

# LANDMARK SUPREME COURT RULINGS ON INDIGENOUS RIGHTS IN CANADA

WHAT ARE THE KEY LEGAL DECISIONS THAT AFFIRM INDIGENOUS LAND AND TREATY RIGHTS IN CANADA?

## Calder v. British Columbia

First court decision acknowledging that Aboriginal title to land existed prior to colonization. Launched land claims process and led to 1st modern land claims agreement in BC.

1973

## Delgamuukw v. British Columbia

Aboriginal title protects rights to the land itself and to its resources. The government has the duty to consult and, in some cases, to compensate for any infringements on Aboriginal rights.

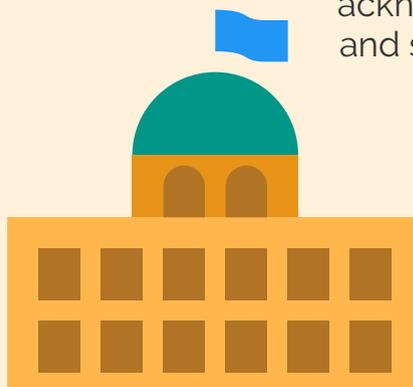


1990

Section 35 of the Constitution Act (1982) states that the Canadian government has a constitutional obligation to consult and accommodate Aboriginal and treaty rights.

## R. v. Sparrow

First major ruling about Section 35 of the Constitution Act (1982) that acknowledged existing Aboriginal rights and set criteria to limit how government can infringe upon those rights



1997

## Haida Nation v. British Columbia

The court decided that the government has a strict duty to consult and accommodate any concern of Aboriginal communities even if Aboriginal title has not been proven. The government is also legally responsible for interactions of third parties that affect Aboriginal interests and may assign consultation procedures to industry.



1999

## R. v. Marshall

The court ruled that Aboriginal peoples have the treaty right to catch and sell fish to secure a moderate livelihood. It was later clarified that fishing activity could still be regulated by the government for conservation or other strongly justified public purposes.



2004

What other Supreme Court rulings have affirmed the government's duty to consult?

- Taku River Tlingit First Nation v. BC (2004)
- Mikisew Cree First Nation v. Canada (2005)
- Beckman v. Little Salmon (2010)
- Rio Tinto v. Carrier Sekani Tribal Council (2010)

2014

## Tsilhqot'in Nation v. British Columbia

First court ruling to declare Aboriginal title to lands outside of a reserve, extending title to all territory used regularly and exclusively when the Canadian government asserted sovereignty. Aboriginal title includes the right to exclusively control the land in a manner that protects future generations. Government can only impose if they can provide a constitutional justification.



Sources: 1) <http://www.cbc.ca/news/canada/6-landmark-rulings-on-native-rights-1.1316961>

2) Morelato, M. (2008). The Crown's constitutional duty to consult and accommodate Aboriginal and treaty rights. National Centre for First Nations Governance.

3) <https://www.aadnc-aandc.gc.ca/eng/1331832510888/1331832636303>