboriginal population is currently undergoing a baby boom and there are several unresolved grievances rooted in the past that deal with different aspects. The primary among them are land claims . However, not all is doom and gloom for the Aboriginals. The government has made sure that the community receives proper social welfare but this does not reduce the importance of the fact that the Aboriginal people are more likely to be incarcerated, unemployed, live in poverty stricken conditions, face advanced risks to their health and commit suicide than the other residents of Canada. On the positive side, the Aboriginal people have received enormous support from the Government of Canada to transform the federal approach to issues connected to the indigenous people from an earlier focus on grievances and rights to an integrated approach to quality of life that encompasses economic development and community infrastructure and governance .

Land claims in particular have become a prominent area of focus in Canada for the indigenous people, especially after the Indian Act became an incontestable part of the Aboriginal scenario in Canada. This intrusive and controversial federal legislation piece had governed most aspects of the lives of Aboriginals throughout the years and was instrumental in determining the qualifications for being a “ status Indian”. The Indian Act had been the focal point of Aboriginal anger who considered it to be symbolic of the federal attempts to control the membership and the identity of the Aboriginals.

However, on the positive side the importance of the Act has worn off with age and that is the way it should be for such an outdated and irrelevant administrative device and the Government of Canada has been slowly making amends for it in the present.

Aboriginal Land Claims Methods

There are three main kinds of land claim processes for Aboriginals in Canada viz. comprehensive land claims, specific claims and other claims.

Comprehensive land claims have been developed according to the concept of continuing the Aboriginal title and rights which have been overlooked by treaty or any other legal means. Specific claims happen to be claims that arise from the alleged non-fulfillment of Indian treaties as well as lawful responsibilities or the incorrect administration of lands under formal agreements or even the Indian Act. The term other claims may be used to indicate claims which are unable to meet the strict acceptance criteria of the two programs mentioned above, but which still retain some amount of merit. There are several of these claims which have come to be accepted by Canada as necessitating resolution through a process of negotiation. Aside from the claims, the federal government of Canada is ready and willing to sit down with the people for negotiations regarding self-government agreements with the Aboriginal groups, often as part of a detailed land claim .

Still the process of land claims is not as easy as it is made out to be. Though the Government makes it sound that they have provided the Aboriginals with easy access to land claims, the indigenous people of Canada have to meet

numerous criteria before the submission of their comprehensive land claims is accepted . The first of these criteria is the Aboriginal group needs to be an organized society and they must occupy a particular territory over which they have affirmed the Aboriginal title since time immemorial. The Aboriginal group must demonstrate some continuing present use and even occupancy of the land for conventional purposes and the Aboriginal title and rights to resource use of the group should not have been dealt with by treaty . They need to take care that the title of Aboriginal has not been eliminated through other lawful means.

However, once the Aboriginal people jump through all the hoops associated with land claims, the Canadian Government promises to offer certainty to the use and ownership of resources and lands to the Aboriginal people. The Government will take responsibility of economic growth by providing certainty and detailed rules to the public and investors in general and they will promote and strengthen the partnerships between the First Nations and the government as well as relationships between the First Nations themselves. The land claims have been devised to encourage self reliance among the Aboriginals and the Government has managed to develop and new and more progressive connection with the Aboriginal people, based on mutual trust and respect .

The Government of Canada, however, is not entirely selfless and has its own agenda to settle the land claims of the Aboriginals. It enables the Government to avoid lawsuits which have the potential to cost the government a great deal of money. Moreover, it leads to the development of employment and investment not just in the Aboriginal communities but even

in the government. The government is able to strengthen its relationship with the Aboriginals so that there are no hard feelings among them. The Government can also use this opportunity to showcase themselves in a positive light and mend their relationships with various organizations who have in the past criticized the Canadian government's treatment of the indigenous people .

The Government of Canada needs to preserve the culture and heritage of the Aboriginal people if it hopes to win favors on the international front. Most of the actions of the Government in favor of the indigenous population have been self-serving till now but the motives of the Canadian Government must take a back seat if they want to focus on the greater good. Once the Government starts to take care of the land claim needs of the Aboriginals without any hidden motives or intentions, a marked difference will be viewed in the standards of living of the people of the land, automatically ensuring that they win favors not just with the people but on the global front as well. One of the most important examples of Aboriginal land claim settlement in Canada happens to be the James Bay Northern Quebec Agreement of 1976 which involved issues for the maintenance of lifestyle among major industrial development, especially the hydroelectric power sector, and the forestry activities. It is noted for being the first comprehensive Aboriginal land claim agreement which indicates an extended period of settlement history. The indigenous people of the land had to suffer many hardships and pressurize the Government of Canada in order to make their demands heard but in the end, they found success .

Resolution of Conflicts over Land Claims

In some cases, land claims made by different groups of Aboriginals and the government tend to overlap. The Aboriginal groups then favor the resolution of the dispute via negotiation communities composed of a combination of community elders and leaders. In case the two Aboriginal groups are incapable of reaching a common point of agreement, the government of Canada will provide the necessary assistance to them, usually through financial assistance for facilitation resources or neutral mediation of the issue. If the overlapping claimant groups favor intervention from the government, the Government of Canada is fully equipped to engage in overlapping discussions during the invitation of the concerned groups. If every attempt to resolve the overlapping situation ends in failure, non-derogation language can be added to settlement agreements mentioning the agreements are devoid of prejudice to the rights of groups with overlapping claims . In current times, the Aboriginal groups have been exploring additional ways by which they can solve the land disputes between themselves which are acceptance to the provincial or territorial or federal governments.

The problem of overlapping land claims is not unusual but in most cases, it is seen that the Aboriginal people choose to resolve the matter between them instead of seeking the help of the government. The lack of trust between the indigenous people and the Government of Canada is palpable in various situations. They try their best to keep government involvement to a minimum. Even if their methods to resolve overlapping land claims are not always effective, they try to come up with additional approaches that have

received approval from the government to solve the land problems instead of involving the Government itself. In fact, this has led to optional processes which offer Aboriginal groups with an alternative to going to court for the purpose of resolving their claims. However, it is in the best interest of all the parties concerned if a mutually-acceptable route is devised which allows them to resolve the claims without refraining from interacting with one another. Every group must be willing to sit down for proper negotiations since there would be no win-win situation otherwise for the Canadians and they would be deprived of their rights.

It is true that the Government should respect the individualism and autonomy of the Aboriginal people but that does not mean that they should be left to their own devices. Both sides will have to accommodate each other, the Government some more than the Aboriginals since they were victimized for an extended period of time. Now that the Indian Act has lost its relevancy in modern society, the Government of Canada should make active efforts to facilitate the development programs of the Aboriginals. During negotiations, it is important for the Government to not overstep their boundaries and respect the demands of the Aboriginals along with sensitive cultural issues.

Amendments were made to the Labrador Inuit Land Claims Agreement on the 28th of May, 2010. According to them, the Agreement Act now encompasses an Overlap Agreement which was reached in 2005 between the NunavikInuits of Quebec and the Labrador Inuits in Canada to resolve the overlapping land claims in the northern part of Labrador as well as the offshore areas next to northern Quebec and northern Labrador.

Impact of Aboriginal Land Claims in Canada

There is not sufficient data concerning socio-economic statuses for Aboriginal groups in Canada who have received a comprehensive land claim with the provincial and federal governments. However, the consequences mostly seem to be positive. The advantages of collective ownership as well as access to and management of land has led to numerous opportunities for the Aboriginal people. There is a rise in the number of economic opportunities available to the indigenous people along with resources revenue and capital. Moreover, the Aboriginal groups tend to benefit from the formation of governance structures . The combination of all these points has resulted in the formation and expansion of a great range of Aboriginal businesses. The Final Agreements in Canada now come with a certainty of natural and fiscal resources. This has enabled the Aboriginal groups to become key partners to a few major financial projects outside of the limits of Canada. As a result, each group of Aboriginals have decided to adopt a different approach for capital transfer that stems from the settling of an in-depth land claim . There are some groups of Aboriginals who have chosen to focus their investments in local ventures while others have made up their minds to invest the majority of their capital broadly in ventures located outside their regions.

The development in the socio-economic fortunes of the indigenous people of Canada are taking place only among those groups who are willing to take the chance to apply for land claims in the first place. There are numerous communities among the Aboriginals who are content to stay within the reserves and never venture out as long as the Government leaves them

alone and does not intrude upon their land and lifestyle. This kind of thinking has led to severe disparities among the Aboriginals. While some groups have experienced a change in fortunes, there are others who cannot escape from the confines of the past. They are unable to become more self-sufficient as well as self-reliant. Therefore, the “ dream” of the Canadian government involving a future where Aboriginal communities provide the stability that will result in dignity, economic development and hope is a far cry from the actual situation .

There is no doubt that if development is being claimed to occur among the Aboriginal community as a whole but a few sections are being left out, there is evidence of gross oversight. The Government needs to be careful and open negotiations first with communities which actively need their help. They must uncover significant data about each tribe among the Aboriginals and proceed with care. If the Government of Canada does not seek any profits from their interactions with the Aboriginals, it will see just how many have been neglected in the past and they should rectify the situation as soon as possible if it wants to see its plans for Aboriginal development not become one-sided and create disparity.

Treatment of Aboriginals for Land Claims

There are many accounts which mention that the Government of Canada supports the Aboriginals only on the superficial level in order to avoid criticism and prevent the limelight from being shown on the actual truth of the matter which is the brutal treatment of Aboriginal communities who have taken the matter of land claims to court. Several human rights groups have

labeled the inhuman treatment of the First Nations people as “ genocide” . Of course there is some truth to the matter but most of it is rooted in the events of the past. The Government of Canada has never condoned the negative treatment of the original inhabitants but has actively made efforts to protect their interests, especially the land claims. Though some of it is definitely self-serving, it would be inaccurate to say that the government has been involved in genocides. Otherwise, they would never have spent billions of dollars in a year in government grants on the groups in question simply for the sake of upholding their image in the international arena when there were other more pressing issues they could have spent the allocated resources on.

The government had been carrying out affirmative action hiring quotas, land reserves along with several other privileges. In fact, there are some critics of the Government’s actions who are involved in the scenario as the target of their criticism – they want to curry favour with the people of the First Nations so that their organizations and businesses can set up shop on the reserves, thereby indirectly exploiting the resources and the trust of the Aboriginal people . However, it cannot be denied that the Government has its own interests in mind and it will do anything to safeguard those interests.

However, that should not be the case at all. The Government needs to pick its battles carefully now that the subject of Aboriginal land claims has come into international spotlight and the heinous Indian Act is no longer valid in modern times.

Many countries are critical of Canada’s land claim approach. In fact, the High Court of Australia had to intervene in the process during its decision of 1992

from *Mabo v. Queensland* and condemned the doctrine of “terra nullius”, stating that it would no longer be applicable. This ruling eventually led to the development of the Native Title Act which was officially adopted in 1993. The Act’s provisions were drastically changed in 1998 which made it more difficult to make native title claims .

Conclusion

Canada’s detailed and thorough process of land claims has earned several critics who claim that it is taking a lot of time but has yet to produce favorable results. This can hardly be termed a surprise. The comprehensive land claims method encompasses issues that involve a great deal of complexity since they need to reconcile an Aboriginal sense of injustice throughout history with the Canadian government’s desire to implement a process which looks towards the future. The ideal process of land claims must form stable bond of trust between the non-Aboriginal and Aboriginal groups involved in negotiation as well as between Aboriginal populations and non-Aboriginal communities and populations . It could be argued that the comprehensive land claims process is expected to take time since they are intended to fundamentally alter the relationship that has remained unsatisfactory for well over a hundred years.

These negotiations involve representatives of separate cultures who attempt to come to a general understanding. The negotiations tend to become complicated due to the fact that the three different parties involved (the First Nation, the territory or province involved and Canadian government) come together during the negotiations with varying and mostly clashing ideologies,

interests and aspirations. Sometimes, Aboriginal groups think that the Canadian government has a history of taking decisions that impact the Aboriginal peoples without initially undertaking suitable consultation. It is possible to build good faith between the two parties slowly but the significance of interpersonal relationships must not be overestimated. It should be kept in mind that the minutest of elements can sometimes have the greatest impact.

The period of time necessary to generate trust and conduct negotiations may turn out to be a boon for the negotiator in the long term. All parties involved can take the time to reflect upon their positions and convene once more in a more conciliatory spirit. In some cases, land claim negotiations have collapsed right before the Final Agreement has been signed but the passage of time enables the groups to meet once more on the negotiating table and smooth out any disagreements that exist between them.

Both the non-Aboriginal as well as the Aboriginal parties must be kept well-educated and informed regarding the status and purpose of Aboriginal claim negotiations since it happens to be crucial to the long-term success. In Canada, the process permits Aboriginal people not only to state their grievances and express their views but even to participate in the devising of the conditions and terms of the settlement. This provides other Canadians with the opportunity to voice their concerns via a process of consultation .

In Canada, biased opinions often seem to be the main hindrance to the resolution of land claims by the Aboriginals. For example, business leaders of the country were earlier opposed towards the negotiations since they believed that the land claims process would lead the Aboriginals to prevent

resource based development ventures after the mode of settlement is over. However, business leaders are more informed currently and they can easily embrace the process of claims and push for certainty. While the process of claims continues to advance in Canada, non-Aboriginal communities and business leaders have found that the introduction of federal cash in a certain area via a land claim settlement often leads to stimulation and assists in the process of diversification of the local economy.

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