

## How does the Constitution affect Aboriginal peoples?

### Voices

It wasn't that long ago that it was illegal for First Nations to engage in self-government activities or even gather. [Self-government is] something that my parents wouldn't have even thought of, possibly even my grandparents.

—Ginger Gosnell-Myers,  
Nisga'a First Nation, 2010

Figure 3-11 Georges Erasmus (left), a Dene from the Northwest Territories, was the national chief of the Assembly of First Nations in 1987. He is seated beside John Anagoalik, chair of the Nunavut Constitutional Forum, and Louis Bruyere, president of the Native Council of Canada (at right). Here they hold a news conference to share Aboriginal opinion about constitutional change in 1987. All three helped lead the drive to increase Aboriginal self-government.

The negotiations leading up to the 1982 Constitution involved only federal and provincial politicians. Aboriginal peoples were not invited to sit at the negotiating table.

But Aboriginal peoples wanted a say, especially on issues such as Aboriginal rights, treaty rights, and self-government. So organizations such as the Assembly of First Nations began to lobby governments to include Aboriginal rights in the Constitution. The lobby grew into an across-the-country two-year protest that was so resounding in its message that politicians could not ignore it.

It was decided that two new sections would be included in the Charter of Rights and Freedoms. Section 25 guarantees the Aboriginal rights outlined in the Proclamation of 1763 made by King George III, namely that Aboriginal peoples have legal title to the lands they have occupied for thousands of years unless a treaty has been made. Section 35 “recognized and affirmed” Aboriginal rights and treaty rights. Aboriginal rights are based on the historical continued occupation of the land. Treaty rights refer to rights specifically set out in a treaty. First Nations, Métis, and Inuit are identified as the Aboriginal peoples of Canada.

**Historical Perspective:** Take the perspective of Aboriginal peoples before Sections 25 and 35 were included. Why would it seem important to include both Aboriginal and treaty rights in the Charter?

### The Push for Self-Government

After Aboriginal and treaty rights were guaranteed in the Constitution, clarification was needed on just what these rights included. Many Aboriginal leaders regarded self-government as a key element of Aboriginal rights. Self-government involves the power to control one's

own affairs, such as education and justice. The government took some steps, for example, by amending the Indian Act so that band councils would have the power to decide who could live on reserves.

If the Charlottetown Accord had passed, Aboriginal governments would have formed a third level of government, in addition to the federal and provincial governments. But the failure of that accord did not end Aboriginal peoples' demands for self-government. Many First Nations continue to work individually to negotiate self-government agreements with the government. As of 2014, Canada had signed 20 self-government agreements that relate to 34 Aboriginal communities. Of these, 17 involved a land claim.



# The Two-Row Wampum Treaty

The best way to understand what people were thinking and feeling long ago is to examine the evidence. Historians begin with the obvious. For example, forensic evidence that a wampum belt is 400 years old will confirm that the belt was made 400 years ago. Historians also make inferences from the evidence. For example, if we know that a wampum belt survived 400 years, we can infer that people must have valued it enormously. The long-standing regard for the belt isn't a fact we can know for sure, but it is a well-founded conclusion based on the evidence.

The Kaswhenta wampum belt, sometimes called the Two Row wampum belt, was made to record a treaty with the Dutch, who were the first Europeans to make treaties with First Nations in North America. As **ONONDAGA CHIEF IRVING POWLESS, JR.**, tells it, in 1613 Tadaho sent out messages to the five Haudenosaunee nations to send representatives to negotiate a relationship between the Dutch and First Nations.

After they made their agreement, the Dutch said to our leaders, "We think that in the future when we meet, it would be our idea that you would refer to us as father and we will refer to you as son." Now we had a lot of men sitting there. How many men have been reprimanded by their fathers? Yeah. The father has authority, as you know. So we looked at what a family was like, and we realized that a father and son relationship would not be to our advantage. It would be better, because of our concepts, that we be equal. Brothers are equal in a family relationship.

Our leaders informed the Dutch people, "From this day forward, we will refer to each other as brothers." ... The Dutch agreed.

The Dutch recorded this historic treaty on paper. The Haudenosaunee recorded it in the Two-Row Treaty belt. **TAIAIAKE ALFRED**, member of the Kanienkahaka

First Nation and director of the Indigenous Governance Program at the University of Victoria, describes the relationship it records.

The metaphor for this relationship — two vessels, each possessing its own integrity, travelling the river of time together — was conveyed visually on a wampum belt of two parallel purple lines (representing power) on a background of white beads (representing peace). In this respectful (co-equal) friendship and alliance, any interference with the other partner's autonomy, freedom, or powers was expressly forbidden. So long as these principles were respected, the relationship would be peaceful, harmonious, and just.

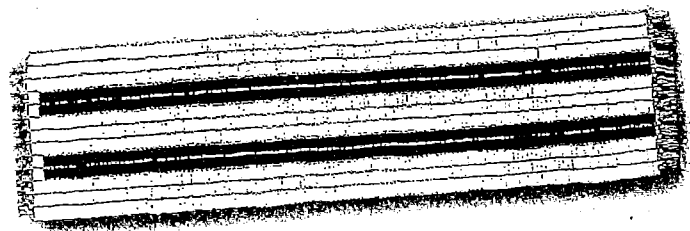


Figure 3-12 The Two Row Wampum Treaty was recorded in the symbols in this belt made from the white shells of the Atlantic whelk and the purple shells of the Quahog clam. The belt is displayed and explained regularly so that the Haudenosaunee remember.

## Explorations

1. What can you infer about the Dutch or the Haudenosaunee based on the Powless quotation?
2. What can you infer from the belt, or Alfred's description of it, about the thinking of the Haudenosaunee who made the treaty and the belt?
3. Compare the benefits and drawbacks of recording a treaty on paper versus recording it on a wampum belt.
4. What can you infer about the authors of the Constitution Act, 1982, based on your knowledge that they included Aboriginal and treaty rights?

## Voices

Since the first treaty was signed with us in 1701, our peoples have believed that co-operation must pave the way for success. . . . We like to believe that all Canadians feel this way. Consider where that attitude has gotten us. Obviously, not very far.

— Phil Fontaine, national chief of the Assembly of First Nations, 2007

### Check Back

You read about the Nunavut Land Claims Agreement, which was a comprehensive land claim, in Chapter 2.

## Land Claims

The Aboriginal activism that had developed in the 1970s grew quickly after the recognition of Aboriginal rights in the Charter. Throughout the 1980s, Aboriginal peoples pushed even harder to resolve land claims. There was a backlog — many of these claims had gone unsettled for decades and longer.

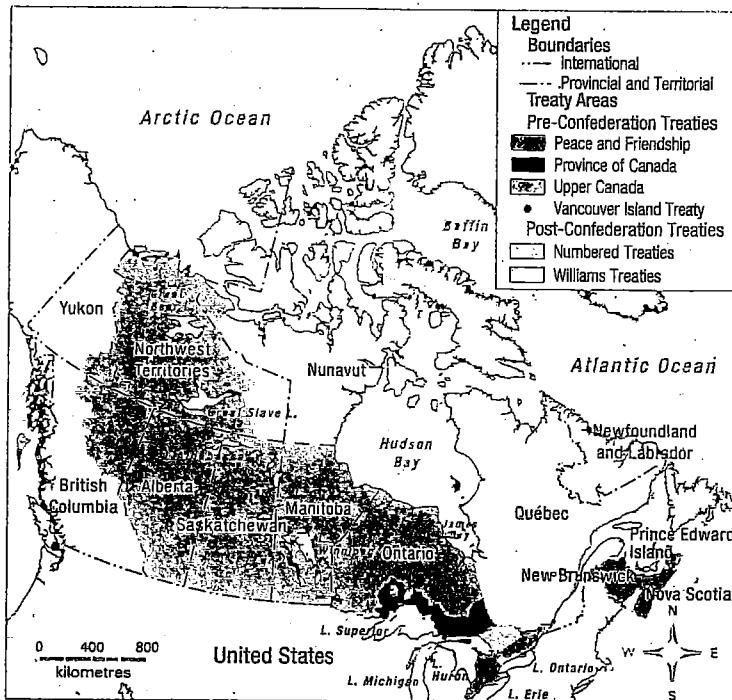
### Comprehensive Land Claims

Land claims fall into two categories. Comprehensive land claims involve areas where Aboriginal peoples have signed no treaty with either the British or Canadian government. In the 1980s, these areas included most of British Columbia and Yukon, northern Québec, and much of the Northwest Territories, including the eastern part, which is now Nunavut. In these areas, Aboriginal communities had never surrendered their rights to the land.

The goal of comprehensive land claims is to put in place a treaty that clearly identifies rights to lands and resources. The Nisga'a Final Agreement, which came into effect in May 2000, is an example of a comprehensive land claim. It gave the Nisga'a First Nation ownership of 2000 square kilometres, the right to resources on the land, and the authority to form its own local government.

Figure 3–13 Areas Covered by Aboriginal Treaties, 1725–1923

Many of the areas not covered yet by treaties have been purchased and developed by non-Aboriginal Canadians. How would this complicate the land-claim settlement process?



## Specific Land Claims

The second type of land claims are specific land claims. These are pursued when the government has not fulfilled its obligations as recorded in a treaty.

Many of these claims have resulted after reserve lands were either taken or sold without the consent of the First Nation involved. For example, during World War II, the federal government took control of part of the Stoney Point Reserve, on the shore of Lake Huron, which it wanted for military training.

The government promised to give the land back to the Chippewas of Kettle and Stony Point First Nation at the end of the war, but it never did. After years of getting nowhere, protestors occupied some of the land. Confrontation escalated, and in 1995, an OPP officer shot and killed an unarmed Ojibwa protestor, Dudley George. After a public inquiry, the land was returned to reserve status in 2008.

**Ethical Dimension:** What can we gain by studying historic examples of clashes between Canadian governments and Aboriginal peoples? How might such studies help us to understand the position of Aboriginal peoples?

## Differing Perspectives

About half of Canada's First Nations signed historic treaties between 1725 and 1923. The government representatives agreed to set aside reserves, small parcels of land for the First Nations' specific use. The representatives thought that, in return, the First Nations were giving up their rights to the rest of their traditional territories — the lands that they had historically occupied. For their part, First Nations thought that they were simply sharing the land and its resources.

**Historical Perspective:** Speculate on how such very different perspectives could emerge from treaty negotiations. How does the difference explain current conflicts over the use of natural resources in various First Nations' traditional territories?

## The Lubicon Cree Land Claim

Lubicon territory is in northern Alberta near Lesser Slave Lake. It is such a remote area that the government authorities missed the Lubicon Lake Nation in 1899, when they were negotiating Treaty 8 with the First Nations in the region. Consequently, the treaty includes the Lubicon traditional territory even though the Lubicon never signed the treaty. The Lubicon maintain that they have never given up their Aboriginal rights to the land.

Economic development of the area began in the 1970s, when oil was discovered. The government of Alberta licensed oil companies to extract oil and also allowed large-scale harvesting of the forests. Within 10 years, more than 100 companies were operating in the region.

These activities destroyed the traditional way of life of the Lubicon. From 1979 to 1989, the welfare rates among the Lubicon climbed from 10 per cent to 90 per cent. So, in 1980, the Lubicon sued the governments of Canada and Alberta for \$1 billion in compensation and started a land claim on the basis that they had never given up their Aboriginal rights. Negotiations over the land claim have been slow.

In 2005, the United Nations Human Rights Committee found that Canada was guilty of violating the International Covenant on Civil and Political Rights by ignoring the rights of the Lubicon people. The federal government argued that settling the claim is difficult because of the complications of Treaty 8 and the challenge of establishing just how many people belong to the Lubicon Lake Nation.

As of 2012, almost 1400 square kilometres of land has been leased for oil sands development. That's about 70 per cent of Lubicon territory. The Lubicon were not consulted.

**Continuity and Change:** How might sincere negotiations between Aboriginal peoples and the federal government change the pace of change? Would they lead to a more equitable outcome for all Canadians?

## Voices

Since 1978, over \$14 billion have been taken out of our traditional territory. Yet my family still goes without running water. The more than 2600 oil wells on Lubicon territory make it difficult to live a healthy, traditional, and sustainable lifestyle.

— Melina Laboucan-Massimo, a member of the Lubicon Lake Nation and a Climate and Energy Campaigner with Greenpeace, 2012

Figure 3-14 Melina Laboucan Massimo, a member of the Lubicon Lake Nation, speaks at the Salish Sea Festival in North Vancouver, British Columbia, on September 2, 2012. Massimo is also a climate and energy campaigner with Greenpeace. How could Massimo use her perspective as a Lubicon to help her in her job at Greenpeace?



## Voices

When I read Bill C-45, I was horrified. I got into a chat on Facebook with Jessica and Nina, and I started explaining to them the implications of C-45 for the environment, for the waters. I told them there's something in law called acquiescence. That means that if you're silent, then your silence is taken as consent. All of us agreed that we couldn't be silent.

— Sylvia McAdam, co-founder of Idle No More movement, 2013

### Up for Discussion

Do omnibus bills fulfil the spirit of democracy?

## Challenging the Government to Meet Its Constitutional Obligations

Many Aboriginal people and other Canadians question if the government is meeting its constitutional obligations to Aboriginal peoples. Some of their concerns relate to inaction in resolving ongoing problems such as poverty, poor housing, and insufficient education funding. Other concerns relate to government actions that erode Aboriginal rights.

In the fall of 2012, the federal government proposed Bill C-45. This was an omnibus bill — a large set of unrelated proposed changes that have to be voted on all at the same time. The purpose is to push through a lot of legislation without much scrutiny. At 400 pages, Bill C-45 changed 64 existing government acts.

One of these changes altered the Navigable Waters Protection Act. This 1882 act had protected all of Canada's navigable waters from industrial development that might harm fish populations and water quality. But Bill C-45 took away that protection from all waterways except 3 oceans, 97 lakes, and 62 rivers. All the rest are no longer protected from companies and governments building pipelines and power lines. The government claims that the original act was never intended to protect the environment but only to ensure that waterways remain navigable. It says that other laws protect water quality.

Four women — Sheelah McLean, Nina Wilson, Sylvia McAdam, and Jessica Gordon — exchanged emails about Bill C-45, planned a protest, and spread the word by creating a social media page they called Idle No More. The idea spread like wildfire, and within a month the movement staged a national day of protest with events across the country, including flash-mob dances, prayer circles, and blockades. The Idle No More page

had 129 348 likes as of May 30, 2014.

Aboriginal rights include rights to use the land and waterways in their traditional territories. Did the federal government fulfil its constitutional obligation when it passed Bill C-45?

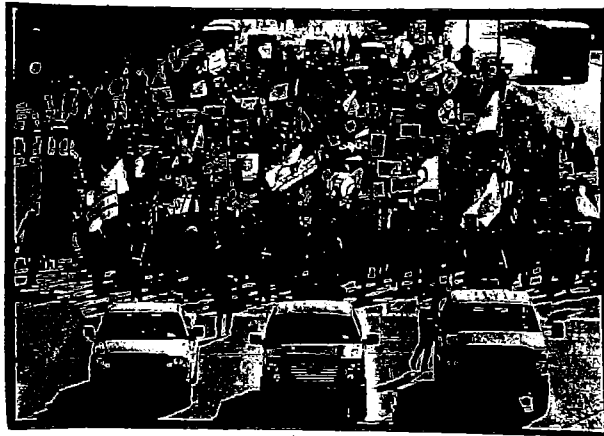


Figure 3-15 Idle No More demonstrators march to the base of the Ambassador Bridge, which connects Windsor, Ontario, with Detroit, Michigan, on January 16, 2013. What issue would you feel so passionate about that you would join a protest like this to make your voice heard?

### Recall... Reflect... Respond

1. With a partner or in a small group, decide on several criteria that the federal government should use when deciding how to settle the land claim of the Lubicon Lake Nation. Prepare an email to send to your member of Parliament explaining your criteria and why the government should use these criteria.
2. Identify three ways that the Constitution has affected the relationship between the federal or provincial governments and Aboriginal peoples. Explain at least one from two or more perspectives. Which development improved relations most? Which eroded those relations most? Explain your choices.



1. Two justices in this case dissented with the majority. What does this mean?
2. Although the dissenting justices disagreed on whether rights were violated, they agreed with the verdict. In your own words, explain the key differences between the dissenting justices and the majority.
3. This case reaffirmed the Supreme Court's position that the Crown under s. 35 of the *Constitution Act, 1982* has an obligation to consult with Indigenous peoples, but they do not have veto power over development projects. What previous case included here came to the same conclusion?
4. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted, in part, by the Canadian government in 2016. Explain how this decision may not comply with the rights indicated in the UNDRIP.

The Ktunaxa are a First Nation whose traditional territories include an area in British Columbia they call Qat'muk. The Ktunaxa believe Qat'muk is home to the Grizzly Bear Spirit, and it is of spiritual significance to them. In 2001, Glacier Resorts sought approval from the B.C. government to build a year-round ski resort in Qat'muk. The project was to be built on the site of an abandoned sawmill, in an area revered by backcountry skiers and snowboarders for its deep snow, wilderness, beauty, and grizzly bears.

The B.C. government approved of the resort, and the Ktunaxa Nation challenged the approval in court, saying the province failed to properly consider the sacred significance of the area. The Ktunaxa believe the project would drive the Grizzly Bear Spirit from Qat'muk and permanently destroy their religious beliefs and spiritual practices. The British Columbia Supreme Court and the B.C. Court of Appeal dismissed the Ktunaxa claim. After further efforts to continue consultation failed, the B.C. government declared that reasonable consultation had occurred and approved the project. The Ktunaxa appealed to the Supreme Court on the grounds that the project would violate their constitutional rights to freedom of religion, and that the government's decision breached the Crown's duty of consultation and accommodation.

The Supreme Court dismissed the Ktunaxa's appeal. The majority of the Court determined that religious protections guaranteed under the *Charter of Rights and Freedoms* include freedom to hold such beliefs and manifest those beliefs, but do not extend to the protection of sacred sites. Although the nine justices were unanimous in the decision to reject the Ktunaxa appeal on the grounds of public interest, two justices, Michael Moldaver and Suzanne Côté, took a broader view of the *Charter's* religious protections. In their dissent, the two agreed that the religious beliefs of the Ktunaxa were violated, as the building of the resort might substantially interfere with their ability to act in accordance with their religious practices. However, the two justices determined that the government had properly weighed the religious protections with the public interest in developing the property, and said that the government's decision to approve the project was "reasonable, and amounted to a proportional balancing."

With regard to the breach of the Crown's duty of consultation under s. 35 of the *Constitution Act, 1982*, the Court determined that there was no breach. It determined that s. 35 guarantees a process, but not a particular result.





## Principles of Relationship

1. Assume that the government wanted to approve a pipeline that would benefit all Canadians but would affect an Indigenous community. After consultation, the Indigenous community said no to the pipeline. Reading through this set of principles, does a no mean the pipeline would not be approved by the government? Explain.

2. In 2007, Canada was one of four states that voted against the United Nations Declaration on the Rights of Indigenous Peoples. In 2016, Canada officially adopted the UNDRIP but later added some reservations. Under the UNDRIP, when states act in a way that may affect Indigenous rights, states have a duty to consult with them fully and not proceed until receiving their "free, prior, and informed" consent. Does principle number six above comply with the UNDRIP? Explain.

3. Focus on one of these principles, and suggest how it relates to one of the landmark cases you have learned about. How might the outcome have been affected if the principle had been applied?

On July 14, 2017, the federal government released ten principles related to its relationship with Indigenous peoples of Canada. The purpose of the principles is to seek to turn the page in what has often been a troubled relationship. The government hopes to advance fundamental change in its relationship with Indigenous peoples and to recognize that Indigenous nations are self-determining, self-governing, and should no longer be marginalized. The principles are as follows:

The Government of Canada recognizes that:

1. All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.
2. Reconciliation is a fundamental purpose of section 35 of the *Constitution Act, 1982*.
3. The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.
4. Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.
5. Treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.
6. Meaningful engagement with Indigenous peoples aims to secure their free, prior, and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.
7. Respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.
8. Reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.
9. Reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.
10. A distinctions-based approach is needed to ensure that the unique rights, interests, and circumstances of the First Nations, the Métis Nation, and Inuit are acknowledged, affirmed, and implemented.

### RESOURCES AND REFERENCES

Department of Justice, "Principles respecting the government of Canada's relationship with indigenous people" ([www.justice.gc.ca](http://www.justice.gc.ca)).

## *The Canadian Charter of Rights and Freedoms*

### **Fundamental Freedoms**

2. Everyone has the following fundamental freedoms:

- (a) freedom of conscience and religion

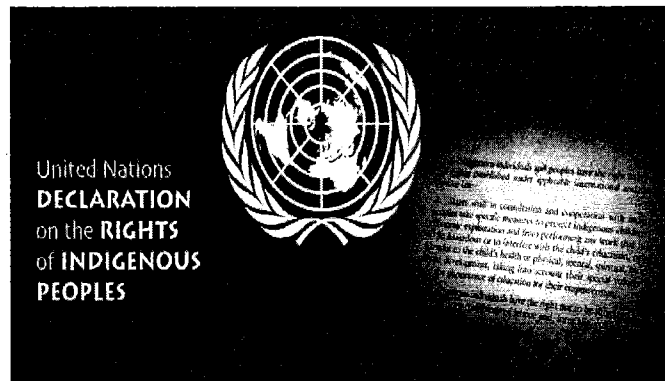
## *The Constitution Act of Canada*

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized 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.



*UNDRIP is a framework that affirms the rights of Indigenous Peoples to language, culture, self-determination and traditional lands. It also establishes "minimum standards for the survival and well-being" of Indigenous Peoples, according to the UN.*

#### **Article 1**

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights<sup>4</sup> and international human rights law.

#### **Article 2**

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

#### **Article 8**

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

- (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

#### **Article 10**

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

#### **Article 11**

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

#### **Article 12**

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

#### **Article 19**

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

#### **Article 25**

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

#### **Article 26**

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

#### **Article 27**

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

#### **Article 28**

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

#### **Article 43**

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

*Bill C-262, a bill introduced by NDP MP Romeo Saganash would ensure the laws of Canada are in harmony with UNDRIP. Justice Canada says Bill C-262 is not written to make UNDRIP part of federal law, but simply reinforces a longstanding principle that allows governments and courts to use international standards to interpret domestic law. This bill **did not** become law in Canada.*

The *Truth and Reconciliation Commission* has published **94 'calls to action'** for Indigenous and non-Indigenous Canadians to come together in a concerted effort to help repair the harm caused by destructive colonial policies, like residential schools, and move forward with reconciliation.

## **Reconciliation**

Canadian Governments and the *United Nations Declaration on the Rights of Indigenous Peoples*

43. We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.

44. We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the *United Nations Declaration on the Rights of Indigenous Peoples*.

## **Royal Proclamation and Covenant of Reconciliation**

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a *Royal Proclamation of Reconciliation* to be issued by the Crown. The proclamation would build on the *Royal Proclamation of 1763* and the *Treaty of Niagara of 1764*, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

- i. Repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the *Doctrine of Discovery* and *terra nullius*.
- ii. Adopt and implement the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
- iii. Renew or establish Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.
- iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.

46. We call upon the parties to the Indian Residential Schools Settlement Agreement to develop and sign a *Covenant of Reconciliation* that would identify principles for working collaboratively to advance reconciliation in Canadian society, and that would include, but not be limited to:

- i. Reaffirmation of the parties' commitment to reconciliation.
- ii. Repudiation of concepts used to justify European sovereignty over Indigenous lands and peoples, such as the *Doctrine of Discovery* and *terra nullius*, and the reformation of laws, governance structures, and policies within their respective institutions that continue to rely on such concepts.
- iii. Full adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation.
- iv. Support for the renewal or establishment of Treaty relationships based on principles of mutual recognition, mutual respect, and shared responsibility for maintaining those relationships into the future.

47. We call upon federal, provincial, territorial, and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the *Doctrine of Discovery* and *terra nullius*, and to reform those laws, government policies, and litigation strategies that continue to rely on such concepts.

### **Business and Reconciliation**

92. We call upon the corporate sector in Canada to adopt the *United Nations Declaration on the Rights of Indigenous Peoples* as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.