

Addressing Canada's Unresolved Land Claims

DESCRIPTION

The lack of clarity or progress regarding the federal government's approaches to many Indigenous issues – including the duty to consult and unresolved land claims – threatens the future socioeconomic well-being of communities across Canada while hindering meaningful discourse on the development of natural resource sector projects.

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BACKGROUND

Negotiations and legal cases involving land claims in Canada have continued to be of critical importance. Many of Canada's Indigenous peoples are currently engaged in talks over land and self-government with the regions that encompass them. Government resource revenue sharing should consider the economic impact of natural resource projects, the strength of claim of individual communities and the number of Indigenous communities asserting rights in the development zone, the population of the impacted Indigenous communities, the future development potential of the area and the degree of impact on specific communities.¹¹¹

In need of immediate attention is the government's lack of progress in addressing unresolved land claims. The land claims process is a complex one, involving multiparty negotiations of complicated historical, property, legal, financial, and implementation issues,¹¹² which are often further complicated by other concerns such as bureaucratic issues and a lack of resources or capacity. As a result, the process is often lengthy: reaching a final agreement can take from 5 to 20 years. Indeed, since the federal government began negotiating modern treaties with Indigenous groups and provincial/territorial governments in 1973, 26 comprehensive land claims and three self-government agreements have been signed.¹¹³ Numerous land claims negotiations are currently underway across Canada, with 80 comprehensive land claims under negotiation with the federal government.¹¹⁴

¹¹¹ <https://mining.ca/wp-content/uploads/2019/07/MAC-Position-Statement-on-GRRS-Final-ENG.pdf>

¹¹² https://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/report/vol_2/pdf/E_Vol_2_CH04.pdf

¹¹³ <https://www.aadnc-aandc.gc.ca/eng/1100100030577/1100100030578>

¹¹⁴ Public Accounts of Canada 2015, Vol. 1 – Summary Report and Consolidated Financial Statements; Receiver General for Canada, December 4, 2015

This backlog of long-standing legal issues poses significant challenges for the natural resources sector and Indigenous communities alike, creating considerable investment and operational uncertainties that inhibit meaningful progress. Resolving these issues is of benefit to all, as they allow for paving the way for effective dialogue on resource development, while also benefiting the communities themselves: the unemployment rate in self-governing communities has historically been 28 percent lower than non-self-governing communities, and the average family income for beneficiaries of a treaty appears to be double that of non-beneficiaries.¹¹⁵ Resolution and reconciliation with these communities are crucial, especially at a time where they represent Canada's youngest and fastest-growing population.¹¹⁶

The federal government has promised to develop a national strategy to address Indigenous land claims and duties to consult in a "reasonable timeframe,"¹¹⁷ and this commitment must be acted upon in order to provide both industry and the affected communities with the certainty required to derive appropriate economic and social benefits from resource-related projects. Given that the current liability for comprehensive land claims "that have progressed to a point where quantification is possible" is an estimated \$4.8 billion, this process must also be undertaken with due financial prudence and in a way that respects Canada's fiscal constraints.¹¹⁸

RECOMMENDATIONS

That the Government of Canada:

1. Accelerate the process of resolving land claims in a manner that reflects due financial prudence.
2. Elevate active participation by Indigenous communities through increased and improved access to clear and accessible information.

¹¹⁵ <https://www.aadnc-aandc.gc.ca/eng/1406824128903/1406824211834#key>

¹¹⁶ Kirkup, K. (2017, October 25). Canada's Indigenous population growing 4 times faster than rest of country. Retrieved from <https://globalnews.ca/news/3823772/canadas-growing-indigenous-population/>

¹¹⁷ <https://www.liberal.ca/policy-resolutions/61-priority-resolution-Indigenous-issues/>

¹¹⁸ Public Accounts of Canada 2019, Vol. 3 – Summary Report and Consolidated Financial Statements; Receiver General for Canada, 2019