

NEWS RELEASE

Court's 'land title' decision threatens economic prosperity of First Nations in B.C.

October 5, 2017
For immediate release

VANCOUVER—A Supreme Court of Canada ruling has made it unclear how First Nations can use and develop their own land, threatening the potential for economic prosperity, finds a new study released today by the Fraser Institute, an independent, non-partisan Canadian public policy think-tank.

“The legal uncertainty surrounding land use in B.C. not only threatens investment across the province but also harms Indigenous communities by making it unclear what they can and can’t do on their land,” said Dwight Newman, a law professor at the University of Saskatchewan and author of *The Top Ten Uncertainties of Aboriginal Title after Tsilhqot’in*.

The study spotlights 10 legal uncertainties created by the Supreme Court’s 2014 ruling in the Tsilhqot’in Nation case, where the court—for the first time—granted Aboriginal title (the inherent right to land or territory) to a specific area of land.

Crucially, the Court decision created many uncertainties about how a First Nation can use “title” land. For example, according to the Court, the land must be managed in a way that preserves its use and value for future generations, which raises doubts about how Aboriginal land can be developed—if at all—by the First Nations themselves.

And consequently, development projects (including oil and gas projects) may be retroactively declared illegal.

It’s also unclear whether Aboriginal land title holders can pursue new uses of the title land. For example, if title is granted for a specific piece of land because it was traditional hunting territory, it’s unclear whether the First Nation can use it for modern commercial or industrial purposes.

“As more Aboriginal title claims are pursued in B.C., the impact of uncertainty—both for investors and Indigenous communities—could grow more severe,” Newman said.

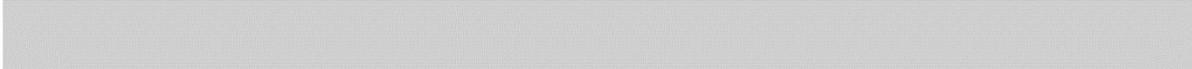
“By denying First Nations the same rights to their land as non-Aboriginal land-holders, the Court has likely severely limited the potential for economic prosperity for many Indigenous communities.”

(30)

MEDIA CONTACTS:

Dwight Newman
Professor of Law and Canada Research Chair in Indigenous Rights in Constitutional and International Law
University of Saskatchewan

To arrange media interviews or for more information, please contact:
Bryn Weese, Media Relations Specialist, Fraser Institute
(604) 688-0221 ext. 589
bryn.weese@fraserinstitute.org



The Fraser Institute is an independent Canadian public policy research and educational organization with offices in Vancouver, Calgary, Toronto, and Montreal and ties to a global network of think-tanks in 87 countries. Its mission is to improve the quality of life for Canadians, their families and future generations by studying, measuring and broadly communicating the effects of government policies, entrepreneurship and choice on their well-being. To protect the Institute's independence, it does not accept grants from governments or contracts for research. Visit www.fraserinstitute.org