'Duty to Consult', Environmental Impacts, and Métis Indigenous Knowledge

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Introduction

Of late, environmental initiatives are increasingly acknowledging the legal obligation to consult with Canada's Aboriginal peoples, including Métis, and are actively soliciting their input and knowledges. Initiatives include both strategic/planning and project-specific undertakings such as the dialogues associated with the long-term management of Canada's nuclear fuel waste, the five year review of the Canadian Environmental Assessment Act and a plethora of others (see Appendix 1, Table 1 for examples). In these initiatives the Crown has a duty to consult with Canada's three Aboriginal peoples, First Nations, Inuit, and Métis about the potential effects on Aboriginal environments, territories and well-being. Further, Isaac and Knox argue that governments lose little by consulting broadly and thoroughly with Aboriginal people….[since] with or without proven Aboriginal title or treaties, the Crown's duty to consult Aboriginal people remains. Additionally, consultation is relatively inexpensive when compared to the costs of litigation….In short, consultation is not only the legally correct action to take, but it is the wise action to take.[1]

However, past processes have often marginalized the Métis; only quite recently has the need for the explicit inclusion of Métis voices been recognized. Further, in these consultation processes, the importance of Indigenous Knowledge (IK) in the assessment of environmental impacts is often stressed.[2] Again, Métis perspectives on IK, or the appropriateness of that label for Métis 'ways of knowing' is just beginning to be explored. Given these lacunae, this paper addresses the following questions: What is the basis for the Crown's duty to consult with Canada's Métis communities about environmental issues? With whom should the Crown consult, meaning who are Métis rights-bearing communities for the purposes of Section 35(1) of the Constitution of Canada? What are the sources of Métis IK.? And, finally, how could a consultation process be designed to meet the Crown's duty to consult in a way that meets the needs of Métis rights-bearing communities and clearly incorporates their knowledges? Since Métis communities[3] are already involved in a multitude of consultation processes, there is an urgent need to understand

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[1] Thomas Isaac and Anthony Knox, "The Crown's Duty to Consult Aboriginal People" *Alberta Law Review* 41 (2003), 75.

[2] Caveat: while it is clearly important that legislation and government policy is beginning to acknowledge their duty to consult with Aboriginal peoples and the importance of including IK, even where environmental assessment processes include Aboriginal peoples, several problems exist. See for instance: Brenda L. Murphy and Richard G. Kuhn, "Setting the Terms of Reference: Nuclear Fuel Waste Management in Canada" *Canadian Public Policy* 27(2001), 249; Ciaran O'Faircheallaigh, "Environmental Agreements, EIA Follow-up and Aboriginal Participation in Environmental Management: The Canadian Experience" *Environmental Impact Assessment Review* 27 (2007), 320.

[3] Since the definition of Métis rights-bearing communities, peoples and/or nations is still being negotiated, throughout this paper the authors use the phrase 'Métis communities' in a broad sense to include political, cultural, kinships, geographic and all other permutations of communities that might constitute rights-bearing communities. For a further discussion of definitions of 'communities' see B. L Murphy,. and R. Kuhn 2006, *Community: Defining the Concept and its Implications*, report completed for the Canadian Nuclear Waste Management Organization, Toronto. Available at: http://www.nwmo.ca/adx/aspx/adxGetMedia.aspx?DocID=2214,1554,1,Documents&MediaID=5230&Filename=NWMO+SR-2006-02_Community_Defining_the_Concept.pdf (accessed May 2009).

these issues and to develop some immediate, implementable approaches for effectively consulting with Métis rights-bearing communities. The paper argues that not all Métis rights-bearing communities and their knowledges are yet acknowledged and included in developing consultation processes, and that there are challenges associated with including IK in this process. Furthermore, existing and emerging definitions of who are "rights-bearing Métis" continue to impact with whom consultation should be undertaken.

Duty to Consult with Métis on Environmental Issues

This section provides a brief overview of the jurisprudence associated with the 'duty to consult' with Métis communities about environmental issues. It provides a brief summary of First Nations and Métis case law that is pertinent to understanding the duty to consult with Métis communities, particularly in regards to environmental issues and questions of identity. The section deals with three central questions: When and with whom should the Crown consult? What legal advice has been provided regarding what that consultation should look like? To what extent can the insights and rulings from First Nations case law about the duty to consult be applied in the Métis context?

The Crown's duty to consult arises through Section 35(1) of the *Constitution Act*, 1982[4] and the doctrines associated with the 'honour of the Crown' and the Crown's fiduciary relationship[5] with Canada's Aboriginal peoples. Although the Crown cannot delegate its duty to third parties such as industry or other agencies,[6] in important resource development situations the Crown often downloads the substantive elements of its duty to consult onto industry proponents. In these situations, without clear government oversight and guidelines, the negotiated settlement often cannot provide the legal certainty needed for long-term investment and stability.[7] This situation and the associated legal doctrines have resulted in a recent flood of new protocols and guidelines regarding the duty to consult. The details of these approaches are outlined in a subsequent section of this paper.

The Crown has a duty to consult with all of Canada's Aboriginal peoples about any policies or projects that might affect their rights[8], territories and well-being. Isaac and Knox state: "This duty becomes more relevant and immediate when scarce natural resources are involved."[9] However, despite the claim made in the introduction, Lawrence and Macklem complain that

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[4] s35 (1): The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; s35 (2): In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada. Jean Teillet, *Métis Law Summary, 2006*.

[5] "A fiduciary relationship arises when one party finds itself in a position of control vis-à-vis the legal or practical interests of another, such that through its discretion the party in control can unilaterally act to positively or negatively affect these interests of the other." Gordon Christie, "Developing Case Law: The Future of Consultation and Accommodation" *UBC Law Review* 39 (2006), 144.

[6] The Métis Nation of Ontario, "Consulting with Métis in Ontario: Presentation for Government and Industry" (Winter 2008), http://www.metisnation.org/consultations/govt_consultation_ppt.pdf (accessed August 2008). Thomas Isaac, *Métis Rights* (Saskatoon: Native Law Centre, University of Saskatchewan, 2008), Isaac and Knox, "The Crown's Duty," 72.

[7] Isaac and Knox, "The Crown's Duty to Consult," 73.

[8] The doctrine of aboriginal rights is a form of "inter-societal" law. It regulates the relations between Canadian Aboriginal and non-Aboriginal communities. It is a body of common law based on 1) the ancient relations between Aboriginal peoples and the Crown and, 2) basic principles of justice. Brian Slattery, "Making Sense of Aboriginal and Treaty Rights" *The Canadian Bar Review* 79 (2000), 198-199.

[9] Isaac and Knox, "The Crown's Duty to Consult," 67.

consultation processes have not led to lasting settlements. Instead, consultations increasingly resemble the pre-trial discovery process and the litigious environment they were intended to forestall.[10] Part of the problem is the vagueness regarding consultation when no *proven* rights exist and the uncertainty about the role of the provincial Crown in the consultation process.[11] These are both particularly salient problems for Canada's Métis. Métis rights and rights-bearing communities are just beginning to be acknowledged and defined through the Canadian court system, and the question of who represents Métis is an ongoing negotiation within and among Métis rights-bearing communities. Further, their ambivalent positioning as either a federal or provincial responsibility vis-à-vis the Indian Act[12] is a continuing source of uncertainty.

When assessing provincial government relations with First Nations in environmental consultation processes, Borrows observes that First Nations have neither the standing of conventional citizen groups nor of municipalities.[13] To extend this observation for Métis communities who will have considerable difficulty proving Aboriginal title (e.g. land-based rights)[14] as laid out in *Delgamuukw*[15], it is clear that this ambiguous positioning would similarly apply to Métis communities and further, that they would also not have the standing of 'Indians', as defined by the Indian Act. It follows then, that the duty to consult with Canada's Métis and the nature of the guidelines for that consultation might be undermined if a pan-Aboriginal approach hides or conflates the differences amongst Canada's Aboriginal peoples. By extension, a "pan-Métis" approach to consultation may also hide or conflate the differences amongst Canada's Métis.

Christie maintains jurisprudence associated with the duty to consult substantially began in 1990 with the *Sparrow* decision. Currently, he argues we are in the post-*Haida Nation* epoch "where lower courts are faced with parties grappling to digest the impact of the Supreme Court pronouncements."[16] Although not his focus, this paper argues that the current epoch is also a post-*Powley* world in which the definition of Métis rights-bearing communities and appropriate consultation is being negotiated, both within the courts and 'on the ground' – in daily environmental resource development and land-use planning decision-making.

Given the Métis positioning as one of Canada's recognized Aboriginal peoples, Métis communities cannot be treated as special interest groups, ordinary stakeholders or members of the public. Similar to Canada's other Aboriginal peoples, Métis rights are collective; it is the rights-bearing community that must be consulted and accommodated. However, as compared to Canada's other Aboriginal peoples who were already recognized under the Indian Act, the

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[10] Sonia Lawrence and Patrick Macklem, "From Consultation to Reconciliation: Aboriginal Rights and the Crown's Duty to Consult" *The Canadian Bar Review* 79 (2000), 254.

[11] Isaac and Knox, "The Crown's Duty to Consult", 67.

[12] Indian Act available at http://laws.justice.gc.ca/en/ShowFullDoc/cs/I-5///en, (accessed May 6, 2009).

[13] John Borrows, *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto Press, 2002) 43.

[14] The 8 Alberta Métis settlements have the only legislated land-base in Canada, see http://www.ualberta.ca/~walld/ab2intro.html, (accessed May 6, 2009).

[15] Teillet, *Métis Law Summary, 2006*, 60. Teillet suggests that Métis groups are unlikely to be able to meet the exclusive occupancy criteria as laid out in *Delgamuukw*. Instead a different claim would be needed based on joint occupancy. Sufficiency of evidence would be difficult for Métis due to their mobility across a wide regional area. For existing Métis land rights case law see p. 61-64. For Métis land claims and agreements see p. 72-72.

[16] Christie, "Developing Case Law", 140-141.

official inclusion of Métis as an Aboriginal people[17] in the *Constitution Act*, 1982 resulted in a dramatic shift that Chrétien characterizes as a shift from the 'politics of recognition to the politics of definition'.[18] This has certainly been evident in recent Métis case law that has emphasized the need for a legal definition that can be used in identifying, negotiating, and defining Métis rights including the 'duty to consult'. As noted by Thomas Isaac in his recent work, *Métis Rights*, "Who is a Métis for the purposes of Section 35(1) of the *Constitution Act*, 1982? Only upon answering this important question can the remainder of the legal analysis required on the extent and nature of Métis rights be determined."[19]

Duty to Consult: First Nations Contexts

Along with *Van der Peet*, the *Sparrow* and *Delgamuukw* rulings involving First Nations claimants established Aboriginal rights to fishing, hunting and gathering for personal consumption; the existence of land-based rights, called Aboriginal title, including the right to decide land use; and that oral testimony given by Aboriginal persons on such issues "as historical fact and Aboriginal traditions should be given the same credibility and weight as documentary evidence."[20] *Van Der Peet* established that Section 35(1) of the *Constitution Act*, 1982 recognized and affirmed that Aboriginal rights must provide protection for traditions, practices, or customs that are defensibly *Aboriginal* in nature.[21] *Sparrow*, and subsequent case law, rather than challenge or undercut the Crown's position as sovereign, merely 'temper' the Crown's power. As a consequence of the fiduciary doctrine, case law "does not challenge the fundamental power of the Crown to decide how Aboriginal peoples will relate to their lands."[22] In *Delgammuukw* the Court confirmed that the government's fiduciary responsibility requires the establishment of a consultation process providing "Aboriginal communities a thorough understanding of the potential impact a policy or project may have on local land use as well as for providing a forum in which Aboriginal communities can respond to government initiatives."[23]

In *Haida* (Supreme Court of Canada 2004) and *Taku River Tlingit First Nation* (2005) the courts ruled on the duty to consult with First Nations and in *Haida* also offered a more general discussion of the Crown's duty to consult and, where appropriate, accommodate all Aboriginal peoples. The Court asserted that the Crown must act in good faith when providing consultation

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[17] The Constitution of Canada, 1982, does not define who Métis are as a "people", for example, one people and many nations, or many peoples with divergent histories…Given the emergence of many Métis Nations in the last twenty years, the idea of Métis as one nation in particular is obviously no longer adequate, and perhaps not even relevant in the case of potential Métis rights-bearing communities who may reject the term 'nation' and the concept altogether.

[18] Annette Chrétien, From the Other Natives to the Other Métis" *Canadian Journal of Native Studies* XXVIII, 1 (2008), 89.

[19] Thomas Isaac, *Métis Rights*, 1.

[20] Gurston Dacks, "British Columbia After the Delgamuukw Decision: Land Claims and Other Processes" *Canadian Public Policy* 28 (2002), 241.

[21] Teillet, *Métis Law Summary 2006*, 21. Teillet elaborates that the group must prove the activity is integral to its distinct society, that Métis exercised the activity post contact and pre-European control and that the activity continues since that time. The problem with these criteria is that it tends to 'freeze' Aboriginal traditions and knowledges in the past.

[22] Christie, "Developing Case Law," 145.

[23] David C. Natcher, "Land Use Research and the Duty to Consult: A Misrepresentation of the Aboriginal Landscape" *Land Use Policy* 18 (2001), 115.

and must consult where it has knowledge of the *potential* existence of Aboriginal rights or title; proven rights are not required to trigger the Crown's duty.[24] The Crown's duty to act honourably is enshrined in the Constitution of Canada, 1982, and acknowledges that Canada's Aboriginal people were already here when the Europeans arrived.[25] The Court stated that the duty to consult and accommodate is proportionate to the strength of the case supporting the asserted rights and the extent of the adverse impacts that could result from the activity. 'Accommodation' is essentially an interim measure to protect claimed rights from irreparable harm; this powerfully constrains how the Crown acts when Aboriginal interests are at stake.[26] In addition to this determination, the Court stated that in upholding the 'honour of the Crown' the *process* of consultation must be adequate, but there is no Aboriginal 'veto' over what the Crown can do; it is not necessary that the *outcome* meets Aboriginal expectations. In turn, the Court also asserted that Aboriginal peoples must deal in good faith, must not frustrate the Crown's efforts, and must not take unreasonable positions to thwart the Crown.[27]

Christie critiqued this jurisprudence on a number of counts; although directed to the First Nations context these critiques seem equally applicable to Canada's Métis. First, as mentioned above, case law positions the Crown such that it has the sovereign power in decisions regarding how Aboriginal people live and their relation to lands and resources. This leads Christie to ask, "Do Aboriginal nations want to be consulted about how their lands will be exploited? If they are effectively forced to do so, what does this say about the jurisprudence around the duties to consult and accommodate?"[28] Second, jurisprudence transforms Aboriginal claims into Aboriginal rights, essentially replacing interests defined within an Aboriginal system with an alien system. Christie argues that this is an "unjustifiable exercise of Crown power, itself a manifestation of non-Aboriginal identity."[29] This is especially the case with Métis rights-bearing communities who may have diverse understandings of Aboriginal interests and identities. Third, although not specifically required by law, case law subsequent to *Haida* suggests in order to satisfy the courts that the Crown has put into place a reasonable consultation process, it is "necessary that the Crown engage Aboriginal nations in consultation about the process of consulting when contemplating actions that may infringe upon Aboriginal rights and title."[30]

Duty to Consult: Métis Contexts

Métis case law rests on the very important foundation of both the strengths and limitations of the aforementioned First Nations case law. The most important Métis-specific case to date has been *Powley*. The *Powley* case was concerned with the hunting rights of two Métis moose hunters near Sault Ste. Marie, Ontario. The Court upheld the moose hunters' rights and provided direction regarding criteria for defining Métis identity, for the purposes of claiming a right under section 35(1) of the *Constitution Act*, 1982. The Court outlined that Métis identity should be determined by proof of self-identification, ancestral connection, and community acceptance.[31]

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[24] Teillet, *Métis Law Summary* 2006, 92.

[25] Teillet, *Métis Law Summary*, 2006, 91.

[26] Christie "Developing Case Law," 177, 179.

[27] Christie, "Developing Case Law,"159; Isaac, *Métis Rights,* 41-43.

[28] Christie, "Developing Case Law," 157.

[29] Christie, Developing Case Law 154.

[30] Christie, Developing Case Law, 165.

[31] Isaac, *Métis Rights*, 8.

These three criteria, in some form or another, have become the most commonly used and accepted by both Métis political organizations and Canadian governments in determining Métis membership, and ultimately, Métis legal status. But, as noted by Rivard in the Congress of Aboriginal Peoples (CAP) *Powley Final Report*, the criteria established by the Supreme Court of Canada (SCC) "has, unfortunately, set the stage for research that is limited both theoretically and on a conceptual basis."[32]   First, "proof of self-identification" seems like a daunting criterion considering that self-identification as Métis is not experienced in the same way by all Métis throughout the country. For some, Métis identity is unproblematic and reflects their prominence in the writing of Métis history and in their political development. For others, whose political mobilization is more recent, and whose histories have yet to be written, self-identification is an ongoing process. Second, "ancestral connection" is also difficult for Métis rights-bearing individuals to provide given that this criterion is usually interpreted as needing to provide some form of documentation, again, usually in written form.[33] Third, "community acceptance" is perhaps the most problematic criterion of all since, as the *Powley* decision stipulated, membership in a Métis political organization does not necessarily constitute proof of belonging to a contemporary Métis community. Furthermore, beyond the Métis land-based settlements in Alberta, the Métis "communities" most often included in the duty to consult are existing political organizations.

Subsequent to *Powley*, the judiciary has generally adopted a fairly strict application of these three identity criteria, as seen in such cases such as *Laviolette* (Saskatchewan Provincial Court 2005), *Willison* (British Columbia Provincial Court 2006), *Kelley* (Alberta Court of Queen's Bench 2007) and *Laurin* (Ontario Court of Justice 2007).[34] It should be noted, however, that in the *Goodon* case (Manitoba Provincial Court 2009), the court has affirmed that Métis rights-bearing communities are not locally bounded, but can have a much broader geographic scope than in previous judgments.[35]

Utilizing both the *Powley* and *Haida* decisions, the Labrador Métis Nation (LMN) claimed in court that the Province of Newfoundland and Labrador had failed to consult with them in relation to the construction of the proposed Trans-Labrador Highway across their traditional territory and that this could impact their asserted fishing rights. In 2007, the Newfoundland and Labrador Court of Appeal upheld the decision that the Province had a duty to consult with the claimants as a Section 35(1) of the *Constitution Act*, 1982, despite the fact that the claimants argued that they were *either Inuit or Métis* and that they could not reasonably self-identify at this time.[36] This case is important since it is directly connected to the issue of consultation about environmental impacts, rather than being focused only on hunting/fishing rights. It also highlights the complexity of Métis self-identification in exercising those consultation rights.

As mentioned, another aspect of Métis communities' identity and legal standing is related to the question of whether Métis are "Indians" for purposes of subsection 91(24) of the *Constitution*

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[32] Congress of Aboriginal Peoples, *Powley Final Report*, (2007), 4, Volume 1, (May 2007), http://www.cap-nao.com/PowleyFinalReport07.pdf (accessed August 2008).

[33] For more details on the challenges of documenting historic Métis in Ontario, see Gwen Reimer and Jean-Phillipe Chartrand, "Documenting Historic Métis in Ontario" *Ethnohistory* 51(2004), 567-607.

[34] Isaac, *Métis Rights*, 25.

[35] Harvesting Rights Victory in R v. Goodon, TurtleIsland.org, http://www.turtleisland.org/discussion/viewtopic.php?f=16&t=6473 (accessed December 1st, 2009)

[36] Isaac, *Métis Rights,*62-65.

Act, 1867. It is under this section that the federal government derives authority to regulate all matters associated with 'Indians'. This includes the Indian Act and other pieces of legislation that specifically reference the Indian Act such as the Canadian Environmental Assessment Act (CEAA).[37] Since Métis are not recognized as "Indians" under subsection 91(24), it is not clear whether it is the federal or provincial governments who have the authority to legislate and control Métis issues. [38] Teillet outlines the importance of this issue:

> The question of jurisdiction for Métis is an issue that affects almost every aspect of Métis life. All governments have consistently denied jurisdiction for Métis who live south of the 60th parallel….[However] in Alberta, the provincial government has been working with the Métis since the 1930s, although without claiming jurisdiction.[39]

It also means that the way in which Métis communities are consulted on environmental issues is substantially different, since very specific "Indian" rights are entrenched in such legislation as the CEAA.

Notwithstanding the LMN case where the Métis status of the claimants was not clearly ascertained, the *Laviolette* and *Willison* cases demonstrate that the approach adopted by the judiciary post-*Powley*, is generally narrow, strict and cautious and may not provide the broad inclusive definitions sought by Métis communities.[40] Further, while the court in *Haida* stated that the duty to consult applied to all Aboriginal peoples, following the *Powley* decision Isaac asserts that the application of that duty to Métis communities is likely different from that of First Nations and Inuit peoples. Given the court's history of focused and strict interpretations of both existing jurisprudence and the unique facts of each case, it is likely that the 'duty to consult' will also be interpreted narrowly, dependent on the 'fact-finding' of each case, rather than the application of a broad set of rules that would provide guidelines outlining the rights related to the 'duty to consult'. [41] Despite these caveats, as noted in *Goodon,* some progress towards new definitions of Métis rights-bearing communities is emerging. Finally, in relation to consultation about environmental concerns, other than the LMN case, Métis-specific jurisprudence is virtually non-existent; instead, the courts' general directives about 'Aboriginal' consultation or views on First Nations' processes are the only guidance currently available.   It is within this context that the duty to consult with Canada's Métis, including the tensions surrounding the identification of the rights-bearing communities and their knowledges, is currently being negotiated.

Duty to Consult, Métis Identities, and Métis Indigenous Knowledges

Duty to Consult with Métis: Some Questions to Address

With whom does the Crown consult in terms of Métis communities? In some cases, and some regions of the country, this question might seem a moot point since highly developed Métis

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[37] Canadian Environmental Assessment Act, available at http://laws.justice.gc.ca/en/ShowFullDoc/cs/C-15.2///en (accessed May 6, 2009).
[38] Isaac, *Métis Rights*, 13-15.
[39] Teillet, *Métis Law Summary* 2006, 76.
[40] Isaac, *Métis Rights*, 2 and Congress of Aboriginal Peoples, "Powley Final Report 2006-2007", i.
[41] Isaac, *Métis Rights*, 47-48.

political organizations and consultation protocols already exist.[42] However, it is important to note that not all Métis are represented by existing organizations, or included in current protocols. Apart from some general comments made by the Supreme Court in the *Powley* decision, little has been accomplished in terms of developing newer, and perhaps more inclusive, ways of defining Métis identities and Métis rights-holders. As noted in *Powley*, "The development of a more systematic method of identifying Métis rights-holders for the purpose of enforcing hunting regulations is an urgent priority."[43] The same could be said with regards to developing policy that includes all Métis in the duty to consult about environmental issues.

Section 35 (1 and 2) of the *Constitution Act*, 1982 recognized the Métis as one of Canada's three Aboriginal peoples, as distinct from First Nations and Inuit peoples. However, official recognition of the Métis as Canada's third Aboriginal people has far from resolved the question of Métis identities. The question of "Who is Métis" has been debated for quite some time. But, since official recognition, it has been effectively superseded by the question, "Who is Métis for the purposes of Section 35(1) of the *Constitution Act*, 1982?"

First, as noted above, existing legal definitions of Métis do not reflect the full diversity or complexity of Métis communities throughout Canada, or their specific histories, cultures, and ways of knowing. Second, the tendency of scholars and politicians to equate 'political constituencies' with 'community' has marginalized those Métis who have yet to develop political organizations that can effectively represent them in current negotiations and consultation processes. There is no doubt that for the purposes of defining Métis rights, and in exercising the duty to consult, Métis political constituencies are instrumental and perhaps even desirable for both Métis people and governments alike. However, the reality of Métis political representation to date reveals some significant gaps and challenges. For example, it is not unusual to have more than one Métis political organization vying for the same members, some of whom may even change their loyalties over the years. Furthermore, not all Métis people choose to affiliate themselves with, or hold a membership in, a Métis political organization.[44] Moreover, not all Métis communities have the means to develop effective political organizations, but this does not mean that they may not in the future. Third, narrow definitions of Métis identities by scholars, politicians, and the Canadian legal system have given rise to imbalances of political power within and among Métis communities themselves, further contributing to exclusionary and divisive definitions of who is Métis for the purposes of Section 35(1) of the *Constitution Act*, 1982.[45]

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[42] See Table 1

[43] *Powley, supra* note 14 at para. 49.

[44] This point gives rise to the issue of representativity. For example, some argue that statistics demonstrate that not all Métis in Ontario are represented by one single political organization. For more details see, "Letter to Ontario Government" http://www.o-cap.ca/article/metis-representation-136.asp (Accessed December 1st, 2009).

[45] For example, Western Métis history still predominates in most Métis-related writings. Furthermore, those affiliated with, and politically represented by, the Métis National Council (MNC) and its provincial affiliates, claim to be the only Métis Nation that should represent Métis interests in defining their aboriginal rights. The MNC further makes exclusive claims to the name and legal status of the term 'Métis'. This claim is disputed by many other political organizations that also represent Métis peoples such as the Congress of Aboriginal Peoples (CAP) and the Labrador Métis Nation (LMN). The MNC definition of The Métis Nation insists on Red River ancestry, and is rooted in nineteenth-century concepts of nationhood, as they were then defined mostly through warfare and geography.

Since *Powley*, identification of rights-bearing Métis communities has become a major issue. As noted by Jean Teillet, "The Supreme Court of Canada in *Powley* defined a Métis community as follows: 'A Métis community can be defined as a group of Métis with a distinctive collective identity, living together in the same geographic area and sharing a common way of life.'" In her summary of current case law affecting Métis rights, Teillet further notes that mobility is a key characteristic of Métis communities and cultures.[46]

Still, despite the acknowledgement of the highly-mobile, diverse, and complex nature of Métis identities and communities, and the fact that legal interpretations highlight the importance of culture in defining Métis communities, current interpretations do not address the need to re-think Métis identities in fundamental ways nor the criteria currently being used to determine Métis legal status. Neither do current legal interpretations invoke any of the current cultural theories, or for that matter, the important epistemological work that has been conducted by many scholars on understanding and writing about IK. Of particular note is the noticeable gap in the substantial literature around the construction of, and nature of, nationhood,[47] and the use of traditions and IK in national discourses. It is well beyond the purview of this paper, and not its primary purpose, to provide a detailed review of this important literature, but, a few key points are highlighted below.

In today's political climate, Métis traditions and the use of cultural markers are playing an increasingly important role in constructing both an image of Métis as Indigenous, and in validating their claims to related Aboriginal rights. However, the emphasis on constructing an image of "one" Métis Nation not only reduces, but effectively erases, the rich and varied traditions of many other Métis who are thereby silenced. Laurier Turgeon makes the following comments about nationhood and the "authority of correctness":

> When a nation-state develops or is consolidated it creates a "self- description." This "self-description" is prescriptive rather than descriptive. It establishes the "correct" form of the national language, the "correct" law, the "correct" national history which, naturally, culminates in the state's own formation.[48]

In the larger Canadian context, the "authority of correctness" has tended to homogenize and stereotype the "correct" culture for Métis that does not reflect the full range of Métis cultural diversity throughout the country.

Definition of Canada's Métis people as one nation with one type of IK is problematic at best. Since official recognition in 1982, many different groups of Métis have adopted the term nation to define themselves collectively.[49] Having said that, some Ontario Métis feel they do belong to

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[46] For more details, see Teillet, *Métis Law Summary, 2006*, 15.

[47] *See, for example, Benedict Anderson,* Imagined Communities*, (London: Verso, 1983); Homi Bhabha (ed.)* Nation and Narration*. (London and New York: Routledge, 1990); and Homi Bhabha,* The Location of Culture*. (London and New York: Routledge, 1994).*

[48] Laurier Turgeon, Denys Delage and Real Ouellet, *Transferts culturels et métissages Amérique/Europe XVI-XX siècle (*Laval, Québec : Les Presses de L'Université Laval, 1996), 86.

[49] Most Métis groups who use the term "Métis Nation" are actually political organizations, usually representing Métis on a provincial level. Almost every province in Canada has one organization who calls itself a Métis Nation,

this particular Métis Nation. They embrace MNC's understandings of IK and have recently been accepted by this political community.[50] Even more complications arise from the fact that not all Métis believe that ideas around nationhood are best suited to define themselves collectively.

There is an urgent need to begin addressing the issue of Métis nationalism(s) and knowledge(s) theoretically since with regards to the duty to consult, and negotiating Métis rights, Canadian governments tend to recognize only the most prominent political organizations and their definitions. Moreover, the *Haida* case highlights the need for the Crown to accommodate the "potential existence of Aboriginal rights or title" in order to fulfill its duty. In the case of Métis people(s) who have yet to develop political frameworks and structures to adequately negotiate their participation in the duty to consult, one must ask: "Does the Crown need to acknowledge and accommodate the existence of 'potential Métis rights-bearing communities' to fulfill their duty?"

Mapping Contemporary Métis Identities

The urgent need for a more appropriate and inclusive system for the identification of rights-bearing Métis communities with regards to the duty to consult is apparent to policy makers. And, as noted above, so far Canadian case law has outlined three criteria that are now commonly used by most Métis political organizations to define their citizenship. However, it has been shown that these criteria –namely, self-identification, ancestral connection, and community acceptance – have been narrowly interpreted and have yet to be problematized to any great extent.

It is highly unlikely that the resources and capacity available to Métis communities and governments alike would be forthcoming or sufficient to produce the kind of background research that would be necessary to fully understand the complexity and diversity of contemporary Métis identities. Still, it is the opinion of the authors that a more inclusive – and granted, interim – approach can be devised by taking a different approach to two major challenges currently facing identification and inclusion of Métis rights-bearing communities in the consultation process.

There is a need to re-think and re-frame Métis identities in keeping with current theories of identity, and contemporary realities. Our approach in theorizing Métis identities is to think about, and represent them, as diverse, fluid, ongoing, and relational. As suggested by Homi Bhabha,

> What is theoretically innovative, and politically crucial, is the need to think beyond narratives of originary and initial subjectivities and to focus on those moments or processes that are produced in the articulation of cultural differences. These 'in-between' spaces provide the terrain for elaborating strategies of selfhood—singular or communal— that initiate new signs of identity, and innovative sites of collaboration, and contestation, in the act of defining the idea of society itself.[51]

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for example, the Métis Nation of Ontario, Manitoba, Quebec, and so on. In fact, some groups in the United States have begun adopting this term too.

[50] In 1994, the Métis Nation of Ontario was accepted as a member of the Métis National Council, who claims to represent the Métis Nation of Western Canada, marking a profound shift in political alliances.

[51] *Bhabha,* The Location of Culture*, 2.*

As noted above, it is no longer expedient or tenable to treat Métis as 'one nation', given the recent rise to political consciousness of many Métis communities around the country who claim this status too. How then, does the Crown accommodate Métis rights holders, and Métis rights-bearing communities, who may not be 'citizens' of a major political organization such as the Métis National Council, yet who could be considered 'potential rights holders'? A deeper understanding of the nature of some Métis communities is needed. Granted, consultation on projects with a fairly limited geographic reach, with clearly-defined Métis communities who may already have existing protocols, do not face the same challenges as Métis communities who have yet to develop effective political representation. Given that some Métis communities are still in the process of developing effective political organizations, in the interim, the authors have some suggestions on a more inclusive approach to consultation which could include the following:

- Political organizations at the national, provincial, regional and local levels
- Local/Municipal governments in largely Métis communities
- Cultural associations at the national, provincial, regional and local levels
- Other Métis 'groups or collectives'
- Other local knowledge holders (e.g. elders)

The duty to consult can be, and is, triggered by both strategic/planning initiatives and local/regional projects. To date, the power imbalances within Métis political organizations mean that once the duty to consult is triggered, one particular Métis political organization may not necessarily represent all those Métis who may be affected by the proposed initiative. Therefore, depending on the project the Crown has a duty to at least include representatives from all established organizations that may be impacted by the proposed initiative.

Cultural associations can provide invaluable information and access to the appropriate knowledge holders of the resources in question. For example, organizations that host cultural events focused on traditional practices such as snowshoe making or trapping practices serve as venues where the practitioners of traditional knowledge can be found. Furthermore, cultural associations such as friendship centres, university-based Native centres, health-related community centres, often have elders-in-residence who can provide invaluable assistance in locating the appropriate knowledge holders.

The establishment of early Métis communities was accomplished through prominent Métis families whose descendants can be said to form their own communities. Some of these families are very large and can include hundreds of descendants especially for families whose ancestries can be traced back as far back as the sixteenth century. Granted, not all members of a family may self-identify in the same way, but kinship is a powerful bond, and these relationships help build community beyond political affiliations. Since genealogical research is an important way through which Métis status is determined by political organizations, and since not all family members necessarily belong to the same organization, it seems obvious that connecting families would be an important way for governments to identify rights-bearing holders, and communities.

Finally, with regards to identifying rights-bearing holders and communities in the duty to consult, and including IK in the consultation process, elders must be included in every step of the process. They are often the knowledge holders, and the community leaders. Many elders may not

hold a position of power within a Métis political organization, but they often hold a great deal of power and influence within their own communities, and are recognized as such.

Métis Self-Identification as Process

In keeping with current theories that emphasize the fluid and relational aspects of contemporary identities, we argue that "being and becoming" Métis is a complex process.[52] Having said that, little research has yet been conducted on what the process of Métis self-identification might look like, and why it might be important to acknowledge and understand. If we are to accept that all identity formation is embedded in, and informed by, ever-changing relationships and influential factors, then Métis people are also subject to this process. However, it should be noted that the process described below is not necessarily representative of all Métis perspectives; some Métis would argue that their identity as Métis is self-evident and not subject to a complicated process. This is especially the case for those Métis who feel their sense of identity is informed by, and reflected in, the largely homogeneous ideas of the Métis as one nation and its accompanying history and culture.

In her previous research on Métis identities, Chrétien argues that the process of Métis self-identification is characterized by the movement in, between, and among the "Historical/Real/Riel Métis," the "Other Métis," and the relatively new construction of the "Recently Métis."[53] She further argues that these constructions are shaped by a system of relationships including how Métis people use tradition, history, ancestors, spiritual roots/routes, language and nationalism to define their sense of identity (Figure 1). This model has been adapted to include other relationships important to the consultation process namely community, and landscape and resource use. More importantly, Chrétien's work attempts to map the *process* of Métis self-identification as it was described to her by the many Métis people she interviewed in her fieldwork.

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[52] Jacqueline Petersen and Jennifer S. Brown, eds. *The New Peoples: Being and Becoming Métis in North America* (Winnipeg: University of Manitoba Press, 1985).
[53] Chretien, Annette, "*Fresh Tracks in Dead Air:" Mediating Contemporary Métis Identities Through Music and Storytelling*, Ph.D. Dissertation, 2006, York University.

Figure 1: Identity Trails
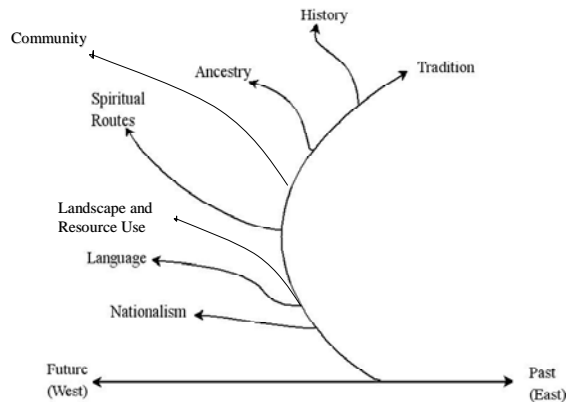
Chrétien proposes that the process of Métis self-identification can be mapped using a system of "identity trails." On one level, these trails represent the *how* of Métis identities, the various pathways that many Métis people are currently choosing to define themselves. They also represent the *why* of Métis identities, meaning these are the relationships that the interviewed Métis people invoked to legitimate and validate their claims to being Métis.

The authors maintain that the notion of trails is an appropriate way to map the process of contemporary Métis identities for a number of reasons. Theoretically, the notion of trails can represent the crossing of boundaries, helping to frame Métis identities as a *process,* and representing diversity without disconnection or division. Mapping Métis identities according to a system of trails, which represent relationships, accommodates the new directions Métis people are taking in defining themselves. Finally, trails are a useful way to analyze and discuss Métis identities because trails are open-ended. They can move backwards and forward in time, and they can always take new directions. They are connected to, but not limited by, the past.

By no means do the authors wish to suggest that these are the only pathways Métis people are choosing to define themselves. However, such an approach can accommodate the cultural, regional, and subjective diversity that characterizes and defines Métis people, both individually and collectively. Furthermore, this approach emphasizes the agency of Métis communities in defining themselves, a process of choices instead of ascription. Finally, it is important to note that to agree that Métis identities can change over time, and are subject to many influential relationships, by no means implies that Métis people do not know who they are. Rather, the authors wish to highlight the fact that Métis identities are far from homogeneous and frozen or static.

More pertinent to the question of how Métis identities is related to the duty to consult, and as we discuss in more detail below, this way of defining Métis identities can serve as a research approach. It can be used as a methodology to help identify rights-bearing Métis communities. Furthermore, we suggest that by building on and expanding this approach, we can begin to understand what constitutes Métis Indigenous Knowledge (MIK), and Métis ways of knowing.

Métis Indigenous Knowledge (MIK)

Environmental consultation processes have begun to recognize the importance of Indigenous ways of knowing. For example, environmental assessment processes are now typically required to incorporate IK into their public participation mechanisms (e.g. the Canadian Environmental Assessment Act,[54] CEAA). [55] But, the term IK conflates the many different permeations of Aboriginal knowledge including, Traditional Ecological Knowledge (TEK), Aboriginal Traditional Knowledge (ATK), Traditional Knowledge (TK), and more recently, *Inuit Qaujimajituganquit* (IQ).[56] As stated by Houde, "It is perhaps because TEK connects such varied dimensions as the type of knowledge, the identity of knowledge holders, and the process of knowledge acquisition that there exists a great variety of definitions and an extensive nomenclature for TEK."[57] Further, terms such ATK and TEK are used to denote pan-Aboriginal ways of knowing, complicating the legal implications of such knowledge in defining Aboriginal rights, and in identifying the rights-bearing knowledge holders. Such pan-Aboriginal terms can be viewed as erasing the knowledge differences of a diverse Aboriginal population including IQ and MIK. [58]

One of the most-often cited definitions of TK and TEK is, "…a cumulative body of knowledge and beliefs, handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environments."[59] This definition demonstrates the emphasis placed on taxonomy instead of epistemology in many existing definitions and frameworks. By contrast, aboriginal scholars who work on defining IK emphasize that aboriginal ways of knowing are processual. For example, as noted by Deborah

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[54] Government of Canada, "Canadian Environmental Assessment Act." June
2003, http://www.ceaa.gc.ca/013/act_e.htm (accessed August 2008).

[55] For example, see G. Poelzer, "Aboriginal Peoples and Environmental Policy in Canada: No Longer on the Margins" D. L. VanNijnatten and R. Boardman (eds.), *Canadian Environmental Policy: Context and Cases,* 2nd edition (Don Mills, Ontario: Oxford University Press 2002), 87-106; R. E. Johannes, "Integrating Traditional Ecological Knowledge and Management with Environmental Impact Assessment." Inglis, J.T. (ed.), *Traditional Ecological Knowledge: Concepts and Cases* (Ottawa: International Program on Traditional Ecological Knowledge and International Development Research Centre 1993); and F. Berkes, "Traditional Ecological Knowledge in Perspective." J.T. Inglis (ed.), *Traditional Ecological Knowledge: Concepts and Cases* (Ottawa: International Program on Traditional Ecological Knowledge and International Development Research Centre 2003).

[56] Nicolas Houde, "The Six Faces of Traditional Ecological Knowledge: Challenges and Opportunities for Canadian Co-Management Arrangements" *Ecology and Society* 12 (2007), 36. For more details on IQ see, Anne Kendrick and Micheline Manseau, "Representing Traditional Knowledge: Resource Management and Inuit Knowledge of Barren-Ground Caribou" *Society and Natural Resources* 21 (2008), 404-418.

[57] Houde, "The Six Faces of Traditional Ecological Knowledge," 36.

[58] As noted by Simon Brascoupé and Howard Mann, "Most Aboriginal peoples agree that IK is unique to each tradition and is closely associated with a given territory. Thousands of knowledge systems probably exist, which are as many and varied as there are Indigenous peoples and territories." For more details see, *A Community Guide to Protecting Indigenous Knowledge* (DIAND: Research and Analysis Directorate 2001).

[59] Fikret Berkes. *Sacred Ecology: Traditional Ecological Knowledge and Resource Management*. (Philadelphia: Taylor & Francis. 1999), 8.

MacGregor, we need to view IK not as 'object' but something one does, as a "way of living". She goes on to say, "If Indigenous Knowledge is something one does, rather than simply something one knows, how is it acquired? What is the process of "coming to know""? [60]

Marlene Brant Castellano further comments that in discussing and using Aboriginal knowledge:

> it is not always made clear that culture is dynamic, and adjusts to changing conditions, and that a particular practice that embodies a timeless truth may need to be adapted if it is to remain effective. Constant testing of knowledge in the context of current reality creates the applications that make timeless truths relevant to each generation.[61]

Castellano identifies the following sources of knowledge: 1) Traditional knowledge handed down more or less intact from generation to generation, with variation from nation to nation; 2) Empirical knowledge gained through careful observation by many persons over extended periods of time; and 3) Revealed knowledge through spiritual means (dreams, visions, intuitions). She also offers her insights into the characteristics of Aboriginal knowledge this way, "Aboriginal knowledge is said to be personal, oral, experiential, holistic and conveyed in narrative or metaphorical language."[62]

The extent to which such definitions, understandings and interpretations of IK, including the relationship to the environment, might represent Métis ways of knowing is an unexplored area of research. This dearth of information is likely due to a number of factors including, the marginalization of Métis as Aboriginal, ongoing Métis identity struggles – more prominent in some areas than others – and the lack of inclusion of Métis communities in environmental research. Before effective environmental consultation can take place, the oral histories of many Métis communities need to be collected and interpreted. In doing so, rights-bearing Métis communities can be identified, documented, and included in the consultation process. On a deeper level, little is understood about the nature and epistemological value of Métis oral narratives. Existing challenges range from methodological, to ethical, and only more recently, theoretical issues. As noted by Cruikshank, difficulties facing environmental researchers attempting to integrate TEK into their work often include a lack of knowledge about ethnographic methods in the field, and an understanding of how to interpret oral narratives in scientific research.[63] These issues are particularly relevant in the challenges associated with defining MIK.

The following quote, from a federal government health document, offers one of the few available Métis definitions of TK.

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[60] Deborah McGregor, "Coming Full Circle" *American Indian Quarterly* 28 (2004), 390-391.

[61] Castellano, "Updating Aboriginal Traditions of Knowledge," 24.

[62] Castellano, "Updating Aboriginal Traditions of Knowledge," 25.

[63] Cruikshank argues that oral narratives need to be viewed beyond the existing attitudes towards TEK and underlying premises of TEK studies: "that they treat deeply different cultural perspectives as bridgeable by concepts such as 'biodiversity', 'sustainable development' or 'co-management framed within scientific discourse." Julie Cruikshank, "Glaciers and Climate Change: Perspectives from Oral Tradition [of Athapaskan and Tlingit elders]" *Arctic* 54 (2001), 377.

Traditional knowledge is the collective knowledge of our people contained within our communities and passed down from generation to generation, through storytelling, observation and the sharing of experience. Using traditional medicine and understanding the importance of our connection to the land form the basis of Métis culture, language and traditions.[64]

And, a more recent definition provided by the Métis Nation British Columbia *Consultation Guidebook* is stated as follows: "Métis Traditional Knowledge is that body of information, values, beliefs and practices passed on from one generation to the another by oral means or through land-based experience that pertains to the identity, culture and heritage of the Métis people and their respect for the land and its resources."[65]Given the challenges discussed above, how then do we begin to integrate MIK in environmental consultations related to the duty to consult?

The identity trails Chrétien originally identified in her previous research, combined with insights from the IK literature can serve to underpin a deeper understanding of some key aspects of MIK and the relationships that define it. These include: 1) Tradition; 2) History; 3) Ancestry; 4) Spiritual Roots/Routes and Values; 5) Language; 6) Nationalism; 7) Community; and 8) Landscape and Resource Use (see Figure 1). As mentioned above, the authors wish to emphasize that these are by no means the only relationships through which Métis communities define themselves, but they can serve as a starting point. If these relationships are framed as questions, they provide a research approach, and a framework, for identification of historic rights-bearing Métis communities. In terms of Canadian case law, and developing appropriate policies around aboriginal rights, Christie provides the following:

> …the deeper defining elements of an Aboriginal world—the values, principles, and beliefs that go into the self-identification of a people, which form their intellectual and spiritual inheritance—are such that protection provided by Canadian sources is both *unnecessary* and *unwanted*. Aboriginal peoples are capable of providing the mechanisms called for, and they must be left to develop the same.[66]

Métis communities each have their own knowledge systems. How these can be accommodated in the duty to consult in more practical ways is discussed in more details below.

Policy Implications: Taking the Next Steps

Clearly, some Métis communities in Canada are already deeply involved in environmental consultation processes. However, in some cases, there is still a need for immediate, implementable approaches to effectively undertake consultation with those Métis rights-bearing communities that are not yet included in these processes. In this section the paper draws together the key insights from previous sections, pointing to the policy implications of these insights. We then outline what should be included as the key components of a consultation protocol and the steps in that process. Consultation frameworks that specifically included Métis communities are

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[64] NAHO "Métis Perspectives and Traditional Health Knowledge Series" (1), (Ottawa: Métis Centre at NAHO 2005).
[65] Métis Nation of British Columbia, *Consultation Guidebook,* February 25, 2009, 12
http://www.mpcbc.bc.ca/bcmanr/pdf/Final%20Consultation%20Guidelines.pdf (Accessed December 1st, 2009).
[66] Christie "Aboriginal Rights, Culture, and Protection" *Osgoode Law Journal* 1998, 451.

identified. (See Appendix 1, Tables 2-3).[67] Finally, we delineate a consultation approach, based on community advisory committees that have the potential to increase Métis representation in consultation processes. Major insights and implications, delineated in the paper thus far, regarding the duty to consult with Canada's Métis include:

- Case law only tempers the Crown's power, Aboriginal rights and perspectives are constrained by Crown sovereignty. Métis communities should be aware of this context when involved in Canadian legal and consultation processes.
- Case law regarding Métis specific contexts about the duty to consult and Métis identity issues is not yet well defined and existing definitions are narrowly interpreted.
- The Crown must consult with Métis communities on issues that affect their rights, territories and well-being. The duty to consult rests with the Crown, not third parties.
- Métis rights are collective. Rights-bearing Métis communities are rarely contiguous with geographic places such as towns or municipalities. They tend to be scattered through their traditional territory and historically highly mobile.[68] This affects consultation approaches and mechanisms and identification of historic rights-bearing Métis communities.
- The duty to consult is triggered whenever there is a *potential* infringement of those rights, not only when it is demonstrated that an existing right has been violated; essentially, "whenever the Crown has knowledge of an Aboriginal rights or title claim and is considering actions that might negatively affect those claimed rights or title." [69]
- Content of the duty to consult is related to strength of rights claim and risk of harm.
- Existing protocols for meeting the duty to consult with Métis place the government at risk of not meeting their responsibilities if Métis representation continues to be limited by the conflation of 'citizenship' with 'community.'
- Definition of rights-bearing communities must move beyond case law. It should be based on the type of cultural relationships outlined above and contemporary definitions.
- Definition of Métis communities should be a process of internal self-definition, not based on an externally imposed set of criteria. Métis communities themselves should decide 'who' is Métis for the purposes of establishing rights according to Section 35(1) of the *Constitution Act*, 1982.
- Métis Indigenous Knowledge is also a process, not an object. It flows from these cultural relationships and should be defined by Métis rights-bearing communities/knowledge holders.

Examples of Consultation Protocols

These broad insights underpin the following discussion regarding the development of consultation protocols. Table 1 provides examples of Canadian protocols applicable to consultation with Métis. These can be utilized to understand the components and processes typically included in such frameworks. The examples include frameworks designed from three

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[67] Although there are many other acts, regulations, processes and policies that also include Aboriginal consultation or knowledges, these are beyond the scope of this paper to review. To name but a few, these include the Canadian Environmental Assessment Act (CEAA), the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) policy on Aboriginal traditional knowledge (ATK), the Mackenzie Valley Resource Management Act (MVRMA) with its associated Mackenzie Valley Environmental Impact Review Board (MVEIRB) and the Nuclear Fuel Waste Act (NFWA).
[68] Teillet, Métis Law Summary 2006, 95.
[69] Teillet, Métis Law Summary 2006, 92.

different points of view: government perspectives, Métis external consultations and Métis internal consultations. The Métis Nation of Ontario (MNO) regional consultation protocols are different from the four more general frameworks in that they will be used to structure participation in locally significant environmental processes such as the upcoming federal environmental assessment of Ontario Power Generation's Lower Mattagami Hydroelectric Project. These MNO protocols provide a framework focused on an agreement between MNO and their charter community councils. This provides a potential template regarding how to design an internal protocol for consultation *within* a Métis rights-bearing community. It is important to note that all frameworks have been developed since 2007 (and that both government protocols utilize the word 'interim') – as such they are still largely untested and will undoubtedly be subject to future revisions.[70]

Table 1: Consultation Protocols

A) Government approaches to consultation with Aboriginal peoples
Jan. 2008: Aboriginal Consultation and Accommodation: Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult[71]
Feb. 2008: Saskatchewan Interim Guide for Consultation with First Nations and Métis[72]
B) Métis external approaches to consultation with other parties and general guidelines for internal consultation processes [73]
Fall 2007: Métis National Council (MNC)A Guide for Consultation and Accommodation[74]
Feb. 2009: Métis Nation British Columbia Consultation Guidebook[75]*(MNC affiliate)*
C) Métis internal consultation approaches[76]
June 2008: The Métis Nation of Ontario Consultation Protocol for Abitibi/Temiscamingue and James Bay Territories
Nov. 3, 2008: The Métis Nation of Ontario Consultation Protocol for Lake of the Woods/Lac Seul and Rainy Lake/Rainy River Traditional Territories
Nov. 3, 2008: The Métis Nation of Ontario Consultation Protocol for Lakehead/Nipigon/Michipicoten Traditional Territories

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[70] Despite inquiries, we were unable to find any other consultation guidelines from other organizations that represent Métis peoples such as the Congress of Aboriginal Peoples.

[71] Government of Canada, "Aboriginal Consultation and Accommodation: Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult", (February 2008,) http://www.ainc-inac.gc.ca/nr/iss/acp/intgui-eng.pdf (accessed August 2008).

[72] Government of Saskatchewan, "Interim Guide for Consultation with First Nations and Métis People", http://www.fnmr.gov.sk.ca/adx/aspx/adxGetMedia.aspx?DocID=1620,1486,94,88,Documents&MediaID=550&Filename=InterimGuide%2cJan2008.pdf (accessed August 2008).

[73] In July 2008, the Métis Nation of Alberta also announced that they were developing a consultation policy. As another MNC affiliate, their policy consultation document mirrors much of what has been described above regarding the MNC, MNO and MNBC approaches. See Métis Nation of Alberta, "Memorandum: Developing a Métis Consultation Policy", (July 10, 2008), http://www.albertametis.com/PDF/MNAHome/MNA_Consultation_Policy_Package_July_2008.aspx) (accessed August 2008).

[74] Métis National Council, "A Guide for Métis on Consultation and Accommodation", (Fall 2007) http://www.metisnation.org/voyageur/assets/PDF/Metis_Guide_to_Consult.pdf (accessed August 2008).

[75] Métis Nation British Columbia, *Consultation Guidebook*.

[76] See http://www.metisnation.org/consultations/index.html (accessed Dec.1, 2009).

Sept. 10, 2008: The Métis Nation of Ontario Consultation Protocol for Mattawa/Lake Nipissing Traditional Territories	
April 20, 2009: The Métis Nation of Ontario Consultation Protocol for the Georgian Bay Traditional Territory	
May 5, 2009: The Métis Nation of Ontario Consultation Protocol for Historic Sault Ste. Marie Traditional Territory	
2009: The Métis Nation of Ontario Consultation Protocol for Kawartha/Ottawa River	

Components of a Consultation Protocol

Drawing from these frameworks as well as the case law and academic literature provided above, a complete consultation protocol typically includes the components listed in Table 2. The details of these frameworks are provided in Appendix 1, Tables 2 and 3.

Table 2: Key Protocol Components

Component	Rationale/Purpose of Component
Target audience/identity of rights-bearing Métis	Outline who will use protocol and identify rights-bearing community addressed by the protocol
Purpose/objectives /principles	Outline purpose of the protocol – e.g. for specific project/group or general guide
Capacity requirements	Outline time frame, personnel, monetary and other resources that are required for meaningful participation of rights-bearing community
Indigenous/traditional knowledge	Outline how knowledge holders and their knowledge will be included in the process
Types of accommodation	Outline range of accommodations from strong to weak (see Figure 2 below)
Approaches/steps to consultation	Outline how the consultation process will unfold, consider applicability to both strategic/planning and project-specific processes (see Figure 3 below)

Four key points about the protocol components require additional commentary. First, the issues surrounding the identification of the rights-bearing community cannot be over-emphasized. These are exemplified by the recent 2008 MNO process for developing a consultation framework, in which the participants asserted that 1) 'not knowing who the Métis are' is not a justifiable reason to ignore Métis communities, 2) pan-Aboriginal, rather than Métis-specific language marginalizes the specific rights of the Métis, 3) a Métis sense of community may move beyond geographic settlement boundaries to encompass communities based on region or identity (e.g. based on common history, culture, kinship connections, mobility, migration and territory),

4) MNO should challenge 'other' groups that purport to represent the Métis, and 5) some Métis rights holders are not currently MNO citizens.[77]

 Second, capacity building is necessary in order that government agencies, proponents, Métis communities and knowledge holders have the necessary time, money, processes, information, and so on, available prior to the start of any consultation process.[78] Métis communities, in particular, need this so that they can determine *if, when, and how* they wish to be involved in a particular consultation process and then, when appropriate, can participate in a coherent, timely and knowledgeable manner. [79]

Third, the types of accommodation that could be provided are addressed in two of the guides. Following *Haida*, the federal guidelines follow the Court's directions regarding the spectrum of consultation and accommodation from weak to strong (e.g. provide adequate notice versus consider changing government action; see Figure 2). Where a weak rights claim with no serious impacts exists, minimal consultation is needed and vice versa.

Finally, guidance regarding the inclusion of Métis knowledges was sparse in the protocol documents, with Métis-specific considerations discussed only in the Métis Nation British Columbia (MNBC) *Consultation Guidebook*. The guidebook emphasizes the importance and distinctive nature of Métis ways of knowing. It describes the MNBC's commitment to traditional knowledge and outlines guiding principles for the use of this knowledge (see Table 4, Guiding Principles). The lack of information regarding MIK in protocol documents was surprising given the importance of this knowledge in understanding the impacts of both strategic and project-specific initiatives. Without being prescriptive, it is possible to outline the nature of MIK and the role of knowledge holders in a decision-making process. Insights regarding how this could be approached were provided in the previous section of this paper.

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[77] The Métis Nation of Ontario, "Towards a Consultation Framework for Ontario Métis – 2007/08 Community Consultations, What we Heard", (July 2008), http://www.metisnation.org/consultations/framework_final_report.pdf (accessed August 2008).

[78] Lawrence and Macklem, Aboriginal Rights, 273.

[79] In an example of capacity building, in April 2008, MNO and the Ontario Ministry of Aboriginal Affairs announced that the province was providing $200,000 towards the development of a framework agreement. See Ontario Ministry of Aboriginal Affairs and the Ontario Métis of Ontario, "Improving quality of life for Métis people aim of historic talks", Joint News Release, (Tuesday April 8), http://www.aboriginalaffairs.gov.on.ca/english/news/2008/apr8nr_08.html).

**Figure 2: Aboriginal Consultation and Accommodation[80] (Based on *Haida*)**

Weak Claim – No Serious Impact ⟷ Strong Claim – Serious Impact	
Provide adequate notice	Exchange information, meetings, correspondence
Disclose relevant information	Visiting site, research, studies
Discuss issues raised in response to notice	Submission to decision-maker
	Provide written reasons
	Determine accommodation: seek to adjust project
	Develop mitigating measures

Steps in a Consultation Process

What should a consultation process look like? There is a need for an approach that can accommodate both strategic (e.g. planning) and project-specific consultation processes, addresses the capacity issue, and that follows the consultation process from inception through to the completion and monitoring stage. The process must include the pre-consultation stage (e.g. Christie's consultation process to design a process and the MNO protocols). Rather than over-taxing or disempowering Aboriginal communities, each initiative should be considered as part of an iterative process, with the ultimate goal focused on increasing the capacity (knowledge, resources, resiliency) of the Aboriginal participants. Thus, the steps in a consultation process should include: 1) ongoing capacity building and empowerment, 2) triggering event/notice, 3) pre-consultation assessment of project/strategy including need/desire to consult, identification of who should be included in the consultation process as well as resource and Indigenous knowledge requirements, 4) development of consultation/accommodation approach and information exchange (including Indigenous knowledge), 5) assessment of information, consultation and impacts, 6) final decision and accommodation, 7) project/strategy initiative completion and monitoring of outcomes, and 8) feedback and social learning leading into the next initiative (see Figure 3).

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[80] Federal Government, Interim Guidelines, 45.

Figure 3: Steps in a Consultation Process
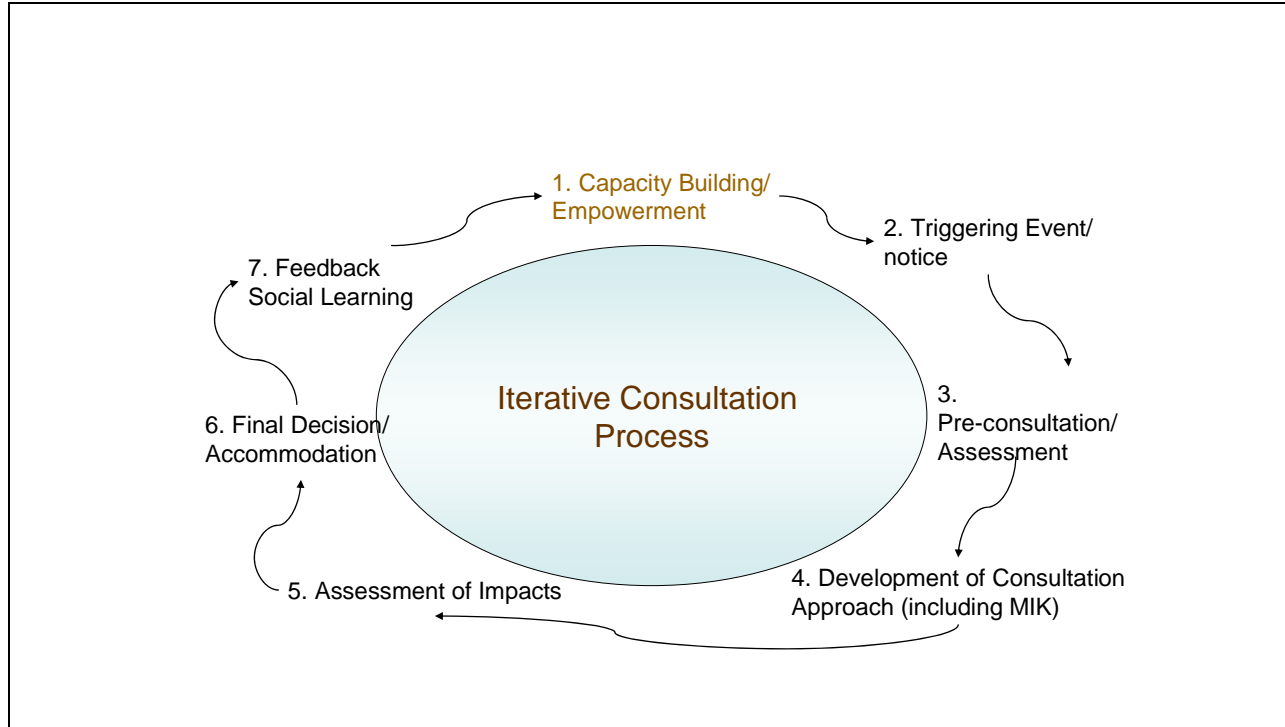
What is Adequate Consultation?

What should be considered adequate consultation? There is no clear definition; adequate consultation is said to depend on a case-by-case analysis that is consistent with general procedural fairness guidelines.[81] Procedural fairness includes 1) the provision of full information to the rights-bearing community, 2) the Crown becoming fully aware of the perspectives of the affected Aboriginal group, and 3) the Crown undertaking meaningful and reasonable consultation.[82] Evidence of lack of consultation may include: failure to recognize the presence of an Aboriginal people in the project area; blaming Aboriginal people for not asking for consultation; the Crown failing to take responsibility for the consultation process; suggesting that a public meeting, general knowledge of the project or meetings with individuals fulfills the consultation obligation; and refusing to deal with the duly chosen Aboriginal representative.[83]

Suggested Approach to Consultation with Métis Rights-Bearing Communities

Consultation with Métis people about environmental issues is happening now and can only be expected to increase. As the process of Métis self-identification unfolds and understandings of MIK develop, how can the duty to consult be fulfilled in a manner that incorporates a broader representation from across rights-bearing communities? There are many participation mechanisms available that could allow for the inclusion of political and cultural organizations, as well as other Métis groups and knowledge holders. These include citizen's juries, citizen's panels, citizen's tribunals, consensus conferences and community advisory councils (or

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[81] Isaac and Knox, The Crown's Duty to Consult, 68.
[82] Lawrence and Macklem, From Consultation to Reconciliation, 264.
[83] Teillet, Métis Law Summary 2006, 95.

community liaison groups).[84] Of these, community advisory councils (CACs) seem particularly well suited to the broader inclusion of Métis rights-bearing communities. These are flexible committees, either ad hoc or permanent, that gather together representatives whose interests are affected by a particular issue or initiative (either strategic or project-based). Governance principles typically include cooperative and flexible leadership, broad consultation, active and direct community involvement, active institutional support, and the sharing of benefits across all sectors.[85] This type of committee structure has been used successfully in both environmental and health projects and has often involved Aboriginal representation. This is also an approach that dovetails well with environmental impact assessments and administrative tribunals. Below a scenario is presented to exemplify this approach.

Scenario: The duty to consult with Métis right-bearing communities is triggered by a mining project. With institutional support from the Crown and its delegated representative, the project proponents, notification is sent out to a wide variety of Métis organizations/groups/knowledge holders who might feel that their interests are affected by the project. Those organizations come forward and an initial CAC is struck. Representatives could be included from the local, regional and national scales and across any sector whose interests are affected by the project. At the pre-consultation stage, each community obtains the information it needs to decide if, when and how it wishes to be included in the consultation. This is an internal consultation process *within* each community that could look something like that recommended by the MNO protocols. Those organizations that wish to continue in the process would then finalize the CAC membership and develop its governance structure. The Crown and its delegates could then proceed with the consultation using *Haida* and other guidance regarding accommodation and a fair process that meets the honour of the crown doctrine. The CAC would be responsible for gathering and presenting the opinions and knowledges of the CAC membership and for providing advice to the Crown through such mechanisms as Aboriginal consensus decision-making models, European models of majority/dissent, or what ever process the CAC selects.

Of course this approach is far from perfect. For instance, it will likely be difficult to get all communities to agree to such a process, communities may not have the internal organization in place to consult with their membership, and the process may still not capture all of the rights-bearing communities. Nevertheless, it still seems more defensible than what is now in place. In the current federal guidelines on Aboriginal consultation only very vague guidelines are provided regarding 'who' are the Métis that should be consulted.[86] The proposed process could alleviate some of this uncertainty by allowing Métis rights-bearing communities to self-identify and organize. Further, a CAC approach would offer the opportunity for a wider range of Métis rights-bearing communities and knowledge holders to participate in the consultation process and to

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[84] Frank Fischer, *Citizens, Experts and the Environment: The Politics of Local Knowledge* (London: Duke University Press, 2000) 234-278; Kevin R. Ballard and Richard G. Kuhn, "Developing and Testing a Facility Location Model for Canadian Nuclear Fuel Waste" *Risk Analysis* 16 (1996) 824; Dave Block, "Sacramento County Campaigns for Biosolids Recycling" *BioCycle* 38 (1997) 78; N. Gibson, A. Cave, D. Doering, L. Ortiz, P. Harms, "Socio-cultural Factors Influencing Prevention and Treatment of Tuberculosis in Immigrant and Aboriginal Communities in Canada" *Social Science and Medicine* 61 (2005) 933; Robin Tennant-Wood, "From Wasteland to Wetland: Creating a Community Ecological Resource From Waste Water in Regional New South Wales" *Local Environment* 9 (2004), 533.
[85] Tennant-Wood, From Wasteland to Wetland, 533-4.
[86] Federal Government, Interim Guidelines, 47.

negotiate a coordinated message to present to federal and provincial governments. With the proper institutional support, this could also build capacity amongst Métis groups to more meaningfully participate in environmental initiatives. Under these circumstances, the Crown should be able to argue that it proceeded in an honourable manner and that it has consulted collectively with the Métis rights-bearing communities; this may reduce litigation and increase stability and sustainability for all involved.

Final Thoughts

The paper began by outlining the case law associated with the Crown's duty to consult about environmental issues with Canada's Métis. It delineated a process-approach for the self-identification of Métis communities and their knowledges. In the final section it provided practical advice regarding protocol development and consultation processes. The paper then suggested the CAC mechanism as a way to increase consultation across Métis rights-bearing communities.

The current flood of environmental initiatives asking for Métis input speaks to the increasing recognition of Métis rights and Métis capacity to meaningfully participate in these discussions. What is now required are mechanisms that both acknowledge and include *all* Métis rights-bearing communities in those conversations.

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Appendix 1

Table 1: Examples of Métis Engagement in Environmental Consultation

Organization	Environmental Issue	Source
Strategic Consultation		
Métis National Council	Participation in review of Species at Risk Act, 2001	http://www.metisnation.ca/SAR/index.html
Métis National Council	Participation in 5 year review of CEAA, 2000	http://www.ceaa.gc.ca/013/001/0002/0004/0004/mnc_e.htm
Labrador Métis Nation	Participation in 5 year review of CEAA, 2000	http://www.ceaa.gc.ca/013/001/0002/0004/0004/labrador_e.htm
The Métis Nation of Ontario	Participation in 5 year review of CEAA, 2000	http://www.ceaa.gc.ca/013/001/0002/0004/0004/metis_e.htm
Manitoba Métis Federation	Representation on: Environment Canada Mining Sector Sustainability Table, Convention on Biological Diversity, COSEWIC, ATK subcommittee, 2004	http://mmf.mb.ca
Métis National Council	Review of Canadian Environmental Protection Act, capacity building initiative with Canadian Wildlife Service, involved in draft terms of reference for CEAA Aboriginal Advisory Committee, 2005	The Métis Nation Magazine, March 2005
The Métis Nation of Ontario	Review of the Great Lakes Water Quality Agreement, including 3 focus group sessions 2006	http://www.metisnation.org/environment/great_lakes/glwq_mno_reqs.pdf
Congress for Aboriginal Peoples, The East Coast First People, Alliance, The Ontario Métis Aboriginal Association, The Métis National Council, The Métis Nation of Ontario, Northwest Saskatchewan area Métis/First Nations dialogue, Sakitawak Metis Nation (Sask.)	All of these Métis organizations and communities contributed to the NWMO dialogues on nuclear fuel waste management options.	Reviews are available at http://www.nwmo.ca/Default.aspx?DN=0c997533-f41d-4f23-b61a-c99205948bc0 Note: Final reports were mostly available by 2006-7; however, the NWMO continues to post new documents.
The Métis Nation of Ontario	Work with Ontario Authority to provide information on Integrated Power Supply Plan (IPSP), intervenor in IPSP review through Ontario Energy Board, 2008	Consulting with Métis in Ontario, 2008

Organization	Environmental Issue	Source
The Métis Nation of Ontario	Relationship building with energy, mining and forestry companies and with Ontario government ministries, 2007-8	Consulting with Métis in Ontario, 2008
Project-Specific Consultation		
Sahtu Dene and Métis (NWT)	Through MVEIRB, numerous projects over last 10 years, including work on the Mackenzie Valley Pipeline	http://www.mackenziegasproject.com/ http://www.cbc.ca/news/background/mackenzievalley_pipeline/
North Slave Lake Métis Alliance (NWT)	Diavk (2000) and Snap Lake (2004) diamond mines Also conducted through MVEIRB	O'Faircheallaigh , 2007, 328-339
Manitoba Métis Federation	Wuskwatim Dam and Generation Station, 2004	http://www.mmf.mb.ca
Labrador Métis Nation	Trans Labrador Highway Phase III CEAA review See court ruling requiring LMN consultation, 2004	Métis Messenger, Feb. 2004
Fort McMurray Métis Local 1935 (Alberta)	Kearl oil sands project, 2006	http://www.ceaa-acee.gc.ca/050/documents_staticpost/cearref_16237/KR-0054.pdf
Métis and Sahtu (NWT)	Uranium exploration, 2006	http://www.miningwatch.ca
Wood Buffalo Métis Locals (Alberta)	Mineable Oil Sand Multi-Stakeholder Consultation, 2007 Group, 2007	http://www.oilsandsconsultations.gov.ab.ca/docs/FinalReport_Aboriginal Report-lowres-july4.pdf
Métis Nation Alberta	Denied intervenor status regarding Petro-Canada oil sands project (thus, no funding provided to participate), 2008	http://www.tarsandswatch.org
Labrador Métis Nation	Lower Churchill Project, 2008	http://www.labradormetis.ca/home/blog.php
Labrador Métis Nation	District 19 Forestry Plan, withdrawn by province to accommodate LMN and develop consultation process, 2008	http://www.labradormetis.ca/home/blog.php
Historic Saugeen Métis, Ontario	Signing of Métis Engagement Protocol with Bruce Power, Kincardine, on its New Nuclear Build Project, March 6, 2009	http://www.indigenousportal.com/Mining-and-Extractive-Industries/Historic-Saugeen-M%C3%A9tis-Sign-Nuclear-Protocol.html
Métis Nation, Saskatchewan	Consultation on the future of uranium mining, April 2009	http://www.cbc.ca/canada/saskatchewan/story/2009/04/06/metis-uranium.html
Ontario Métis Nation	Simcoe County, North County Landfill, Site 41, June 2009	http://www.newswire.ca/en/releases/archive/June2009/22/c8769.html

Table 2: Overview of Consultation Frameworks and Protocols

Document	Audience/Identity of Rights-Bearing Métis	Purpose/Objectives	Principles
Aboriginal Consultation and Accommodation: Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult	Federal departments and agencies **Rights-bearing Métis:** Métis group that existed prior to effective European control; have distinctive collective identity, live in same geographic area, share common way of life (*Powley* criteria); rights are 'fact and site specific'; political organizations are not always the rights-holders, but role may be unique for Métis	*To provide practical advice and direction to federal departments and agencies *To provide an approach that addresses the need for consistency in the duty to consult along with the need for flexibility and accountability of departments and agencies *To provide an approach that avoids 're-inventing the wheel'	*Legal: Honour of the Crown, reconciliation, reasonableness, meaningful consultation, good faith, responsiveness. *Practice: Mutual respect, accessibility and inclusiveness, openness and transparency, efficiency, timeliness
Government of Saskatchewan Interim Guide for Consultation With First Nations and Métis People	Government employees and decision-makers **Rights-bearing Métis:** No specific details provided	*To advance the process of reconciliation *Objectives: 1) Respect for treaty and Aboriginal rights, 2) Reconciliation and relationship building with First Nations and Métis, 3) Commercial certainty, predictability and timeliness of decisions.	1)Determine if action might affect rights, 2)Consultation in good faith, 3)Aboriginal direct engagement, 4)Aboriginal say in process design, 5)Consultation as early as possible, 6)Clear communication, 7)Relevant area is traditional territory of affected community, 8)Government responsibility for consultation process, 9)Respectful of Aboriginal cultures/practices, 10)Leading to respectful, lasting relationships, 11)Keep detailed records, 12)Use information to avoid/mitigate adverse affects.
A Guide for Métis on Consultation and Accommodation, Métis National Council	Métis, government and project proponents **Rights-bearing Métis:** *local, regional,	*To provide information to Métis on Consultation and Accommodation *Provide guidance to government and	*Sufficient time to be successful *Development of clear understanding of project impacts prior to any negotiations

Document	Audience/Identity of Rights-Bearing Métis	Purpose/Objectives	Principles
	provincial representatives of MNC *Asserts Métis Nation based largely in western Canada (Ontario westward)	industry regarding consultation with the Métis Nation	*Governments do not have to do all of the consultation and accommodation, but responsible for ensuring it is done properly *A public notice does not satisfy government's obligation to provide notice *Government/proponent must fully inform Métis about proposed development *Métis must fully inform government/proponent about land and resource use *Keep community members informed and involved
Métis Nation British Columbia Consultation Guidebook	Métis, MNBC departments, government and project proponents ***Rights-bearing Métis:*** *Affected 'Chartered Métis Communities' with management support by MNBC	*To identify a consistent approach to consultation across MNBC departments *To set out MNBC's expectations of government and industry *To delineate how the MNBC will advocate and conduct consultation of behalf of Métis	1)Consultation should be in good faith, 2)MNBC is responsible for internal consultation, 3)Consultation will occur when Métis lifestyles and traditional land uses may be infringed, 4)Consultation participation is required of MNCB, the project proponent and government, 5)Consultation will be coordinated across all departments, 6)All parties are expected to provide relevant information and adequate time for review, 7)The nature of consultation will be tailored to the extent of infringement, communities involved and activities affected, 8)Consultation should aim to avoid infringement, and if not possible, mitigation of such infringement, 9)Consultation should occur within reasonable

Document	Audience/Identity of Rights-Bearing Métis	Purpose/Objectives	Principles
			timelines.
The Métis Nation of Ontario Consultation Protocol for Abitibi/Temiscamingue and James Bay Territories* Other MNO frameworks contain similar information.	Internal Audience focused on MNO, 3 Chartered community councils. ***Rights-bearing Métis:*** MNO, community councils, all MNO citizens, even if not currently represented by a council	*Protect Métis rights, land use, harvesting practices, traditional knowledge *Ensure Crown's duty to consult fulfilled *Establish mutually agreeable consultation process *Build community capacity for consultation *Strengthen MNO self-government structures and representativeness	*Crown's duty owed to entire regional rights-bearing Métis community *MNO responsible for consultation with rights-bearing communities in Ontario *Councils must effectively consult with citizens *Collaboration needed to effectively consult and represent rights-baring communities *Responsibility to work together to ensure respectful Crown consultation

Table 3: Details of Consultation Frameworks and Protocols

Document Source	Capacity Building Policies	Consultation Process	Traditional Knowledge	Types of Accommodation
Federal Aboriginal Consultation and Accommodation	*Provides guidance regarding getting organized for consultation processes	1) Pre-consultation analysis and planning, 2) Crown consultation, Accommodation, 3) Implementation, monitoring and follow-up	Not addressed	*Weak Claim: Provide adequate notice Disclose relevant information ,Discuss issues raised in response to notice *Strong Claim: Exchange information, meetings, research,, correspondence, visiting site, studies, submission to decision-maker, provide written reasons, determine accommodation: seek to adjust project, develop mitigating measures, consider changing proposed government action
Saskatchewan Interim Guide	Not addressed	1)Pre-consultation assessment, 2)Provide notice, 3)Allow time for response, 4)listen to response, 5)Report back to community	Not addressed	
Métis National Council	Not addressed	1)Notice, 2)Funding, 3)Information Exchange, 4)Understanding the project's effects on Métis, 5)Accommodation	Not addressed	negotiation of protocols, monitoring initiatives of project impacts, Métis representation on development panel/advisory group, negotiation of benefit-impact agreements, negotiation of a financial interest or financial compensation, and negotiation of project adjustments (e.g. re-routing of roads).
Métis Nation British Columbia Consultation Guidebook	Not addressed	1)Triggering event, 2)Assessment and Evaluation, 3)Notification of consultation requirements to all parties, 4)Consultation, 5)Review adequacy of	Attached document addresses Métis Traditional Knowledge. See principles Table 4.	

		reports, 6)Decision-making, 7)Project completion and monitoring *2 kinds of consultation: 1)General consultation and relationship building 2)Project-specific consultation		
The Métis Nation of Ontario Consultation Protocol	Mentioned in purpose	*5 person coordinating committee (4 parties to agreement + regional chair) *Coordinating committee to develop and implement consultation work plan *Communication with citizens through MNO print and on-line tools *Communication shall be fair, transparent and open *Communication with Crown through coordinating committee	Mentioned in purpose	

Table 4: Métis Traditional Knowledge, Guiding Principles[87]

Allow future generations to benefit and learn from Métis Traditional Knowledge
Ensure that informed consent occurs between Métis knowledge holders, researchers and Métis Traditional Knowledge Users in the process of research or MTK use
Assist Métis to restore and maintain control over the use of Métis Traditional Knowledge as cultural and heritage resources, recognizing that they are the owners and stewards of these resources
Encourage appropriate sharing of Métis Traditional Knowledge with others
Ensure the participation of Métis chartered communities in Métis Traditional Knowledge research activities including reporting back to the communities the results of research activities in an appropriate manner and format
Ensure respect for Métis Traditional Knowledge holders and ethical use of Métis Traditional Knowledge in research, giving it an equal standing with western based knowledge
Ensure that researchers conducting projects in the British Columbia that use Aboriginal Traditional Knowledge give equal weight to Métis Traditional Knowledge
Support the use and preservation of Métis languages
Support the ethical use and application of Métis Traditional Knowledge in heritage, renewable and nonrenewable resource management in the British Columbia

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[87] Métis Nation British Columbia, Consultation Guidebook, p.11.