

Research paper on bc aboriginal title

[Countries](#), [Canada](#)



Aboriginal title refers to a law that consisted of the rights of the indigenous people after sovereignty was assumed. This law was categorized as a common law. Many jurisdictions argue that this common law is hard to be alienated. It is notable that the aboriginal title can be exercised by a group of people or even individually depending on preferences and the issues at hand. On the other hand, first nations refer to an aboriginal community that is well organized and that faces official recognition by a certain government. This was Canadian's view of the term first nation. The organization of the aboriginal people showed that they were very united in the performance of economic and social activities in their areas of settlement.

The first nation people experienced both benefits and setbacks regarding the issue of aboriginal title. It is important to analyze the benefits first before looking at the setbacks. The first advance is that the aboriginal title gave the first nation people the right to occupy certain places in a country. These rights were held as a result of occupying certain areas for a long period of time. More so, the ancestors of the first nation people were living in these lands therefore giving them the right to occupy them. These are the major reasons why the first nation people in Canada occupied both the coastal areas and the inland areas. When the European people came in the country, they were aware that these rights existed among the aboriginal people (Constitution Act 1982). These rights also enabled the movement of the aboriginal people from one place to another.

The other benefit that was realized by the aboriginal people is that the aboriginal title enabled the first nation's people to enjoy the use of resources that were available in their lands. This yielded a lot of economic benefits due

to the fact that they could carry out economic activities on their land such as farming and trading. This meant that the first nation people had the right to use their lands to carry out activities that generated income to them. In addition to this, the use of resources was on collective basis, meaning that there was no limitation in the use of the available resources. The major obligation was on the part of the occupants to maintain the value of the resources that were available for use (Indian Act 1876). It is therefore notable that the aboriginal rights did not envisage the aboriginal people to traditional rights only.

The aboriginal title however faced certain limitations. This type of common law involved connection with the creator. This meant that land could not be used for other purposes that were not inconsistent with the title. For instance, using a piece of land as a lot for parking was not encouraged on areas that were specified for other purposes. Some of the land occupation rights of the first nation's people were extinguished (Constitution Act 1867). This mostly occurs especially if a person used the resources available for purposes that were not connected to the use of the land. Most of the areas were used as shrines since the aboriginal title connected the land to the creator. This meant that the only activity that could be undertaken in such areas would be spiritual in nature. The shrines took some percentage of the total land and this limited the economic activities that took place in such areas. This has also affected the population of the aboriginal people even in the present date (2006 Canadian Census).

Conclusively, the first nation people faced the problem of ignorance from the government in regard with the aboriginal title. The government of Canada ignored some of the occupation rights of the aboriginal people. Due to this reason, some of the lands were taken over by the local authorities leaving some of the first nations without any place to occupy. The taking over of land and other resources also affected the economic activities of the aboriginal people. The entrance of the Europeans consisted the making of several treaties that affected the boundaries that were occupied by the aboriginal people. Based on the above points of view, there were various arguments that were made on the rights of the aboriginal people in Canada. Some of these arguments led to rulings at the supreme court of Canada. Recently, the constitution of Canada has offered protection for the rights of the aboriginal people (1982: The Constitutional Act). This is the major reason why their rights have not been eliminated.

References

Bartlett, R. Native Title Claims in Canada and Australia: Delgamuukw and Miriuwung Gajerrong. London. Palgrave Macmillan. 1999. Print.

Richard A. Property Rights Claims of Indigenous Populations: The View from the Common Law, 31 U. Toledo L. Rev. 1999. Print.

Hazelhurst, K(ed.). Legal Pluralism and the Colonial Legacy. New York. McGraw Hill. 1995. Print.

Hocking, B. 2005. Unfinished constitutional business?: Rethinking indigenous self-determination. New York. Blake Publishers. 2005. Print.