

## Case 2: Delgamuukw v. British Columbia – Answer Key

### Delgamuukw v. British Columbia

Supreme Court of Canada – [1997] 3 S.C.R. 1010 – “Delgamuukw”

#### [British Columbia Aboriginal title](#)

#### Summary:

Without a doubt one of the most known and quoted aboriginal law cases in Canada, *Delgamuukw* clarifies the nature and scope of the constitutional protection granted by section 35(1) of the *Constitution Act, 1982* to aboriginal title.

The justices confirmed that aboriginal title is a right to the land itself, that it allows activities other than customary, and that Aboriginals must be compensated in the event of a breach to this right. They also allowed for oral evidence.

[The Summary above is from: [Delgamuukw v. British Columbia - Indigenous Jurisprudence Autochtone \(reseaudioalog.ca\)](#)] [Visit that page to answer the questions in the chart below.](#)]

[Another summary is included below. Note the names of the Indigenous Communities involved.]

#### [Delgamuukw v. British Columbia, \[1997\] 3 S.C.R. 1010](#)

#### Summary:

Gitksan or Wet'suwet'en hereditary chiefs claimed, among them, that over 58,000 square kilometers of British Columbia land should be under their jurisdiction. The government counterclaimed that the land should not be ceded, and instead the appellants should be pursuing compensation from the federal government.

#### Location:

British Columbia

#### Indigenous communities involved:

- Gitksan
- Wet'suwet'en (Walsh)

What? • What is the name of the case you are reading about?	Delgamuukw v. British Columbia
Who? • Who is the Indigenous group affected?	Houses of Delgamuukw and Haaxw (... thirty-eight Gitksan Houses and twelve Wet'suwet'en Houses)
When? • When was the court case decided?	1997
Where? • Where is the land in question?	Wet'suwet'en and Gitksan Nations in northern British Columbia
Why? • Why is this considered to be a landmark case?	Answers could vary. Summed up well in the <i>Summary</i> .

<p>See also: Kurjata, A. (2017, December 11). <i>20 years ago, this court case changed the way Canadians understood Indigenous rights.</i> Retrieved January 8, 2022, from CBC News: <a href="https://www.cbc.ca/news/canada/british-columbia/delgamuukw-vs-british-columbia-20-years-rights-titles-1.4440703">https://www.cbc.ca/news/canada/british-columbia/delgamuukw-vs-british-columbia-20-years-rights-titles-1.4440703</a></p>	<p>Summary</p> <p>“<i>Delgamuukw</i> clarifies the nature and scope of the constitutional protection granted by section 35(1) of the <i>Constitution Act, 1982</i> to aboriginal title.”</p> <p>“The justices confirmed that aboriginal title is a right to the land itself, that it allows activities other than customary, and that Aboriginals must be compensated in the event of a breach to this right. They also allowed for oral evidence.”</p>
<p>What is one interesting fact you found out about this case?</p>	
<p>What further questions do you have?</p>	

Further Reading

Anderson, R.T. 2010. "Aboriginal Title in the Canadian Legal System: The Story of *Delgamuukw v. British Columbia*." *Indian Law Stories*. University of Washington School of Law Research Paper No. 2011-02. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1624387](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1624387).

B.C. Treaty Commission. 1999. "After *Delgamuukw*: The Legal and Political Landscape." [https://www.bctreaty.ca/sites/default/files/after\\_delgamuukw.pdf](https://www.bctreaty.ca/sites/default/files/after_delgamuukw.pdf).

Canada. "Backgrounder - Aboriginal Title in Canada's Courts." 2010. *Aboriginal Affairs and Northern Development Canada*. <http://www.energybc.ca/cache/northerngateway/www.aadnc-aandc.gc.ca/eng/1100100016311.html>.

Community Legal Education Association. 2017. "*Delgamuukw v. British Columbia*, [1997] 3 SCR 1010." *Lesson Plans & Case Summaries*. <https://www.communitylegal.mb.ca/wp-content/uploads/2021/10/Delgamuukw-v-BC-1997.pdf>.

Henderson, B. 1996. "A Brief Introduction to Aboriginal Law in Canada." *Bloorstreet.com*. <http://www.bloorstreet.com/200block/brintro.htm>.

Kurjata, A. 2017. "20 years ago, this court case changed the way Canadians understood Indigenous rights." *CBC News*. <https://www.cbc.ca/news/canada/british-columbia/delgamuukw-vs-british-columbia-20-years-rights-titles-1.4440703>.

Williams, B. 2015. "*Delgamuukw* at 10: An Insider's Tale." *CanLII Connects*. <https://canliiconnects.org/en/commentaries/35971>