

Aboriginal rights
and freedoms
not affected by
Charter

General

25. The guarantee in this Charter of certain rights and freedoms shall not be construed so as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including

- (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and**
- (b) any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.**

Other rights
and freedoms not
affected by
Charter

26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

There are a number of provisions in the Canadian Charter of Rights and Freedoms and elsewhere in the new Constitution that will recognize and affirm the rights of the native peoples of Canada – Indian, Inuit and Métis.

Special provisions were written into the Constitution at the request of native organizations. Representatives of these groups argued forcefully for recognition that would help their people preserve their culture and identity, their customs, traditions and languages.

Section 25 of the Charter makes it clear that no other provision can be used in a way that will interfere with any special rights that the native people have now or may acquire. For example, any new benefits they may gain from a settlement of land claims would not run afoul of the general equality rights as set out in the Charter.

Further on in the Constitution, Section 35 states that the existing aboriginal and treaty rights of the aboriginal peoples of Canada are recognized and affirmed.

Moreover, there is a written commitment that within one year after the Constitution comes into force the Prime Minister will convene a constitutional conference that will include in its agenda an item respecting the aboriginal peoples of Canada. Representatives of the native peoples will be invited to participate in the conference.

This section ensures that, by specifically guaranteeing certain rights and freedoms in the Charter, the existence of any other rights will not be denied. In other words, the Charter does not pretend to be an exhaustive document concerning the rights of Canadians. What it does do is entrench *minimum* rights. Nothing in the Charter will be able to prevent Parliament or legislatures from adding to our rights