



# **Advocacy, Initiatives, and Projects by the BC Specific Claims Working Group**

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# PRESENTATION OVERVIEW

- About the BCSCWG
- Advocacy and support for a fully independent specific claims process
- Initiatives to increase collaboration and strengthen advocacy and support through cooperation
- Recent projects
- Closing remarks

# WHO WE ARE

- Created by UBCIC via resolution in 2013
- Group of Indigenous leaders and technicians advocating for policy reform that advances justice for BC First Nations in accordance with upholding our human rights, including the right of self-determination.
- We emphasize the historical uniqueness of colonization in BC and the need to address the distinctive challenges of BC specific claims resolution since BC accounts for over half of all unresolved claims in Canada.
- Raise the national and international profile of specific claims resolution.



# SUPPORT FOR AN INDEPENDENT PROCESS

- Advocate for the creation of a fully independent specific claims process that eliminates Canada's conflict of interest and integrates Indigenous laws into all mechanisms of redress.
- Mandated by resolution since 2017 to carry out work that supports the development of an independent process that fully aligns with the UN Declaration.
- Canada must uphold its legal obligations and work in full and equal partnership with First Nations in the development of a new process.
- Canada must obtain the FPIC of First Nations before implementing new processes or procedures.

# SUPPORT FOR AN ICRSC

BCSCWG supports the AFN's proposal for an Independent Centre for the Resolution of Specific Claims based on upholding First Nations' human rights as articulated in the UN Declaration and four key principles:

1. The specific claims process must be consistent with the honour of the Crown
2. All aspects of claims resolution, including funding and oversight of claims must be handled independently of Canada
3. The Independent Centre for the Resolution of Specific Claims must support the recognition of Indigenous laws, legal orders, and dispute resolution mechanisms. This includes alternate forms of remedy such as the return of lands
4. There must be no arbitrary limits or caps on compensation

# CREATING OPPORTUNITIES FOR COLLABORATION

Transformative Change in Specific Claims (virtual meetings):

January 12, 2022 (UBCIC membership)

- Challenges related to Canada's unilateralism and current process
- AFN proposal for an Independent Specific Claims Resolution Centre
- Resources to support incorporation of Indigenous laws

April 20, 2022 (BC-wide, all-Chiefs)

- Developments in research funding
- Specific Claims Tribunal update by Tribunal Chair
- Canada not negotiating commonage/large value claims, cap
- Land Back as remedy
- Climate crisis highlighting urgent need for ATR policy reform

# ENCOURAGING NATIONAL COOPERATION

- BCSCWG reached out to the AFN National Chief to communicate concerns of BC First Nations and coordinate advocacy initiatives.
- Meetings between BCSCWG and National Chief in September 2021 and February 2022, and with National and Regional Chief in April 2022.
- National Chief's letters to Ministers Lametti and Miller on threats to the Specific Claims Tribunal's independence and the urgent need for a fully independent specific claims process.
- BCSCWG coordinated national endorsement campaigns.



# RECENT ADVOCACY INITIATIVES

- Identifying threats to the Specific Claims Tribunal's independence since passing of the *Administrative Tribunals Support Service of Canada Act* and amendments to the *Specific Claims Tribunal Act*.
- Meeting with Tribunal Chair in February 2022.
- August 2022 joint submission to Tribunal's review of the Rules of Practice and Procedure.
- Submission outlined guiding principles to ensure First Nations' access to justice is fully facilitated:
  1. **Ensuring First Nations' human rights are fully upheld**
  2. **Prioritizing the SCT's reconciliatory aim**
  3. **Full access to justice for all First Nations claimants, regardless of claim value**
  4. **Ensuring the SCT's judicial and institutional independence**
- Raised issues about Canada's overly adversarial approach and its position on engaging joint experts, and form of hearings.



# EXPANDING THE SCOPE OF SPECIFIC CLAIMS

- Project on Indigenous women's historical losses and implications for mechanisms of redress.
- Discussion paper and interviews on the relationship between historic Indian reserve creation processes in BC and the political, economic, and social marginalization of Indigenous women.
- Colonial gender bias resulted in historical losses of land, resources, as well as vital knowledge of Indigenous laws, matriarchal economic systems, and governance structures.
- Possible implications for the resolution of specific claims.



# ATI AND ACCESS TO JUSTICE

- Project related to Canada's review of the federal *Access to Information Act* and *Privacy Act*.
- First Nations must have full access to information when seeking to substantiate their claims against Canada.
- First Nations' right to redress for historical losses cannot be upheld without full access to historical records.
- NCRD, through UBCIC, funded by Treasury Board Secretariat (TBS) and Department of Justice (DOJ) to prepare a submission to the review processes underway for *Access to Information Act* and *Privacy Act*.
- Part of Canada's efforts to engage with First Nations.



# UPCOMING WORK

Future projects to advance specific claims reform:

- Understanding reserve creation processes, jurisdictions, loss, and redress through the lens of Indigenous women: building on work to date with an organized gathering and storytelling
- Discussion paper on Land Back as a specific claims remedy
- Survey and report on Costs of unresolved specific claims
- Survey and discussion paper/risk analysis related to outside funding and aggressive law and insurance firms
- Land claim negotiation workshops

We continue to work to advocate for changes that will result in a fair, just, and timely process for all First Nations that upholds are human rights.

