Promises of land allotments that the Crown made to Métis children in 1870 were fulfilled for some eligible children and partially fulfilled for others. This led to the Manitoba Métis Federation and seventeen individuals initiating action against the federal Crown, claiming that the Crown had breached a fiduciary obligation to the Métis and had failed to uphold the honour of the Crown by not executing its obligation diligently, which, in turn, had caused injury to a number of the children. At trial, upheld on appeal, the case was dismissed. The fiduciary obligation was deemed not to exist, the honour of the Crown had not been breached, and the action was barred by both statutes of limitations and the doctrine of laches. Overturning the decision, the Supreme Court of Canada, however, held that the honour of the Crown had been breached and statutes of limitations and the doctrine of laches did not apply. The case contributes to Canadian jurisprudence regarding the honour of the Crown in Aboriginal land matters. It is also of interest in international land administration and land restitution, given the current high incidence of grabbing of customary/Aboriginal land in many countries.

Introduction

Both the Canadian federal and provincial governments have a duty to consult Aboriginal peoples in matters which affect their interests or way of life. A key concept in Aboriginal Law which underlies this duty is the honour of the Crown [Townsend and McClurg 2014], which flows from the Royal Proclamation of 1763 and the guarantee of Aboriginal rights set out in s. 35(1) of the Constitution Act. In Manitoba Métis Federation Inc. v. R., 2013, the Supreme Court of Canada ruled that the honour of the Crown applies to the diligent performance of undertakings that form part of these consultations. Furthermore, it applies to events that may have occurred more than a century ago, as the honour of the Crown is neither barred by statutes of limitations nor the doctrine of laches (legal negligence) in Aboriginal land cases.

The case should be viewed in the context of the status of the Métis in Canadian society and initiatives by the Métis to clarify whether the federal or provincial governments have jurisdiction over them. The historical context of how the federal and provincial governments have handled matters relating to the Métis was considered in the recent Federal Court of Appeal decision Canada v. Daniels, 2014, which upheld the part of the claim relating to the Métis in Daniels v. Canada, 2013. Canada v. Daniels, 2014, ruled that Métis are identified as Indians under...