Bill C-53: Métis Self-Government Legislation
Fact Sheet

ISSUE: Bill C-53 and the Duty to Consult with other Indigenous Peoples

BACKGROUND:

- The Crown's duty to consult and accommodate is triggered when the government contemplates an action or decision that could potentially have an adverse impact on an established or credibly asserted Aboriginal or Treaty right of another Indigenous people or community.

- Bill C-53 does not deal with land or land related rights (i.e., harvesting rights) in any way. It is only about our Métis governments' internal governance – it is about recognizing our authority with respect to Métis citizenship, Métis elections, Métis government operations, and Métis child and family services. These matters—that are internal to our Métis governments—do not adversely impact the Aboriginal or Treaty rights of others.

- Other Indigenous peoples, such as First Nations, do not have a right to decide who is Métis, how our Métis governments are structured, how our Métis elections work, or how we protect our Métis children and families. Only our Métis governments—mandated by our citizens and communities—can make these decisions.

- All of our citizens voluntarily register with us based on criteria set by our Métis governments and they choose to mandate our Métis governments to represent them. No one is automatically registered with our govermments. It is each individual's personal choice with respect to how they identify and who they mandate to represent them. At any point in time, an individual can de-register with us, if they so choose.

- Since Bill C-53 does not affect any other Indigenous peoples's rights, the duty to consult is not triggered. There is no "adverse impact" on other Indigenous peoples or their rights to consult about.

- Canada has never consulted with other Indigenous peoples or communities about the self-government agreements being negotiated with First Nations in the past. For example, Canada did not consult with other Indigenous communities about the recently passed Whitecap Dakota Nation Self-Government Treaty.

- It also would have been deeply offensive, paternalistic, and wrong for Canada to consult with one Indigenous people or community about the internal affairs of other Indigenous people. Our Métis governments must be treated consistently with how First Nation self-government recognition has been respected in the past.

RELATED QUESTIONS

Why was Crown consultations with First Nations on Bill C-53 not required?

Bill C-53 does not affect any First Nations or First Nation rights, so consultation was not required. As outlined above, the Crown's duty to consult is only triggered when there could be an impact on First Nation rights. Bill C-53 is only about our Métis governments' internal governance. It does not deal with land or any land related rights. As such, it has no impact on First Nations or their rights.

Canada has been very clear, as set out in our joint press release, that "*[i]f additional areas of jurisdiction or matters that may affect other Indigenous groups are negotiated in the future, appropriate Crown consultations will be undertaken*." For example, future matters that engage land related issues would likely require Crown consultation.

Has Canada consulted on other Indigenous self-government bills?

No. Canada introduced and Parliament passed similar legislation in 2022 related to the Anishinabek Nation's self government agreement and most recently the Whitecap Dakota Nation Self-Government Treaty in 2023, without any consultation with other Indigenous peoples. In fact, there are more than two dozen Indigenous self-government bills that have been passed without any requirement for consultation because self-government does not impact any other Indigenous community.

It would have been deeply offensive, paternalistic and wrong for Canada to consult with other Indigenous people or communities about the internal affairs of our Métis governments. Métis governments simply wish for Bill C-53 to be treated the same way First Nation self-government bills have been considered.

Why was Crown consultation with First Nation on the Métis Self-Government Agreements not required?

No Crown consultations were undertaken on our Métis Self-Government Agreements for the same reasons no consultation was undertaken on Bill C-53 – these agreements are about our internal self-governance and have no impact on other Indigenous peoples or rights.

In addition, our Métis Self-Government Agreements include specific recognition in Chapter 15 that the agreements do not impact other Indigenous peoples or their rights:

> "Nothing in this Agreement affects, recognizes, or provides any rights recognized and affirmed by section 35 of the *Constitution Act, 1982* of: any Indigenous

> community, collectivity, or people other than the [Métis collective named in the agreement]."

Why are some First Nations saying their citizenship is impacted?

Bill C-53 recongizes our Métis govenrments' authority over our citizenship—it does not impact First Nations citizenship. Undeniablely at some point Métis descend from some First Nations ancestors, but as the Supreme Court of Canada emphasized in *Powley*:

> "The Métis developed separate and distinct identities, not reducible to the mere fact of their mixed ancestry: 'What distinguishes Métis people from everyone else is that they associate themselves with a culture that is distinctly Métis.'"

As a distinct Indigenous people, Métis' rights are not subordinate to the rights of other Indigenous peoples. This fact was underscored by the RCAP's final report:

> "The idea that Métis Aboriginal rights are in some way subordinate to First Nation or Inuit Aboriginal rights, or dependent upon First Nation or Inuit leadership for their definition or implementation, is incompatible with the rights of self-determination and self-government that Métis people share equally with all other Aboriginal peoples."

In *Powley*, Ontario Court of Appeal further affirmed that there is no hierarchy of Aboriginal rights under s.35 as follows:

> "The constitution formally recognizes the existence of distinct 'Métis peoples' … we must fully respect the separate identity of the Métis peoples and generously interpret the recognition of their constitutional rights. The rights of one people should not be subsumed under the rights of another. To make Métis rights entirely derivative of and dependent upon the precise pre-contact activities of their Indian ancestors would, in my view, ignore the distinctive history and culture of the Métis and the explicit recognition of distinct 'Métis peoples' in s. 35."

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