

Overview of Presentation to the Ontario Justice Education Network
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Land Claims in Ontario

Introduction

We see and hear about outstanding “land claims” with much regularity in the Province of Ontario (as elsewhere in Canada) but what is a “land claim”? Why are there outstanding land grievances in Ontario? How many claims are outstanding? Where?

These preliminary questions have been examined in great detail throughout the country and at various times in history. Most recently, the Province of Ontario undertook its own examination with the creation of the Ipperwash Inquiry. For a complete inventory of all research papers produced by the Inquiry please see its website at www.ipperwashinquiry.ca.

The term “land claim” is used to describe a formal allegation by an Aboriginal group that a government has dealt with its lands in a manner contrary to Canadian law. This is the sense in which “land claim” is usually understood in the context of government negotiation processes and in disputes before the courts (M. Coyle, Ipperwash, p. 2).

For the purposes of the Ipperwash Inquiry, Professor Michael Coyle described a “grievance” as referring “to a specific concern by an Aboriginal group that their interests in, and relationship to, the land have not been properly respected. Although the concern may be one that Canadian courts have yet to recognize, it may still be critically important for non-Aboriginal governments to address such a grievance (in the interests of social fairness, for example). Just as importantly, if a grievance does have a basis in Canadian law, then “resolving” the legal issues may be pointless if the resolution process itself ignores or aggravates the underlying concern”. (p.3)

Today 70% of First Nations have an outstanding Specific Claim against the Government of Canada and these numbers continue to grow (Negotiation or Confrontation: It’s Canada’s Choice, Senate Committee on Aboriginal Peoples, p. 1).

What is a Specific Claim? Comprehensive Claim?

As we examine the development of land claims in Canada, what becomes immediately apparent is the distinction between the types of claims being asserted by First Nations; owing to the development of two different policies by the Government of Canada. There is difference between claims to Aboriginal Title and claims arising through a breach of obligation.

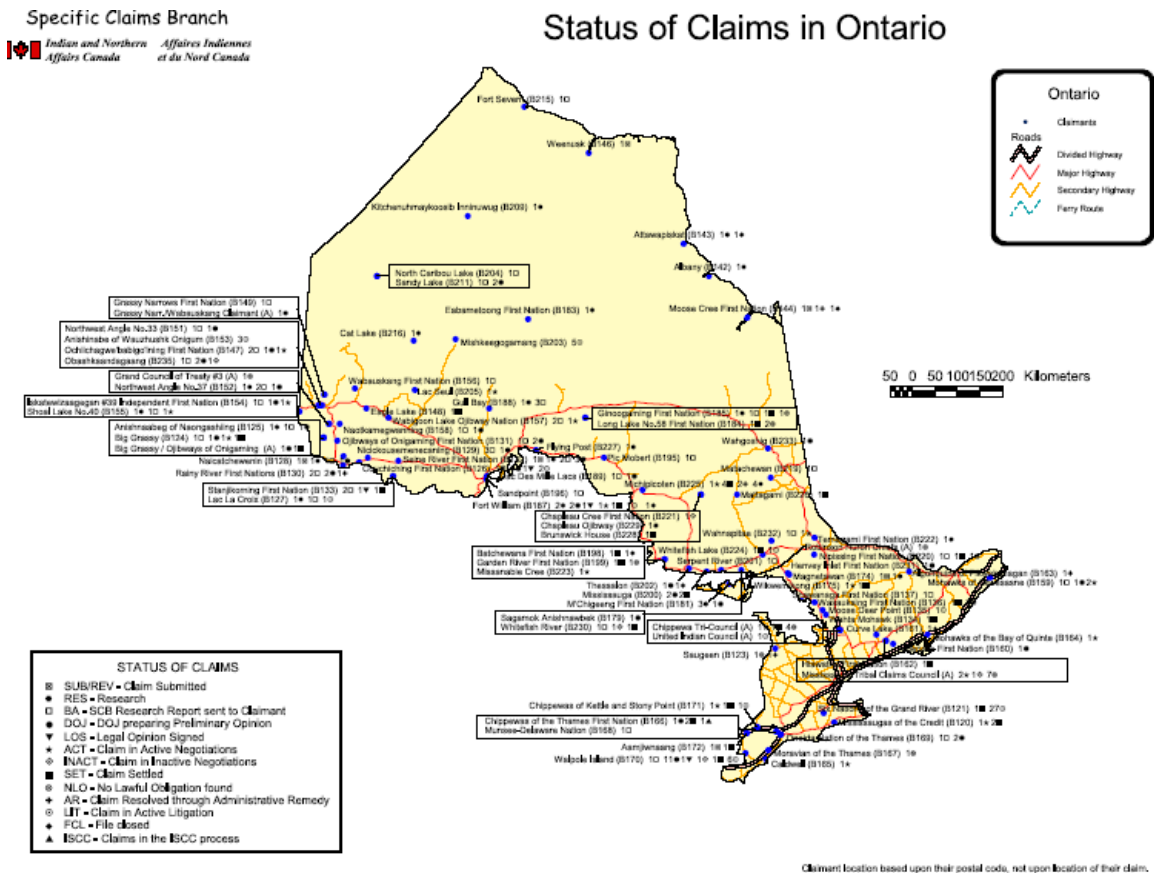
The Department of Indian Affairs provides a useful background summary of these policies and its processes on its website at www.inac.gc.ca.

A “specific claim” is a claim made by a First Nation against the federal government relating to the non-fulfillment of a treaty obligation or the mismanagement of First Nation land or other assets. The Government of Canada first introduced its policy addressing specific claims in 1982 with the publication of *Outstanding Business*. This policy and its procedures has been the subject of repeated scrutiny and calls for change have plagued its application almost from the moment of its inception.

The most recent examination of this Specific Claims policy and process is found in the final report of the *Senate Standing Committee on Aboriginal Peoples: Negotiation or Confrontation: It’s Canada’s Choice* [December 2006, Queen’s Printer].

What is the current status of Ontario specific claims?

The Specific Claims Branch of the Department of Indian Affairs provides an on-line survey of the status of specific claims by province. There is no similar information provided by the Province of Ontario. For a snap shot of the Province of Ontario provided by the Department of Indian Affairs, please see the following:



The complexity of capturing the status of claims at any one time is most exemplified by reference to the key in the above noted map.

Why do some land claims evolve into protests? Why do some protests become violent?

What factors create and/or result in OKA, Ipperwash, Gustafsen Lake, Caledonia? How can these become learning opportunities?

During the course of the Ipperwash Inquiry, Professor John Borrows produced a research paper that provided a History and Comparison of Aboriginal Land, Treaty and Rights Disputes in Ontario (and Canada). This paper is available at the Inquiry website www.ipperwashinquiry.ca.

Bringing these issues into the classroom

The Ipperwash Inquiry completed its mandate and issued its final report on May 31, 2007. During the course of its work, voluminous amounts of research were produced and testimony transcribed. In an effort to use these valuable resources as education tools, the Inquiry developed a *Teachers and Students Resource Chart* for Grades 9, 10, 11 and 12. This too is available at its website www.ipperwashinquiry.ca.

In addition, the CBC has developed its “For Teachers” section of the CBC Radio and TV Archives website at www.cbc.ca. Organized by subject area and grade level, this site offers valuable archival footage that provides dramatic tools for stimulating discussion.