

Remarks on Progress on Rights Recognition and Economic Development

By President Chartier
Council on Corporate Aboriginal Relations
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My remarks today cover the Métis Nation's experience in pursuing rights recognition and economic development and what is shaping the current context for advancing our economic interests.

Throughout our history, the struggle for rights recognition as a distinct people and for advancing our economic interests have gone hand and hand.

We began as the children of the fur trade in western Canada and formed the backbone of the fur trade economy as workers and entrepreneurs.

As our ancestor's married among themselves over many generations and created our unique culture, customs and language, they also developed a political consciousness of nationalism that put them into direct conflict with the Hudson's Bay Company and its economic monopoly in our homeland.

Our flag with which we are associated today was first unfurled at the Battle of Seven Oaks in 1816 in what is today Winnipeg when Métis under the command of Cuthbert Grant defeated the forces of the Company and Selkirk settlers that had attempted to restrict our trading activities.

In 1849, an armed force of Métis under the command of Louis Riel Sr. forced the release of a Métis trader under trial and declared "Le commerce est libre".

In 1857, our pursuit of free trade was taken to London, England where a Métis lawyer named Alexander Isbister who was residing in that city appeared before the British Parliamentary Select Committee on the Hudson's Bay Company to challenge the Company's monopoly in Rupertsland.

When Canada purchased Rupertsland from the Company in 1869 with the intention of absorbing it into the new federation as a territory, the Métis in the Red River Settlement, who constituted 85% of the population of 11,000, formed a provisional government under the presidency of Louis Riel to demand provincial status and powers.

Delegates of the Métis government negotiated the terms of the admission of the Red River into Confederation as the province of Manitoba through the Manitoba Act 1870 that included a large land grant for the children of the Métis.

A ten year delay in the distribution of the Métis land grant amid a rapid influx of hostile Anglo-Ontarians led to the dispossession, displacement and dispersion of much of the Métis population.

Many moved to the Saskatchewan valley where they joined existing Métis communities or formed new ones.

Their inability to gain title to their land led to the formation of the second Métis provisional government under Riel that was met by the dispatch of thousands of Canadian troops, a series of battles, and finally the military defeat of the Métis Nation at Batoche in 1885 and the trial and execution of our leader.

The federal government's response to the cause of the resistance was to issue land grants in the form of Métis scrip, a coupon denominated in dollars or acres that could be applied to the purchase of surveyed Dominion lands open for homesteading purposes.

The difficulties attached to redeeming the scrip and the resultant trafficking in Métis lands by speculators in collusion with federal officials caused the Supreme Court of Canada to comment in the *Blais* decision in 2003 that the history of this scrip process was a sorrowful chapter in Canadian history.

The Métis were pushed to the margins of society and the new economy, often living on road allowances.

When Ottawa transferred its control over the public lands on the prairies to the three Provinces in 1930, it closed the book on Métis claims, asserted that our rights had been extinguished by the federal land grant legislation, and that it had no constitutional responsibility to deal with us.

This was its position up to and including the 1970s when the Trudeau government began to engage with the Métis people and their provincial associations, albeit as a special needs rather than special rights group.

Despite being recognized as one the three Aboriginal peoples in section 35 of the Constitution Act 1982, the Métis were still denied rights recognition.

During the Mulroney era, the Métis Nation was able to begin building capacity in economic development.

It developed cost-efficient province-wide service delivery infrastructures for delivering skills development and employment training programs and promoting business development through Métis capital corporations that are small business lenders.

At the same time, the Métis Nation was strengthening its system of democratic accountability, with all of the MNC's provincial affiliates or Governing Members establishing province-wide one person one vote ballot box elections for leadership.

The MNC pursued the attainment of self-government through four constitutional conferences in the 1980s and then through the Charlottetown round of discussions in the early 1990s.

The failure of the constitutional process to deliver self-government caused the Métis Nation to fall back on the courts.

In the Powley decision in 2003, the Supreme Court of Canada ruled that the Métis are a full-fledged rights bearing people with constitutionally protected rights under s.35 of the Constitution Act, 1982.

In the Cunningham decision in 2011, the Supreme Court of Canada recognized the right of the Métis Nation to define itself and its citizenship.

In 2013, after a 32 year court battle pursued by the Manitoba Metis Federation, the Supreme Court of Canada ruled that the federal government had failed to implement the Métis land grant section of the Manitoba Act 1870 in accordance with the honour of the Crown.

In the *Daniels* decision in 2016 the Supreme Court ruled that Métis are within s. 91(24) of the Constitution Act and federal jurisdiction.

The ability of Métis Nation governments to leverage these rights recognition decisions and attendant relationships with government and industry into economic partnerships and benefits has been mixed.

The Crown's duty to consult and accommodate, as set out in Supreme Court decisions in 2004 and 2005, and the negotiation of Impact Benefit Agreements to enhance the level of Indigenous participation in economic development and environmental stewardship

activities related to major projects, have not been applied consistently across the Métis Nation homeland.

A checkerboard of provincial duty to consult regimes across our homeland causes this inconsistency.

Where provincial policies are lacking, industry tends to ignore or discount Métis interest in the planning of major projects because they lack a land base, treaties and federal statutory recognition.

This is particularly frustrating for Métis who are generally pro-growth and supportive of major projects subject to proper environmental protection.

Some of our Governing Members and individual Métis communities have been concluding collaboration agreements with industry on major projects that have resulted in considerable employment, procurement and community investments.

Examples include Métis communities in the oilsands in northeastern Alberta and the Métis community of Pinehouse in northern Saskatchewan which concluded a collaboration agreement with uranium giants Cameco and Areeva that has transformed this community.

Or the Manitoba Metis Federation that, further to agreements with the the Province, Manitoba Hydro, and Enbridge, has negotiated significant contracts with mainline contractors on Hydro's Bipole 3 transmission line and the Line 3 replacement project of Enbridge that have been generating a significant number of jobs and contracts for Métis workers and businesses.

Another factor that hinders the ability of industry to effectively engage the Métis community relates to the lack of legal and policy clarity surrounding Métis rights and issues at the federal level, despite the recognition of Métis as one of the three Aboriginal peoples in the Canadian constitution.

In a major study on Métis Nation labour market development in 2012, the Canadian Chamber of Commerce cited this barrier while also identifying the advantages to partnering with the Métis. I quote:

The Métis have the highest education levels and best labour market outcomes of any of Canada's three Aboriginal peoples, despite limited government funding and the lack of a coherent policy framework. For business, the combination of underemployment, a younger than average population, and individuals rooted in the local community make the Métis community an ideal source of talent...

There has been a tendency for Métis issues to be subsumed into broader Aboriginal issues. This has resulted in policy that is not designed to reflect the unique cultural, geographic, legal and economic realities that exist today within Canada's Aboriginal community, hindering our ability to maximize our workforce competitiveness.

Clarifying issues surrounding Métis rights, responsibilities and entitlements will help to increase certainty for business, resulting in increased investment and employment.

Shortly before I met with Prime Minister Harper in April 2013 to discuss economic priorities, the President of the Canadian Chamber of Commerce, the Hon. Perrin Beatty, wrote to the Prime Minister with a series of recommendations which bear repeating:

1. Prioritize improving the educational outcomes of the Métis, focusing on high school completion and workplace training.
2. Ensure equity in federal funding for Métis education and employment programs, relative to other Aboriginal groups.
3. Work to ensure that any employment, education and economic development policies are designed to reflect the unique characteristics of the Métis.
4. Work in collaboration with the Métis to clarify Métis rights, responsibilities and representation, thus spelling out the “rules of engagement” for government, business and Metis government.

Economic development was one of the few areas in which we could work fairly productively with the Harper government.

In 2015 we concluded a Canada-Métis Nation Economic Development Accord with that government which called for the development and implementation of a Métis Nation Economic Development Strategy with four key priorities:

- Access to capital for our entrepreneurs;
- Labor force development;
- Participation in major projects; and
- Strengthening the role of Métis Nation economic development institutions.

In Budget 2016 the Trudeau government committed \$25 million for the resourcing of this Strategy.

The Prime Ministers' reconciliation approach to Canada's relationship with the First Nations, Inuit and the Métis Nation is now a driving factor in accelerating socio-economic development.

It is based on a nation-to-nation, government-to-government relationship of Canada with the First Nations, the Inuit and the Métis Nation, and a distinctions-based approach to Canada's policy work with Indigenous peoples including federal budget allocations.

In this sense, the Prime Minister's approach to the Métis Nation is finally providing the legal and policy clarity surrounding Métis rights and issues at the federal level which we and the business community have been seeking for a long time.

Canada has entered into section 35 rights framework agreements with our Governing Members to conclude self-government agreements and settle outstanding claims.

The Prime Minister has also established a Permanent Bilateral Mechanism with each of the three Indigenous peoples to co-develop policies and programs to reduce socio-economic disparities.

The Mechanism was put into effect for the Métis Nation by the Canada-Métis Nation Accord which the Métis Nation and the Prime Minister signed in April 2017.

The Accord provides for a fairly rigorous process to set annual priorities, co-develop proposals and budget asks, and review and evaluate results to ensure that progress is being achieved.

It consists of an annual summit with the Prime Minister, two follow-up meetings with multiple ministers during the year, and regular ongoing meetings of senior officials involved in the policy development work.

Budget 2018 included \$1.6 billion for Métis Nation employment and training, housing and early learning and child care over 10 years.

Housing and early learning and child care are critical social supports for economic development that had been neglected for our people for decades and will also generate employment and contracts in construction activity.

At the same time, we are focused on providing more immediate economic stimulus for our communities.

We are now working with the federal government under the Canada-Métis Nation Accord process on Year 2 priorities which include health, education and economic development.

Our economic development proposal currently calls for a \$750 million investment over 10 years, a large part of which would capitalize three funds that we believe will provide significant economic stimulus in our communities.

The first of the funds would recapitalize our capital corporations.

Our three capital corporations on the Prairies received about \$20 million in the late 1980s and early 1990s and have rolled that initial capital over in new loans many times over, supporting the start-up and expansion of Métis businesses that have created thousands of jobs.

In recent years, we have added new Métis Nation capital corporations in BC and Ontario.

Clearly there is a need to inject more capital into these corporations.

The Métis are a third of the Indigenous population but more than half of the self-employed Indigenous people in Canada.

Entrepreneurship is of critical importance to our people but we have faced barriers in establishing businesses, in particular lack of equity.

The reason is basic: we have lower inherited wealth than non-Indigenous people, lower housing values and lower income.

This all translates into lower equity to start a small business.

The developmental lending of our capital corporations acts as an essential instrument in overcoming this barrier.

Our capital corporations are active lenders.

They constitute 5 out of 60 or 8% of the Aboriginal Capital Corporations in Canada but account for 40% of the total loans.

Unlike many of the non-Métis capital corporations which have significant cash on hand, ours are typically fully invested and face tremendous demand for loans.

They also have a loan write-off rate of 1.6% which is a small fraction of that of its peers.

Our capital corporations are a great success story which we hope to build on with a Métis Nation-specific investment in Budget 2019.

The second would be a major projects equity fund that will enable our Governing Members or affiliated bodies to take an equity position in major projects or in the equipment and infrastructure used in the projects.

I should note that our Governing Members in Alberta and BC were part of the Indigenous consortium that was offered an equity stake in Northern Gateway before that project was cancelled and they also have mutual benefit agreements with Kinder Morgan on the Transmountain Pipeline.

With Canada assuming ownership of Transmountain which we strongly support, it is our hope to participate in this project in all aspects including equity participation.

The third fund would be a clean growth and digital economy fund that would enable our Governing Members to fund their purchase of equity in projects like renewable energy production where some Provinces have mandated set-asides for the Métis Nation and First Nations.

It would also provide additional capital to our equity capital corporations that operate in three of the provinces within our homeland and provide longer term patient capital to Métis businesses by taking equity in these businesses.

This additional capital would enable these corporations to build on their investments in the growing number of Métis businesses in the clean growth and information technology spaces.

I will close these remarks by noting that the distinctions-based, nation-to-nation approach of the Trudeau government to a new relationship with the Métis Nation was adopted before the Supreme Court's *Daniels* decision on federal jurisdiction in 2016.

The most significant aspect of that decision was telling governments in Ottawa that they could no longer avoid dealing with us on the basis of jurisdiction.

The current federal government does want to deal with us through reconciliation and that includes the commitment to negotiate self-government agreements with us as well as the co-development of policies and Budget proposals to reduce socio-economic disparities.

Which is why we are strongly supporting the government's Indigenous rights framework initiative and potential legislation in this regard which we consider essential to ensuring that these processes on rights resolution and socio-economic development are legally protected and can survive a change in government in the future.

Thank you.