

# Court decision highlights need for negotiated land treaty deals

Aboriginal leaders and experts say Thursday's Supreme Court ruling means that B.C. and Canada are going to have to rethink their approach to talks on land claims. Governments, for instance, may be forced to reassess such issues as compensation for past wrongs.

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The Supreme Court of Canada decision on the Delgamuukw land claim case highlights the need to reach negotiated treaty settlements with B.C. Indians, government and tribal leaders said Thursday.

Federal Indian Affairs Minister Jane Stewart called Thursday's ruling "a positive affirmation of the approach that we've been taking to aboriginal rights

and title in Canada. We feel very positive about the results today."

Premier Glen Clark said it "confirms British Columbia's view that we should negotiate native land claims. It shouldn't be dealt with in the courts. We should negotiate and that's what we're trying to do."

But aboriginal leaders as well as some experts and officials said the ruling will force the federal and provincial governments to make sig-

nificant changes to the way land claims are now negotiated in B.C.

On Thursday, the supreme court ordered a new trial in the Delgamuukw land claim in northwest B.C., and provided a new definition of aboriginal land rights.

"What this is going to mean is British Columbia and Canada are going to have to massively rethink their current approach to the treaty process," said University of Victoria professor Frank Cassidy.

For example, the governments are refusing to discuss the issue of compensation for past wrongs. But the court ruling said bands are owed "fair compensation" for the loss of established aboriginal title.

In addition, the governments are currently working with what's called the "land-selection model" of treaty settlement, in which tribes are to be granted ownership of a small portion of their traditional lands.

But the view of aboriginal land rights contained in the court ruling may mean tribes now have a legitimate claim to some form of control over a larger portion of their ancestral lands, which cover almost all of B.C.

The ruling could also force the province to modify its policy on so-called "interim measures," which allow resource activity on land claimed by Indians while negotiations are taking place.

"Some new approaches will have to be taken," said John Watson, B.C. regional director at the department of Indian affairs. "I think it will mean that First Nation expectations about what can be delivered in treaties are significantly greater than may be the case today."

Stewart also said the treaty process might need to be modified, but B.C. Aboriginal Affairs Minister John Cashore said the court ruling wouldn't have a major impact on land-claim negotiations.

"I think that we are on the right track, so I don't think there will be fundamental changes," Cashore said. "It puts treaty-making in a stronger position in British Columbia and that's what is important."

Cashore said he will wait for an analysis of the decision by B.C.'s attorney-general before responding to questions regarding forestry and mining rights on land under dispute.

Cassidy predicted that unless there is fast government action to modify the treaty process, tribes will flock to the courts.

"I think that the danger here is that if the governments, particularly the B.C. government, don't move quickly to indicate that they accept the spirit of this judgment, what you'll see is more litigation, more economic uncertainty, and that won't benefit anybody."



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