

Section 35 of the New Canadian Constitution Act 1982

States that:

1. The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed.
2. In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
3. For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
4. Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

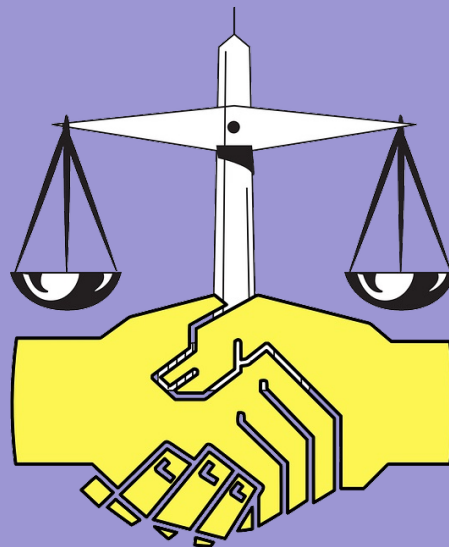


Section 35 is a critical advancement, not because it gave Indigenous peoples rights but it "recognizes and affirms" that Aboriginal (First Nations, Inuit, and Metis) peoples' had and continue to have inherent rights

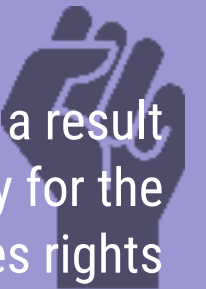


As a result of this gap in definition, Aboriginal rights end up being defined by the Supreme Court of Canada, which comes with significant financial burden for individual Indigenous communities

See Landmark Supreme Court rulings



Section 35 of the new Constitution was included as a result of numerous acts of protests and advocacy for the inclusion of Aboriginal peoples rights



Section 35 does not define what Aboriginal rights are, or what limitations of these rights exist, nor which interpretation/perspective of these rights are to be used (Indigenous or Canadian State)



Although this remains burdensome, section 35 allows for the legal mechanism for Indigenous communities to assert their inherent rights to the lands, traditions, and way of life that was protected by the treaties