

## Unit 5

# Reconciling Indigenous Rights and Title: Treaties and Alternatives

### Overview

Indigenous peoples of Canada have endured more than 150 years of discriminatory legislation and policies. A fundamental issue that has been left largely unresolved is that of Indigenous Rights and Title (also known as Aboriginal Rights and Title). While in some parts of Canada, Indigenous Rights and Title were formally recognized through treaties, the same did not happen in British Columbia until very recently.

BC First Nations have always fought to have their Indigenous Rights and Title recognized and respected. Only in recent years have governments acknowledged the existence of Indigenous Rights and Title.

Today, First Nations communities and individuals hold diverse perspectives and opinions on how best to ensure Indigenous Rights and Title. One means for achieving this recognition is through the BC Treaty Process. A small number of First Nations have signed treaties with Canada and British Columbia. Some are participating in the process, but have made little progress. Some are finding ways to revitalize the treaty process. Other Nations choose not to participate.

The suggested activities in this unit deal with the history of treaty making in Canada and the lack of it in BC, the Modern Day Treaty Process, its goals and challenges, and also alternatives to treaty negotiations. They are intended to be adapted by teachers into Social Studies courses as part of the discussion of First Peoples relationships with the rest of Canada through colonialism to the present day.

Many of the concepts and activities in this unit can be correlated with the other Governance units. However, these suggestions give teachers an opportunity to develop specific lessons that focus on the issues of treaties and alternatives to treaties.

The Unit has two sections, one developed for Grades 4 to 8, and the other for Grades 9 to 12 Social Studies courses. However, it is suggested that teachers refer to both sections when developing their lessons as they may find other activities or topics that can be adapted to their classes.

 **Backgrounder**  
 For more information see Backgrounder 12, *Reconciliation and Indigenous Rights and Title*, page 247

**Enduring Understandings**

- Treaties are one way to settle outstanding First Nations land rights and achieve self-government.
- Treaties depend on a nation-to-nation relationship.
- The relationships between governments and First Nations has changed over time.

**Guiding Questions**

- How is treaty making in British Columbia different from the rest of Canada?
- What is the difference between historical and modern-day treaties under the BC Treaty Process?
- What are the processes involved in resolving Indigenous Rights and Title in British Columbia?
- How are Indigenous Rights and Title, Treaty and Self-Government connected?
- What responsibilities do all Canadians have to respect and uphold the treaties made between the Crown and First Peoples?

## Key Concepts in Treaty Making

### Traditional Foundations

- First Peoples were sovereign and self-governing before contact.
- First Nations are made up of diverse societies that are distinct from each other.
- First Nations made agreements and treaties with each other prior to European contact.

### Oral History

- Oral traditions are accurate methods of recording information and involve a high level of skill.
- Oral traditions pass on important cultural perspectives and knowledge from one generation to the next.
- Oral records of treaties made between First Nations and Europeans often demonstrate a different perspective from that of the written record.
- Oral history is used as evidence in important court cases.

### Views of Land and Treaty

- First Nations concepts of land include the idea of sharing the land and resources, while Euro-Canadian concepts are based on individual land “ownership.”
- Generally speaking, when treaties were made in the past, First Nations and Canadian governments had different interpretations of what the treaties entailed.
- Most First Nations signed treaties with the understanding that the land was to be shared; Euro-Canadians believed lands were being bought and ownership transferred to them.

### Historical Background

- The early colonial relationship with First Nations was guided by the Royal Proclamation of 1763 and the Treaty of Niagara in 1764.
- Early treaties were made in Eastern Canada and the Maritimes.
- The British North America Act of 1867 established a new relationship between the Dominion of Canada and First Peoples.
- Confederation brought about the numbered treaties in many parts of Canada, but not in BC except for the Peace River region.
- These treaties were based on the extinguishment model.

### Treaties in British Columbia

- James Douglas made early treaties with some First Nations on Vancouver Island which were purchases of land, but made no more treaties after the colony of British Columbia was formed.

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- The Peace River region was included in a large area made part of Treaty 8 in the 1890s. It includes large areas of Alberta, Northwest Territories as well as north-east BC.
- BC politicians and citizens ignored the Royal Proclamation and the existence of Indigenous Rights and Title.
- First Peoples persisted in pursuing land claims, treaties and litigation.
- The Nisga'a Final Agreement became the first Modern Day Treaty in BC in 2000.

### **BC Treaty Process**

- In 1991, a joint task force between BC First Nations, British Columbia and Canada presented a vision and outline the process of how treaties could be negotiated.
- The BC Treaty Commission was established in 1993 by Canada, British Columbia and the First Nations Summit. A six-stage process was put in place to negotiate comprehensive agreements addressing land, resource and governance.
- The BC Treaty process is intended to settle comprehensive land claims and provide self-government outside of the Indian Act.
- To date, only a few First Nations have achieved the ratification of a final agreement in BC.

### **Changing the Model**

- Models for reconciliation between First Nations and the federal and provincial governments are changing.
- Rather than a comprehensive agreement, some communities are negotiating sectoral agreements in specific areas of jurisdiction.
- The Tsilhqot'in Decision has caused some First Nations to reconsider what kind of relationship and agreement(s) they may seek to negotiate with the federal and provincial governments

### **National Responsibility**

- Canadians have a responsibility to respect and uphold treaties between First Nations and the Crown.
- Canada would have no legitimacy without treaties (TRC statement).

## RESOURCES

For further information on these resources, see the annotations in the Bibliography, beginning on page 255.

- *Aboriginal Rights, Treaty Rights, Original Aboriginal Title - Aboriginal Awareness Training*. Indigenous Awareness Canada 2010. 2.30 min.  
<https://youtu.be/kRmJcuJ839A>.
- “Aboriginal Title.” Indigenous Foundations. <https://bit.ly/2MHlgds>.
- BC Assembly of First Nations. Community Profiles.  
<http://bcafn.ca/community-profiles/>
- BC Government.
  - *First Nations A-Z Listing* <https://tinyurl.com/fnesc944>.
  - Incremental Treaty Agreements. <https://bit.ly/2FbflW1>
- BCTF. *Understanding the BC Treaty Process*. 1998.  
<https://tinyurl.com/fnesc937>.
- BC Treaty Commission
  - Main website. <http://www.bctreaty.ca>
  - Interactive map. <http://www.bctreaty.ca/map>
  - *Treaties and Agreements in Principle*. <https://tinyurl.com/fnesc953>
  - *The Report of the British Columbia Claims Task Force*, 1991.  
<https://bit.ly/2QrujxL>
- Blankinship, Jennie L. *Alternatives to the British Columbia Treaty Process: Community Perspectives on Aboriginal Title and Rights*. Masters Thesis, UVic, 2006. Available online at <https://tinyurl.com/fnesc936>
- Brown, F. and Y. K. Brown (compilers). *Staying the Course, Staying Alive – Coastal First Nations Fundamental Truths: Biodiversity, Stewardship and Sustainability*. Biodiversity BC, 2009. Download at [www.biodiversitybc.org](http://www.biodiversitybc.org) or link directly at <http://ow.ly/LV5X302mlHN>
- CBC. Tsilhqot’in First Nation granted BC title claim in Supreme Court ruling. 2014. 3:57 min. CBC. <https://youtu.be/z4D85H7lQxEE>
- Centre for First Nations Governance. *A Brief History of Our Right to Self-Governance, Pre-Contact to Present*. 2007. (Booklet, 36 pages.)  
<https://tinyurl.com/fnesc930>
- Council of Haida Nation. “To lay the copper on the floor.”2017.  
<http://www.haidanation.ca/?p=5835>
- Deerchild, Rosana. *Treaty Days*. CBC Unreserved. 2016. Video, 2:41 min.  
<https://bit.ly/2SjZpsA>
- Gray, Lynda. *First Nations 101*. Adaawx Publishing, 2011.
- Historica Canada. *Treaties in Canada*. Education Guide.  
<https://tinyurl.com/fnesc954>.
- Indigenous Corporate Training Inc. website. <https://www.ictinc.ca/>
  - What’s the Difference between Historic and Modern Treaties?  
<https://tinyurl.com/fnesc955>

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- Joseph, Bob. *21 Things You May Not Know About The Indian Act*. Indigenous Relations Press, 2018.
- Joseph, Bob. *Indigenous Relations: Insights, Tips & Suggestions to Make Reconciliation a Reality*. Indigenous Relations Press, 2019.
- “Were the Douglas Treaties and the Numbered Treaties Fairly Negotiated?” *The Governor’s Letters*. Department of History, University of UVIC. <http://www.govlet.ca>.

### Additional Resources

- Canadian Museum for Human Rights website. <https://humanrights.ca/human-rights-activities-classroom>.
- *The Charter of Rights and Freedoms*. Springtide, 2013. 6:34 min. An animated explanation of the Canadian Charter of Rights and Freedoms. [https://youtu.be/YAIM1qzO9\\_w](https://youtu.be/YAIM1qzO9_w).
- The Learning Circle: Classroom Activities on First Nations in Canada - A Learning Resource for Ages 12 to 14. <https://bit.ly/2RaTtGd>
- Simplified Version of the Universal Declaration of Human Rights. SD 23 Central Okanagan website. <https://bit.ly/2QraGpu>
- Teaching Treaties in the Classroom. Grades 7-12. Office of the Treaty Commission, Saskatchewan. (510 pp.) <https://tinyurl.com/fnesc956>
- The Universal Declaration of Human Rights. An engaging poster highlighting the major human rights. <https://tinyurl.com/fnesc914>.
- *What are the universal human rights?* Ted-Ed, 2015. 4:46 min. An animated explanation of the basics of the UN Universal Declaration of Human Rights. <https://youtu.be/nDgIVseTkuE>.

## Part One

### Learning About Treaty and Alternatives: Grades 4 to 8

Both the Grade 4 and 5 Social Studies Learning Standards include treaties as a suggested topic. Elementary students can begin to understand what a treaty is and the reasons for the treaty process in BC. Grade 7 can make connections between the changes from traditional oral treaties to contemporary forms of treaties as part of the social, political, legal and economic features of First Nations. Grade 8 can focus on the colonial implications of treaties, and the differences in modern day treaties and their alternatives.

### Outline of Activities

- 1-1. Indigenous Rights and Title
  - a. What Are Rights?
  - b. What Are Your Rights?
  - c. Evaluating the Importance of Rights
  - d. Indigenous Rights
- 1-2. Agreements and Treaties
  - a. What is an Agreement?
  - b. Formal and Informal Agreements
  - c. Investigating Treaties
- 1-3. The Story of First Nations Treaties in BC
  - a. What is the Story of Treaties?
  - b. Thinking About the Story of Treaties
  - c. Retelling the Story
- 1-4. Modern Day Treaties and Alternatives
  - a. Local First Nations
  - b. Treaty Timeline
  - c. Alternatives to Treaty

**Relevant BC Learning Standards for Social Studies 4-8**

Grade	Content Standard	Sample Topics (from Curriculum)
4 First Peoples and European Contact	The impact of colonization on First Peoples societies in British Columbia and Canada	More complex political systems, loss of territory, key events e.g. Indian Act, potlatch ban, reserve system, residential schools, treaties
5 Canadian Issues and Governance	Past discriminatory government policies and actions	Indian Act; ethnic minorities denied the vote
	Participation and representation in Canada's system of government	First Peoples governance
	First Peoples land ownership and use	Treaties, land claims disputes. How do First Peoples balance economic development with traditional uses of the land?
6 Global Issues and Governance	Different systems of government	Government decision-making structures and forms of rule  Indigenous governance
	Economic policies and resource management, including effects on Indigenous peoples	How should decisions about economic policy and resource management be made?
	Media technologies and coverage of current events	How does the media influence public perceptions of major events?
7 Ancient World to 7th century	Social, political, legal, governmental and economic systems and structures, including at least one indigenous to the Americas	List and describe aspects of current laws and government structure that have evolved from ancient civilizations
8 7th Century to 1750	Exploration, expansion and colonization	Contact and conflict

## Suggested Activities

Note: There are more activities here than most teachers will incorporate into their units. It is not expected that you will use all of the activities, or follow the sequence as it is described. These activities are intended to be adapted to fit the needs of your students and classroom, as well as inspire ways that you can respectfully include relevant First Nations knowledge and perspectives in your course.

### 1-1. Indigenous Rights and Title

Students build their understanding of the concept of rights and consider different types of rights. Then they apply this knowledge to understanding inherent Indigenous Rights and Title.

#### a. What Are Rights?

Students build their understanding of the concept of rights.

- Write these two sentences on the board and ask students to think about how they are different. (For example, something that is right is correct, like an answer on a quiz, or the morally correct thing to do; something that is a **right** is something we are entitled to, such as the right to freedom of speech.)
  - Tell me something that is right.
  - Tell me something that is a right.
- Discuss what the concept of rights means. Ask questions such as:
  - What is an example of a right?
  - What different kinds of rights are there? (Such as human rights, animal rights, children's rights)
  - Can you use the word right or rights in a sentence?



#### Formative Assessment Strategy

Assess students' understanding of the concept of "rights" and provide more support if they are unclear.

#### b. What Are Your Rights?

- Students can explore examples of different types of rights that apply to them. You can use Blackline Master T-1, page 177, *What Are Your Rights?* as a source of some of their rights.
- Have students work in pairs or small groups. Ask them to read over the different rights listed on Blackline Master T-1 to make sure they understand what they all mean. Students can suggest words or phrases that they don't understand and you can help clarify their meanings.
- Have students secretly select one of the rights listed, and draw a picture to represent it. Their partner or members of their group guess what the right is.
  - Students can share their pictures with other groups or the whole class to figure out the right they illustrated.



Blackline Master T-1, page 177, *What Are Your Rights?*

### c. Evaluating the Importance of Rights

Students conduct a poll to see which rights students think are the most important.

- Ask students to select what they think are the four most important rights. The data could be collected anonymously, with students writing their choices on slips of paper, or they could deliver their choices verbally.
- Tally the choices on the board. Discuss the results. Which rights seem most important to the class? Ask if there were any surprises.
- Discuss further the concept of rights. Ask questions such as:
  - Where do these rights come from? What values are they based on?
  - What rights should children have that they don't have?
- This activity is only meant to build a background to the concept of Indigenous Rights, but it could be expanded to be a broader inquiry into the topic of Canadian or Human Rights. Here are some possible resources for further study:
  - Classroom Activities: Canadian Museum for Human Rights website. <https://humanrights.ca/human-rights-activities-classroom>. Classroom activities K-12 that can be adapted to your classroom.
  - Poster: The Universal Declaration of Human Rights. An engaging poster highlighting the major human rights. <https://tinyurl.com/fnesc914>.
  - Text: Simplified Version of the Universal Declaration of Human Rights. SD 23 Central Okanagan website. <https://bit.ly/2QraGpu>
  - Video: *The Charter of Rights and Freedoms*. Springtide, 2013. 6:34 min. An animated explanation of the Canadian Charter of Rights and Freedoms. [https://youtu.be/YAIM1qzO9\\_w](https://youtu.be/YAIM1qzO9_w).
  - Video: *What are the universal human rights?* Ted-Ed, 2015. 4:46 min. An animated explanation of the basics of the UN Universal Declaration of Human Rights. <https://youtu.be/nDgIVseTkuE>.

 **Cross-Curricular Link**  
Mathematics: Have students create a graph of the results of the Rights Poll

 **Formative Assessment Strategy**  
Use 3-2-1 Countdown to assess students' understanding of the concept of rights. Ask students to write or say

- 3 things they learned about rights
- 2 things that surprised them about rights
- 1 thing to they can do with what they learned about rights

### d. Indigenous Rights and Title

Students apply their understanding of rights to learn about Indigenous or Aboriginal Rights and to identify the significance of one of those rights: Aboriginal Title.

- Explain that there are some special rights called Indigenous Rights. Ask students to suggest what some examples of Indigenous Rights might be. How might they be different from the rights that have already been discussed?
- Students can use Blackline Master T-2, page 178, *Indigenous Rights and Title*, to find out what some Indigenous Rights are.
- Students can watch a short video that summarizes Indigenous Rights, Title and Treaty Rights. See *Aboriginal Rights, Treaty Rights, Original Aboriginal Title - Aboriginal Awareness Training*, Online at <https://youtu.be/kRmJcuJ839A>.

 Blackline Master T-2, page 178, *Indigenous Rights and Title*

- What is Indigenous Title? Ask students to explain the connection between Indigenous Rights and Indigenous Title. (Indigenous Title is one of the Indigenous Rights. It is the inherent right that Indigenous people have to occupy and use the lands they have occupied for millennia, and to economically benefit from those lands.)
  - For more about Indigenous Title, see the article “Aboriginal Title” at the Indigenous Foundations website, <https://bit.ly/2MHlgds>.

 **Backgrounder**  
 For more information see Backgrounder 12, *Reconciliation and Indigenous Rights and Title*, page 247

## 1-2. Agreements and Treaties

Students will investigate characteristics of an agreement, and recognize different types of agreements, including treaties which are Nation-to-Nation agreements.

### a. What is an Agreement?

- Ask students where they might hear someone say, “I agree.” Ask students to suggest other words that start with “agree.”
- Ask students to use the word “agreement” in a sentence. This could be written or spoken.
  - Use students’ responses to assess their understanding of the concept of an agreement.
- Have students consider how an agreement and a promise are the same and how they are different. Students could use the Think-Pair-Share strategy to clarify their thinking.

### b. Formal and Informal Agreements

- Ask students to think of some examples of agreements they make in their daily life. For example, they may agree to help with chores around the house, or agree to play by the rules in basketball. Discuss how we make these types of agreements all the time. Explain that these can be called unspoken or informal agreements.
- Discuss the differences between informal and formal agreements. Explain that a formal agreement is made between two or more people or groups. Each group agrees to do something in the agreement, and each group gets something in return.
  - Students can search the current news sites to find examples of formal agreements between a variety of countries, governments, businesses, First Nations and other groups.
- Have students develop a list of different types of formal agreements. They can work in small groups to develop a list.
  - Students can begin by brainstorming agreements that they have heard of.
  - Students can use Internet searches to find other examples.
  - Students can ask their families at home about agreements they know about.

### c. Investigating Treaties

Students become familiar with some of the features of a treaty.

- If you haven't discussed it earlier, ask students if they know what a treaty is. If they have, ask students to recall what they know about treaties.
- Have students examine an example of a treaty to try to determine what some of the features of a treaty are. They can find out who the parties were that made the treaty, why the treating was signed, and what each side agreed to do.
  - You may want to provide students with a list of significant treaties to research, or you could have students select one from the Wikipedia article, List of treaties ([https://en.wikipedia.org/wiki/List\\_of\\_treaties](https://en.wikipedia.org/wiki/List_of_treaties)). Remind students that when using Wikipedia as a source, they need to do further verification of facts.
- Features of a treaty include:
  - agreement between two or more sides, often states or sovereign bodies
  - all parties assume obligations
  - all parties receive benefits
- Students can examine examples of historical treaties, such as
  - Great Peace of Montreal, Treaty of Waitangi (Maori)
  - Heiltsuk–Haida peace treaty (see Council of Haida Nation page; to lay the copper on the floor) <http://www.haidanation.ca/?p=5835>
    - For more about this treaty see Part 2 Activity 2-4, page 168.

## 1-3. The Story of First Nations Treaties in BC

Students explore different types of treaties that have impacted First Nations over time.

### a. What is the Story of Treaties?

- Students can use Blackline Master T-3, page 179, *What's the Story of Treaties?* to learn about the relationship between First Nations and various treaties over time.
  - This 4-page article is written at a Grade 6 - 7 reading level, so younger students may need more support reading it than older students.
- Depending on the level of your students, you may want to break this article into sections. Sections are divided by headings.
- Students can use annotating techniques as they read the article, or the sections. They can circle words they don't know, underline important ideas, write questions or draw symbols in the margins.
- There are a number of ways this article can be used for students to read and understand the content.
  - Identify key words in the article. Have students list important words or phrases from each section. Discuss students' choices and ask them to explain why they chose them. Clarify the meanings of any unfamiliar words.

 Blackline Master T-3, page 179, *What's the Story of Treaties?*

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- Students can work on their own or in small groups to summarize the sections of the article. Later they can compare their summaries with other groups. Students can use Blackline Master T-4, page 183, *Summarizing the Treaty Story*, to record their summaries.

 Blackline Master T-4,  
page 183, *Summarizing  
the Treaty Story*

### b. Thinking About the Story of Treaties

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- Ask students to reflect on what they learned about First Nations and treaties in the article *What's the Story of Treaties*. Ask questions such as:
  - What are three new things you learned from this article?
  - How did the ideas in this article make you feel?
  - What questions do you have about the ideas in this article? Write down 2 or 3 questions that we could investigate further.
    - Suggest students use the 5 Ws + H to help them think of some questions.
- Have students share their responses in groups or with the class.
- Write some of their questions on the board. Have students try to find answers to some of them. You may want to work with the class to identify which questions to follow up on or groups of students could select a question on their own.
- Students can report back to the class after a set time (depending on the questions and resources available.)
  - If students found only partial answers, or were unable to find answers, discuss why that might have been the case. For example, was it the question? (too big a topic, or unclear or too difficult to understand), difficulty finding information in the available resources? not enough background knowledge? not enough time?

### c. Retelling the Story

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- Ask students if they think most Canadians know the story of treaties from the First Nations perspective. Discuss why or why not.
- Have students work in groups to design a way of retelling the story of treaties to make the general public more aware of the history.
- Ask student to think about why it might be important for Canadians to understand the story of treaties, and what the most significant parts of the story are that need to be understood.
- Groups can choose a format to create their awareness plan. For example, it could be a short play, a “Heritage Minute” video, a graphic novel, or timeline.



#### Formative Assessment Strategies

Use this activity to assess students' understanding of the history of treaties in BC.

This could include self or peer assessment. Students can develop criteria to evaluate the final products of the activity.

## 1-4. Modern Day Treaties and Alternatives

### a. Local First Nations

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- Determine the status of the local First Nations community in regards to the BC Treaty process. Most First Nations will fall under one of these categories.
  - Final Agreement (the treaty agreement) has been signed
  - Participating in the BC Treaty Process and currently negotiating
  - Participating in the BC Treaty Process but not currently negotiating
  - Not participating in the treaty process
- Here are some sources to determine this information:
  - Students may be able to find out the information from local sources, such as the First Nation's website.
  - BC Treaty Commission interactive map of participating First Nations. Students can locate the community. The information panel that comes up tells if the Nation is currently negotiating.

### b. Treaties

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- Ask students to investigate why some First Nations are engaged in the treaty process. Ask to work in groups to list some questions they have about treaties in BC.
- Have students find out answers to their questions.
- Students can find out about who the participants are. What roles do the federal, provincial, and First Nations governments play?
- Ask how the citizens of First Nations communities and tribal organizations are involved.
- For more activities about the BC Treaty Process, see Part 2-7.

### c. Alternatives to Treaty

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- Explain that not all First Nations chose to negotiate treaties. Ask students to suggest some reasons why some communities might not want to participate in treaties.
- Courts. Explain that one alternative to the BC Treaty Process is for First Nations to go to court to have their Indigenous Rights and Title legally affirmed.
  - Investigate with students the Tsilhqot'in Decision in 1914. Students can view the CBC video "Tsilhqot'in First Nation granted BC title claim in Supreme Court ruling." 3:57 min. <https://youtu.be/z4D85H7lQxEE>
- Non-treaty agreements. Explain that many First Nations make agreements with governments take part in the governance of certain sectors, especially in reasserting control over their lands and resources.
- Read with students Blackline Master T-10, page 193, *BC Agreements Outside Treaty*.

## Part Two

# Modern Day Treaties and Alternatives in British Columbia, Grades 9-12

### Overview

These suggested activities focus on the Modern Day Treaty Process, its goals and challenges, and also alternatives to treaty negotiations. They are intended to be adapted by teachers into their Secondary Social Studies courses.

### Outline of Activities

- 2-1. Introduction to Treaty
  - a. What Do You Know About Treaties?
  - b. Treaty Nations
  - c. Local First Nation
- 2-2. Indigenous Rights and Title
  - a. What is Title?
  - b. What are Indigenous Rights and Title?
- 2-3. What Are Treaties
  - a. Defining Treaties
  - b. Nation to Nation Relationships
- 2-4. Treaties Between First Nations - Oral Treaties
  - a. Oral Treaties
  - b. Analysing First Nations Perspectives
  - c. Features of Oral Treaties
- 2-5. Historical Treaties and Extinguishment of Title
  - a. Treaty Days
  - b. Historical Treaty Map
  - c. “Cede, Release, Surrender” of Title
  - d. Historical Treaties in British Columbia
- 2-6. Recognition of Indigenous Rights and Title
  - a. Role of Constitution and Courts
  - b. Why Treaties?
  - c. What are Alternatives to Treaties?
- 2-7. What is the BC Treaty Process?
  - a. The BC Treaty Process
  - b. Treaty Progress
  - c. What are the Challenges of the Treaty Process?
  - d. The Treaty Process in Action
- 2-8. Results of Modern-Day Treaties

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**Relevant BC Learning Standards for Secondary Social Studies Courses**

Course	Key Content Standards	Sample Topics (from BC Curriculum)
Social Studies 9	The continuing effects of imperialism and colonialism on Indigenous peoples in Canada and around the world	<ul style="list-style-type: none"> <li>• Impact of treaties on First Peoples (e.g. numbered treaties, Vancouver Island Treaties)</li> </ul>
	Discriminatory policies, attitudes and historical wrongs	<ul style="list-style-type: none"> <li>• Discriminatory policies towards First Peoples</li> </ul>
Social Studies 10	Government, First Peoples governance, political institutions and ideologies	<ul style="list-style-type: none"> <li>• Title, treaties, and land claims (e.g., Nisga’a Treaty, Haida Gwaii Strategic Land Use Decision, Tsilhqot’in decision)</li> <li>• Canadian Charter of Rights and Freedoms</li> </ul>
	Canadian Autonomy	<ul style="list-style-type: none"> <li>• Canada (treaties with First Peoples)</li> </ul>
BC First Peoples 12	Traditional territories of the BC First Nations and relationships with the land	<ul style="list-style-type: none"> <li>• Traditional territories may overlap.</li> <li>• Difference between political boundaries and traditional territories</li> </ul>
	Role of oral tradition for BC First Peoples	<ul style="list-style-type: none"> <li>• Oral tradition as valid and legal evidence (e.g., Delgamuukw v. B.C., 1997; ownership of property, territory, and political agreements)</li> </ul>
	Provincial and federal government policies and practices that have affected, and continue to affect, the responses of BC First Peoples to colonialism.	<ul style="list-style-type: none"> <li>• Treaties, including fishing and hunting rights</li> </ul>
	Resistance of BC First Peoples to colonialism	<ul style="list-style-type: none"> <li>• Judicial cases (e.g. Calder 1973; Guerin 1984; Sparrow 1990; Van der Peet 1996)</li> </ul>
	Commonalities and differences between traditional and contemporary BC First Peoples governance systems	<ul style="list-style-type: none"> <li>• traditional governance</li> <li>• land claims and self-governance</li> </ul>
Contemporary Indigenous Studies 12	Responses to inequities in the relationships of indigenous peoples with governments in Canada and around the world:	<ul style="list-style-type: none"> <li>• modern treaties and self-government</li> </ul>
Comparative Cultures 12	Interactions between cultures and the natural environment	<ul style="list-style-type: none"> <li>• Interdependence of cultural identity and the physical environment [connecting land, title and treaty]</li> </ul>
Law Studies	The Constitution of Canada and the Canadian Charter of Rights and Freedoms	
	Canadian legislations concerning First Peoples	<ul style="list-style-type: none"> <li>• Treaty process</li> <li>• 1763 Royal Proclamation</li> <li>• Constitution Act, 1982</li> </ul>
	Indigenous legal orders and traditional laws in Canada and other global jurisdictions	<ul style="list-style-type: none"> <li>• Historical relationships between peoples as a basis to negotiate treaty boundaries</li> </ul>

## 2-1. Introduction to Treaty

### a. What Do You Know About Treaties?

- Discuss what students know about First Nations treaties in BC. They could share their ideas in groups or in a whole class discussion.
  - You may want to begin with a quiz about treaties. See Blackline Master T-5, page 185, *Treaties Awareness Quiz*
  - Ask students to consider the question, Why are many BC First Nations negotiating treaties today?
- Students can develop questions they have about treaties in BC that they can investigate in this unit.
  - They could use a graphic organizer like K-W-L to record what they know and what questions they have. At the end of the unit they can fill in the Learned column.

 Blackline Master T-5, page 185, *Treaties Awareness Quiz*



#### Formative Assessment Strategy

Use responses to the Treaty Awareness Quiz to help assess the background knowledge students have about treaties, and provide some questions or ideas that you can build on.

### b. Treaty Nations

- Ask students if they know of any First Nations in BC who have signed a treaty. A list of those First Nations who have signed treaties or have Agreements In Principle can be found at the BC Treaty Commission website, <http://www.bctreaty.ca/treaties-and-agreements-in-principle>
  - Find out if there are any an imminent or recent votes on a treaty in a BC First Nations community. If so, discuss the votes and outcomes with students.

### c. Local First Nation

- Determine if the local First Nations is currently in treaty negotiations, has reached a treaty or self-governance agreement, or has decided not to participate in the treaty process.
  - Ask students to determine the status of treaty negotiations in your local region. One source of this information can be found at *First Nations A-Z Listing* on the British Columbia Government website, at <https://tinyurl.com/fnesc944>.

## 2-2. Indigenous Rights and Title

Students will be able to explain the concepts of Indigenous Rights and Title as they pertain to longstanding issues of land use and ownership. These include the outstanding reconciliation of title and jurisdiction between First Nations and the Crown governments.

Assess your students' understanding of what is meant by Indigenous Rights and Title. Depending on their level of knowledge, you may want to:

- review the terms
- have students research to be able to explain the meaning
- directly teach the use of the term.

Use some of these activities to guide students to come to an understanding of Indigenous Rights and Title.

### a. What is Title?

Students build their understanding of the concept of “title” in relation to land and property.

- Explain that the word title has different meanings in different settings . Students can suggest meanings that they know about. Ask how title could be related to land or property.
- Students can look up the meaning of title, or you can give them a definition, such as the right or claim to ownership of a piece of land or property.
- Explain that in BC (and other provinces) the Land Title Act governs the ownership of buying, selling and owning property.

### b. What are Indigenous Rights and Title?

- Discuss with the students the concept of Indigenous Rights and Title. Ask them to suggest what it means to them, and what role it may play in the lives of First Nations people and other Canadians.
  - Explain that Indigenous Title is one kind of Indigenous Rights. Indigenous Title arises from First Nations' prior occupation and use of their traditional territories, before the arrival of Europeans and the formation of Canada.
- If students have little background knowledge of the term, ask them to write one or two questions that they could use to find out more about its importance.
- Have students consult a variety of sources to find out more about Indigenous or Aboriginal Title. Students could work in groups to research different sources, and share their findings. Then the class can arrive at a group definition of Indigenous Title. Some sources are:
  - Backgrounder 12, *Reconciliation and Indigenous Rights and Title*, page 247.
  - Aboriginal Title, Indigenous Foundations website  
<https://tinyurl.com/fnesc917>

Backgrounder 12,  
 Reconciliation and  
 Indigenous Rights and Title,  
 page 247

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- *21 Things You May Not Know About The Indian Act* by Bob Joseph. Indigenous Relations Press, 2018.
- *Indigenous Relations: Insights, Tips & Suggestions to Make Reconciliation a Reality* by Bob Joseph. Indigenous Relations Press, 2019.
- Aboriginal Rights, Title and the Duty to Consult - a Primer. Indigenous Corporate Training <https://tinyurl.com/fnesc919>
- Royal Proclamation of 1763. Review or discuss the Royal Proclamation of 1763. Have students find out why this colonial document is used as a foundation for discussing Indigenous Rights and Title in Canada.
- For further lesson ideas see The Royal Proclamation and Rights and Title, see “About Indigenous Rights and Title”, found at the Union of BC Indian Chiefs website, *Two World Views in Law*, <https://tinyurl.com/fnesc935>.

### 2-3. What are Treaties?

#### a. Defining Treaties

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Students work together to build a general definition of treaty.

- Have students work together in small groups to arrive at an understanding of what a treaty is through research.
  - Ask the groups to find examples of treaties from the past, and treaties in the news today. Have them describe who the parties were who participated in the treaty and what the reason for the treaty was. (For example the Treaty of Versailles, Peace treaty after World War in 1919 between Germany and the Allied Powers.)
- Ask students to consider the question, How does a treaty happen?
- Have students make a list of characteristics of a treaty.
- Students can use Blackline Master T-6, page 187, *Exploring the Concept of Treaty*, to elaborate their understanding of the concept of treaty.

 Blackline Master T-6,  
page 187, *Exploring  
the Concept of Treaty*

#### b. Nation to Nation Relationships

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- Discuss what a nation to nation relationship means. Ask how this relationship applies to treaties. (For example, the negotiating parties are deemed to be autonomous and sovereign.) Note that this is sometimes referred to as a government-to-government relationship.
- Note that First Nations have a nation-to-nation relationship with Canada (the state), whereas they have a government-to-government relationship with provinces.

## 2-4. Treaties Between First Nations – Oral Treaties

Students investigate examples of treaties made before contact, or early in the contact period.

### a. Oral Treaties

 Blackline Master T-7, page 189, *Nation to Nation Relationships Before Contact*

 Blackline Master T-8, page 190, *Fish Lake Accord*

- Discuss with students why First Nations made treaties with each other before the arrival of Europeans. How might their treaties have been similar and different to other types of treaties discussed in activity 2-3?
- To find out more about oral treaties, students can read the article on Blackline Master T-7, page 189, *Nation to Nation Relationships Before Contact*.
- Students can find out about one oral treaty known as the Fish Lake Accord.
  - Have students read the article on Blackline Master T-8, page 190, *Fish Lake Accord*.
- Students can investigate a Peace Treaty between the Haida and the Heiltsuk First Nations that began over 125 years ago and is still honoured today.
  - Students can learn about the Haida and Heiltsuk peace treaty with these resources
    - “Heiltsuk/ Xaaydagaay (Haida) Peace Treaty” told by Barbara Wilson Kii’iljus. This is a short piece about the treaty, including the narrative about how it began. It is found in the document *Staying the Course, Staying Alive*, compiled by Frank Brown and Y. Kathy Brown. Go to pages 53-54 (PDF pages 75-76). Download at [www.biodiversitybc.org](http://www.biodiversitybc.org) or link directly at <http://ow.ly/LV5X302mlHN>
    - Council of the Haida Nation article, “To lay the copper on the floor,” online at <http://www.haidanation.ca/?p=5835>
    - Background of the Copper Shield: Students may not be familiar with the significance of what is referred to as a copper or copper shield, though First Nations have their own words for them. In the past these were symbols of great wealth as copper was rare. They have a unique shield-like design, divided into three sections by a T shape in the metal. For more information see this page at the Canadian Museum of History site, <https://bit.ly/2U1cLdO> or this Canadian Encyclopedia entry, <https://tinyurl.com/fnesc961>.

### b. Analysing First Nations Perspectives

Challenge older students to analyse oral testimony about Nation to Nation treaties and agreements from some BC First Nations leaders. They are part of Jennie L. Blankinship’s 2006 thesis *Alternatives to the British Columbia Treaty Process Community Perspectives on Aboriginal Title and Right*. Online at <https://tinyurl.com/fnesc936>. See pages 15 to 20.

- In the process of writing her thesis, Blankinship interviewed a number of First Nations people from around the province to get Indigenous perspectives on treaty making.

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- She asked the question: “What were the political relationships between your nation and neighbouring Indigenous nations?”
- Students can read the responses and infer examples of traditional forms of treaty making. They could work in groups to study one or two of the passages, and share their findings with the rest of the class.

### c. Features of Oral Treaties

- Discuss with the class the essential features of First Nations treaties and agreements between each other. Make sure students understand the concept of a nation-to-nation agreement.
  - Ask, does a treaty need to be written down on paper? Discuss how First Nations in the past were held accountable to agreements and treaties they made between nations. (For example, they were ratified by ceremonies and speeches; these events are retained in memory through oral traditions. In the east some First Nations utilized memory devices like the wampum belt.)
  - Students could use Blackline Master T-6, page 187 again for First Nations Oral Treaties and compare it with the chart they completed in Activity 2-3a.
  - Another useful activity is the 3-Level Summaries strategy. Ask students to write three different summaries about the topic Treaties between First Nations. Each one is to be a specific length:
    - 75 to 100 words
    - 30 to 50 words
    - 10 to 15 words



#### Formative Assessment Strategy

Use the 3-Level Summaries activity to assess students' comprehension of traditional treaty making.

Have students reflect on which level of summary they found the easiest or most difficult. Discuss how they had to think differently for each style.

## 2-5. Historical Treaties and Extinguishment of Title

### a. Treaty Days

- Introduce Historical Treaties with a short video called Treaty Days by Rosanna Deerchild (CBC 2016), available online at <https://bit.ly/2SjZpsA>.
- Ask students to watch to explain why some First Nations have a yearly gathering called Treaty Days.
  - The video is a humorous summary of the history of treaties in Canada, focussing on those First Nations from the Numbered Treaties who have an annual event known as Treaty Days, when each member still receives \$5.

### b. Historical Treaties Map

- Have students study a map of treaties in Canada before 1975. A version of the map from the Government of Canada is online at <https://bit.ly/2cfwflo>
- Ask students to think of two or three questions that come to mind when they study the map.
  - Students will likely wonder why there are almost no treaties in British Columbia. If not, point out the lack of treaties.



Historical Treaties of Canada  
<https://bit.ly/2cfwflo>

- Ask, why is BC different from most of the rest of the country? Depending on students' prior knowledge and what course you are teaching, students may have learned about the unique situation of BC after Confederation. If not, students can research the historical context of the land policies in BC before and after Confederation.

### c. “Cede, Release, Surrender” of Title

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The colonial government sought to extinguish any Indigenous title that existed in the lands to make those lands available to settlers. They attempted this by including the phrase “cede, release, surrender” in treaties with First Nations.

- Ask students to find out what extinguishment of title means, and how it was accomplished.
  - Have students read the article Extinguishment of First Nation Title at the Indigenous Corporate Training website, <https://tinyurl.com/fnesc920>.
  - Ask them to find the example of a treaty that uses the language “cede, release, surrender.”
- Students can analyse the words cede, release, and surrender. Ask questions such as:
  - What do these words mean?
  - Why did the federal government put these words into treaties?
- Ask students to reflect on what these words meant to the First Nations people signing the treaties. Ask, Did they mean anything?
  - Discuss how these words differ from First Nations views of land use.
  - Students can view the Heritage Minute video Naskumituwin (Treaty) which emphasizes that the Cree people signing Treaty 9 understood it to mean the land was shared. Find the video at the Historica Canada website, linked at <https://tinyurl.com/fnesc959>.
- Ask students to explain what the *Delgamuukw v. British Columbia* case was important and what it confirmed about Aboriginal Title in BC and Canada. (The Government can't extinguish Aboriginal Title without consent from the First Nations.)

### d. Historical Treaties in British Columbia

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- Students can review the contexts of the two examples of historical treaties in BC, The Vancouver Island or Douglas Treaties, and Treaty 8.
- Use the Curriculum Challenge, “Were the Douglas Treaties and the Numbered Treaties Fairly Negotiated?” found on the website *The Governor's Letters*. <http://www.govlet.ca>.
  - The website includes primary and secondary documents about both the Douglas Treaties and the Numbered Treaties.

## 2-6. Recognition of Indigenous Rights and Title

### a. Role of Constitution and Courts

Students review or learn about the importance of the Constitution Act (1982) and a series of landmark court cases that brought about the recognition of Indigenous Rights and Title.

- Students can investigate the meaning and purpose of Section 35 of the Constitution Act and landmark court cases interpreting that section.
  - Students can work in groups to research one of the cases, then share their findings with the class, using a group presentation or jigsaw strategy.
- Students can use Blackline Master T-9, page 191, *The Road to Recognizing Indigenous Rights and Title* to summarize the key findings of each case, and the law made in the Constitution Act
  - Along with the Act, the cases listed on the Blackline Master are:
    - Calder v BC [1973]
    - Constitution Act, 1982
    - Guerin v The Queen [1984]
    - R v Sparrow [1990]
    - Delgamuukw v BC [1997]
    - Tsilhqot'in Nation v BC [2014]
  - There are other important cases that could also be considered, including:
    - R v Van Der Peet [1996]
    - R v Gladstone [1996]
    - Haida Nation v BC [2004]
- Some sources about some of these significant court cases:
  - Indigenous Foundations. <https://indigenousfoundations.arts.ubc.ca>
  - Centre for First Nations Governance. *A Brief History of Our Right to Self-Governance, Pre-Contact to Present*. <https://tinyurl.com/fnesc930>
  - About Indigenous Rights and Title.” *Two World Views in Law*, Union of BC Indian Chiefs website, <https://tinyurl.com/fnesc935>
- Discuss why there were still court cases about Indigenous or Aboriginal Rights and Title after Section 35 of the Constitution Act was enacted.
  - Students can refer to Backgrounder 12, *Reconciliation and Indigenous Rights and Title*, page 247.
  - Responses could suggest that although Section 35 recognized and affirmed Aboriginal and treaty rights, it did not define them. The subsequent court cases helped to define them. The cases also clarified and supported the recognition of Aboriginal title. Through litigation courts could help resolve conflict and set out some implications of those rights in a Canadian legal context. Crown obligations to First Nations were clarified.

 Blackline Master T-9, page 191, *The Road to Recognizing Indigenous Rights and Title*

 Backgrounder 12, *Reconciliation and Indigenous Rights and Title*, page 247

**b. Why Treaties?**

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- Ask students to consider how these court cases contributed to the federal and provincial governments working with the First Nations Summit to establish the BC Treaty Process, supported by the BC Treaty Commission.
- Have students work in groups to suggest why many First Nations decided to take part in the BC Treaty Process.
- Have them find examples of First Nations stating why they support the BC Treaty Process, or why the BC Treaty Process is the right path for them.

**c. What are Alternatives to Treaties?**

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- Explain that a number of First Nation communities in BC are not participating in the BC Treaty Process.
- Ask students to think about the question, Why do some First Nations choose not to negotiate treaties? Ask them to predict some reasons why communities would not want to be involved.
- Display or read this statement by the Nuxalk Nation and ask students why the Nuxalk are not part of the treaty process.

The Nuxalk remain strongly against entering any treaty process as we know that our Ancestral lands have never been surrendered and remain legally ours, in both our tradition and under Canadian law. (Nuxalk Nation website, <https://nuxalknation.ca/about/>)

- Litigation. Explain that some First Nations choose to continue to use the courts to protect their Indigenous rights and title. Students can watch the news for current court cases involving Indigenous Rights and Title. Some recent examples include:
  - Tsilhqot'in. In 2014 the Supreme Court of Canada ruled that the Tsilhqot'in First Nation held Aboriginal title to most of what they claimed as their traditional territories. If you haven't already discussed it, students can find out about the implications of Tsilhqot'in Decision.
    - See this CBC News article. <https://tinyurl.com/fnesc940>.
  - Esquimalt First Nation. They were part of the Vancouver Island (Douglas) Treaties. They are going to court to get recognition of their claim to land promised by one of the treaties.
    - See this Times-Colonist report of 2016. <https://tinyurl.com/fnesc938>.
  - Kwikwetlem First Nation has filed claim for title to a part of their traditional territories.
    - This TriCity News article of 2016: <https://tinyurl.com/fnesc939>.
- Discuss the pros and cons for First Nations going to court to protect their Indigenous Rights and Title and to hold the federal and provincial governments accountable for their constitutional obligations.
- Non-Treaty Agreements and Sectoral Initiatives. Explain that many First Nations are involved in agreements with the federal and provincial

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governments that set out the First Nations' decision making over aspects of the use of their traditional territories.

- Students can find out more by reading Blackline Master T-10, page 193, *BC Agreements Outside Treaty*.
- Students can find out what types of agreements have been made by BC First Nations, including local Nations. They can use the *First Nations A-Z Listing* on the British Columbia Government website, <https://tinyurl.com/fnesc944>. It lists every First Nation and the agreements they have entered into.
- Follow current news sources to learn about new agreements that First Nations are negotiating or have entered into.

 Blackline Master  
T-10, page 193, *BC  
Agreements Outside Treaty*

### 2.7. What is the BC Treaty Process?

Students will identify the six stages of the BC Treaty Process and come to understand the challenges and roadblocks faced by the First Nations.

#### a. The BC Treaty Process

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- Have students work individually or in small groups to find out how the BC Treaty Process works. Students can use the BC Treaty Commission website and other sources. If possible and appropriate, students can track the treaty process of the First Nation they belong to, or a local First Nation. Most First Nations involved in treaty negotiations will have a page dedicated to the process on their website.
  - As they begin students can record what they know about the treaty process, and questions they have about it.
  - Students should identify the six stages of the treaty process.
  - Students can decide on a format to communicate their findings about how the Treaty Process works.

#### b. Treaty Progress

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Students will understand the length of time the BC treaty process is taking.

- Have students find out how many First Nations are currently at each stage of the BC treaty process. Ask students to decide on a way to represent the data graphically. What does this data show about the BC Treaty Process? They can find the most recent information at the BC Treaty Commission website page, Negotiations Update: <http://www.bctreaty.ca/negotiation-update>
- Students can create a timeline of the treaty process for the local First Nation if they are currently negotiating, or choose another First Nation to examine. Ask questions such as, What stage are we at? or What stage is the local First Nation at? When did the Nation start negotiations? How long did they spend in each stage?

### c. What are the Challenges of the Treaty Process?

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Have students investigate what the road blocks and challenges to completing the treaty process are. Discuss where students can find information they need.

- Some of the challenges of the treaty process include:
  - government mandates not flexible
  - differing perspectives on reconciliation
  - slow pace of progress and tangible benefits
  - not all First Nations are participating
  - financial cost of negotiations
  - government mandates not flexible
- Students can research a variety of sources from different viewpoints. For example, what do these bodies say about the slow progress:
  - Community members involved in the process
  - Opponents to the process
  - BC Treaty Commission
  - Federal Government
  - Critics of the process
  - Writers and commentators

### d. The Treaty Process in Action

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- Students can conduct case studies of First Nations' pursuit of protecting their Indigenous Rights and Title through treaty or other means.
  - Students can analyse several successful examples of the process in one or more regions of the province. This could include the Nisga'a Final Agreement which was done before the BC Treaty Process.
  - Students can investigate a treaty negotiation in which the members of the First Nations voted no to accept the treaty as agreed upon by the negotiators. See, for example, the Lheidli T'enneh
  - Students could examine a region that is not involved in the process, and find out what their goals and processes are.
- Examine the negotiation process. Ask questions such as:
  - Who are the participants?
  - What happens at the negotiation table?
  - What accountability do negotiators have? How do they report to constituents?
- You may want to adapt a negotiation simulation found at the Law Connection website, "Native Land Claims - Teaching Resource" found at SFU Centre for Education, Law & Society. <https://bit.ly/2TloVyz>
- What happens after the Agreement in Principle? Students can find out what happens after an Agreement-in-Principle has been signed. Ask questions such as:
  - What is the ratification process?
  - What happens if people reject it?
- Students can investigate how the implementation of an agreement works.

## 2.8 Results of Modern-Day Treaties

- a. Compare the results of successfully completed treaty nations, such as Tsawwassen, Tla'amin and Maa-nulth to determine some of the benefits of treaties.
- b. Examine key components included in treaties: Indigenous Rights; Self-Government; Management and control of Lands & Resources; Finances and Economics; Fishing; Forestry.
- c. New relationships between Treaty nations and different levels of government: local, regional, provincial and federal governments.
- d. National responsibilities and benefits. How will successful treaties affect the Canadian identity?
  - What are some misconceptions that people could have about treaties and the treaty process? (For example, they only benefit First Nations; they are something from the past; they are not relevant today. they only involve land. They will cost too much.)
  - Why is it important to learn about the treaty process?



# What Are Your Rights?

Rights are things that a person is (or should be) allowed to do, have or get.

Most human rights are about treating all people fairly and with respect. There are different types of rights. Here are three of them: Children's rights, rights of Canadians, and universal rights of all humans. As long as you are a human Canadian child, you should have all these rights.

### Did You Know?

Everyone under the age of 18 is considered by law to be a child.

### *Children's Rights*

- The right to go to school
- The right to practice a religion
- The right to a decent home
- The right to eat
- The right to medical care
- The right to play
- The right to express your ideas
- The right to safety
- The right to rest
- The right to a clean environment
- The right to live with your parents
- The right to privacy

### **Canadian Charter of Rights and Freedoms**

#### 2. Fundamental Rights

- a) freedom of conscience and religion;
- (b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
- (c) freedom of peaceful assembly; and
- (d) freedom of association.

(There are more specific rights listed in the charter.)

### *United Nations Charter of Human Rights*

(Selected rights - There are more!)

- You have the right to own property
- You have the right to voice your opinions to others
- You have the right to privacy
- You are innocent until proven guilty
- You have the right to an education
- You have the right to a fair and public trial
- Every adult has a right to a job and a fair wage
- Every adult has the right to vote for their government

## Indigenous Rights and Title

Indigenous Rights are inherent, collective rights rooted in the original occupation of the land we now call Canada,

**Inherent** means something that is built in, permanent or essential. Indigenous Rights have always existed. They have not been given to First Nations by anyone else.

**Collective** means belonging to a group. Indigenous Rights are held collectively by the members of a First Nation..

Indigenous Rights are protected in Canada's Constitution and Charter of Rights and Freedoms.

Indigenous Rights are also known as **Aboriginal Rights**. This is important because Section 35 of Canada's Constitution officially recognizes and affirms "aboriginal and treaty rights."

Therefore, Aboriginal Rights are protected in Canada's Constitution and Charter of Rights and Freedoms under Section 35.

**Indigenous Title** is a collective right to the exclusive use and occupation of land held by an Indigenous Nation. It is based on the traditional territories that have been occupied by their ancestors.

The Delgamuukw decision by the Supreme Court of Canada in 1997 ruled that Indigenous title is a property right to the land.

First Nations are diverse and distinct. As such, their respective Indigenous Rights may vary between groups.

Here are some common Indigenous Rights:

- The right to the land (Indigenous title)
- The rights to use the resources of their land (hunting, fishing, gathering)
- The right of self-determination and self-government
- The right to practice one's own culture and customs including language and religion
- The right to enter into treaties

The doctrine of Aboriginal rights exists, and is recognized and affirmed by s. 35 (1) [of the Canadian Charter of Rights and Freedom] 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.

*Chief Justice Lamarr, Supreme Court of Canada  
R. v. Van der Peet, paragraph 30*