



LAND CLAIMS AGREEMENTS COALITION

“FOUR-TEN” DECLARATION OF DEDICATION AND COMMITMENT

Ottawa, December 2006

1. The first “modern land claims agreement” between Aboriginal peoples and the federal Crown was entered into in 1975. Since then, 19 modern treaties applying to Aboriginal traditional lands encompassing more than half of the lands and waters of Canada and the immense resources they contain have been negotiated by the Government of Canada and Aboriginal peoples and ratified by Parliament.
2. For Canada, land claim agreements provide a basis for the shared beneficial usage of lands and natural resources, facilitating economic development on treaty lands, and also providing means for Aboriginal peoples to consent to and benefit from development within their traditional territories.
3. For Aboriginal signatories, land claim agreements are intended to enable economic, social, and cultural development, environmental protection, and self-government. The rights defined in comprehensive land claim agreements are recognized and affirmed in Canada’s Constitution.
4. In November 2003, leaders representing the Aboriginal peoples of Canada that have entered into Land Claims Agreements since 1975 gathered in Ottawa at *Redefining Relationships: Learning from a Decade of Land Claims Implementation*. The Land Claims Agreement Coalition (“LCAC”) was established, involving all of the beneficiary or signatory organizations or governments of the “modern” land claims agreements in Canada.

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5. In the face of persistent challenges in implementation of their land claims agreements, leaders at *Redefining Relationships* articulated “4 Points” for a renewed relationship with the federal government of Canada:

LCAC “4 Points”

1. Recognition that the Crown in right of Canada, not the Department of Indian Affairs and Northern Development, is party to our land claims agreements and self-government agreements.
2. There must be a federal commitment to achieve the broad objectives of the land claims agreements and self-government agreements within the context of the new relationships, as opposed to mere technical compliance with narrowly defined obligations. This must include, but not be limited to, ensuring adequate funding to achieve these objectives and obligations.
3. Implementation must be handled by appropriate senior level federal officials representing the entire Canadian government.
4. There must be an independent implementation and review body, separate from the Department of Indian Affairs and Northern Development. This could be the Auditor General's department, or a similar office reporting directly to Parliament. Annual reports will be prepared by this office, in consultation with Groups with land claims agreements.

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6. LCAC leaders and organizations have elaborated upon these “4 Points” in 2005 with the following “10 Fundamental Principles” respecting modern land claims agreements and their proper implementation by the federal Crown:

LCAC “10 Fundamental Principles”

A new land claims implementation policy must be situated in the following context:

1. The history of nation-to-nation contact and interaction between the Crown and the Aboriginal peoples in Canada has created an enduring relationship between the Crown and Aboriginal peoples, one that is fundamentally predicated on the honour of the Crown.
2. “[T]he doctrine of aboriginal rights exists, and is recognized and affirmed by s. 35(1), because of one simple fact: when Europeans arrived in North America, Aboriginal peoples *were already here*, living in communities on the land, and participating in distinctive cultures, as they had done for centuries.” *Supreme Court of Canada*.¹
3. “The historical roots of the principle of the honour of the Crown suggest that it must be understood generously in order to reflect the underlying realities from which it stems. In all its dealings with Aboriginal peoples, from the assertion of sovereignty to the resolution of claims and the implementation of treaties, the Crown must act honourably. Nothing less is required if we are to achieve “the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown.” *Supreme Court of Canada*.²
4. Relations between the Crown and Aboriginal peoples have been and will always be manifested in a wide variety of political and legal arrangements and instruments. No single political or legal arrangement or instrument can be said to comprehensively express the dimensions, in breadth, depth or time, of the ongoing and evolving relationship that connects the Crown and an aboriginal people.

1. *Van der Peet*, [1996] 2 S.C.R. 507 at para 30.
 2. *Haida Nation v. British Columbia (Minister of Forests)* [2004] S.C.C. 73 at para 17, quoting *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010 at para. 186, quoting *R. v. Van der Peet*, [1996] 2 S.C.R. 507 at para. 31.

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5. Treaties and land claims agreements between the Crown and Aboriginal peoples are acknowledged to be “basic building blocks in the creation of our country ...[T]reaties -- both historical and modern -- and the relationship they represent provide a basis for developing a strengthened and forward-looking partnership with Aboriginal people.” *Government of Canada*.³



6. Among the key political and legal instruments that affirm the relationship between the Crown and Aboriginal people are modern land claims agreements, and ancillary agreements such as implementation and self-government agreements that attach to or follow from land claims agreements.



7. Modern land claims agreements, which give rise to treaty rights, are multi-faceted, and the ongoing rights they affirm are, among other things, constitutional, statutory, contractual, fiduciary, and in keeping with the “living tree” principle of Canadian law, evolving and progressive in nature.



8. The negotiation and implementation of modern land claims agreements, and their ancillary agreements, engage the honour of the Crown, and demand results and ongoing outcomes that are just. “Where treaties remain to be concluded, the honour of the Crown requires negotiations *leading to a just settlement of Aboriginal claims*.” *Supreme Court of Canada*.⁴



9. The treaty rights arising from modern land claims agreements express the mutual desire of the Crown and Aboriginal peoples in Canada to reconcile through sharing the lands, resources and natural wealth of this subcontinent in a manner that is equitable and just - no longer so as to solely assimilate, take or extinguish the interest of the Aboriginal peoples involved, but rather so as to implement mutual objectives that will ensure their socio-economic, political and cultural survival, well-being and development as peoples.



10. Aboriginal and treaty rights are human rights, and they are not amenable to extinguishment as a matter of respect for Canada’s international human rights obligations. “The situation of the Aboriginal peoples remains the most pressing human rights issue facing Canadians.... [T]he practice of extinguishing inherent aboriginal rights be abandoned as incompatible with article 1 of the [International] Covenant [on Civil and Political Rights].” *United Nations Human Rights Committee*.⁵



3. Gathering Strength -- Canada's Aboriginal Action Plan. QS-6121-000-EE-A1 Catalogue No. R32-189-1997E. ISBN 0-662-26427-4.
4. *Haida Nation v. British Columbia (Minister of Forests)* [2004] S.C.C. 73 at para. 20, quoting *R. v. Sparrow*, [1990] 1 S.C.R. 1075, at pp. 1105-6; “Section 35 calls for a just settlement for aboriginal peoples.” *Sparrow v. The Queen*, [1990] 1 S.C.R. at 1106.
5. *Concluding Observations of the Human Rights Committee - Canada*. 07/04/99 CCPR/C/79/Add.105.



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7. These 4 Points and 10 Principles are now known as the "LCAC Four-Ten".
8. Consistent with the LCAC Four-Ten, members of the Land Claim Agreements Coalition will continue to undertake information sharing, joint activities and coordination, mutual encouragement and support, advocacy, policy development, Canadian and international public education, inclusion of new land claims agreement entities, appropriate contact and efforts with governments, and such other future steps as may be decided by Coalition participants.
9. The task at hand is to implement the modern land claims agreements in ways that bring political, economic and social justice to their signatory nations and their members and that achieve in full measure, the letter, spirit, intent and lasting objectives of modern land claims agreements with the federal Crown.
10. THE LAND CLAIMS AGREEMENT COALITION IS DEDICATED AND COMMITTED TO ACHIEVING THESE NECESSARY AND IMPORTANT GOALS, FOR THE BENEFIT AND DEVELOPMENT OF ALL LAND CLAIMS AGREEMENT ORGANIZATIONS, GOVERNMENTS AND BENEFICIARIES AND ALSO FOR THE BENEFIT AND SELF-RESPECT OF ALL CANADIANS.

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