

A DISCUSSION PAPER
FOR
THE METIS NATION
OF
SASKATCHEWAN
ENUMERATION PROJECT

*JULY 1998
DRAFT ONLY*

OVERVIEW OF THE SASKATCHEWAN METIS ENUMERATION PROJECT

For the past decade, the Metis of Saskatchewan have been calling for an enumeration that would be controlled by the Metis Nation of Saskatchewan (MNS) whereby Metis would be identified and counted. It is the belief of the MNS that to move into self-government agreements, the citizenry must be defined.

In April 1996 the MNS presented the 'Metis Enumeration Proposal' to the Government of Saskatchewan and the Government of Canada. This proposal outlined a proposed methodology for the conduct of the enumeration and the proposed questionnaire.

The 'Metis Enumeration Proposal' formed the basis for securing funding to develop and conduct the enumeration. The Governments of Saskatchewan and Canada, through the tripartite process, agreed to share the cost of the enumeration, with the MNS providing in-kind support through their network of locals and institutions throughout the province.

At the next sitting of the MNS Metis Legislative Assembly (MLNA) in 1996, this proposal was reviewed and the Metis Nation Senate was empowered to provide 'policy and direction' in respect to any future attempt to enumerate Saskatchewan Metis.

In June of 1997, the Government of Saskatchewan announced its approval to share the costs of the MNS Saskatchewan Enumeration Proposal.

The MNS General Elections were called in January 1998, as well the Provincial Contribution Agreement for the enumeration was signed on January 20, 1998. After the elections' results were declared official in March 1998, the MNS Executive, together with the Senate Enumeration Commissioner, engaged in a process to address the Senate's and MNSLA's concerns with the 1996 proposal.

To date an agreement was reached by all parties, Metis Nation of Saskatchewan (MNS), the Government of Canada and the Government of Saskatchewan, to change the Metis Enumeration Project by readdressing problems with the April 1996 MNS Enumeration Proposal. Specifically, resolving the four weaknesses identified by the MNS Senate and MNS Executive would allow the enumeration to proceed. They are:

- ◆ Definition
- ◆ Methodology
- ◆ Metis National Council (MNC) involvement
- ◆ Community Consultation

1) SUMMARY OF SENATE RECOMMENDATIONS

1. The MNS Minister of Enumeration table the MNC 'Metis Definition' paper to each MNS Local President for consultation with their membership on the Saskatchewan Metis Enumeration. This paper will be reworked to include the decisions and recommendations from the national workshop, specifically it will include:
 - A) A preamble that acknowledges and describes the historic and cultural Metis Nation;

- B) All external legislation that has impacted on past and current Metis definition; and,
 - C) A three (3) generation cut-off is proscribed to determine where a Metis ends.
2. The MNS Minister of Enumeration announce in a covering letter to the Metis Definition Paper the dates, locations and agenda items for a consultation process dealing with the Saskatchewan Metis Enumeration.
 3. The 'Contractor' for the Saskatchewan Metis Enumeration attends all consultation workshops with the view of modifying the enumeration methodology and their contract with the MNS in order to complete the enumeration.
 4. The methodology will include a working partnership with the MNS Senate and the Metis Nation Legislative Assembly (MNLA) members.
 5. The Enumeration Steering Committee extends an open invitation to a representative from the MNC to participate as an ex-officio observer on the committee at MNC expense.
 6. That the Minister, in collaboration with the Treasurer, secures adequate resources from the Governments of Canada and Saskatchewan to conduct province-wide enumeration consultations.
 7. A consultation team is established by the Minister responsible for Enumeration with clear terms of reference, purpose, methodology, budget, start and end dates, membership, and reporting structures.
 8. That consultations are held on a regional basis with the sole purpose of consulting MNS membership on a Metis enumeration. To ensure as many people who want to address this issue can attend the consultations in their region, the Minister, in collaboration with the Regional Director and Local Presidents, will actively promote the consultations in Metis communities.
 9. The findings from the enumeration consultations will be presented at the next MLNA for ratification by its members.
 10. In the event that a new Metis definition is approved by the MLNA, non-Metis be removed from the existing MNS membership registry based on the new definition, while continuing to admit all Metis as members.

2) The Historic Metis Nation

The Metis Nation evolved in the historic Northwest Territories in the 18th and 19th centuries. Born of a mixture of French and Scottish fur traders and Cree, Ojibwa, Saulteaux,

Dene, and Assiniboine women, the Metis in the Northwest Territories developed as a people, distinct from either Indian or European.

Earliest accounts of mixing of European and First Nations peoples through marriage come from the diaries of Canada's early explorers such as Pierre Gaultier de Varennes, Sieur de la Verendrye attested to the fact that in 1738 "native women cradled in their arms children of mixed blood, to be numbered among the first Metis". de Tremaudan p.5

In the late eighteenth and early nineteenth centuries, the fur trade of North America centered around the Northern Plains area. Many French and British fur traders married Indian women of the territory to form trade partnerships as well as for the comforts of family. The children of these unions became a strong and separate society, neither Indian nor European. They held an "in between" position economically, as the middlemen in commerce. They came to realize that socially and culturally they were also "in between" people; their customs and beliefs were neither Indian nor European, but an amalgamation of both. Their new culture gave rise to a new language, called Michif, that was wholly its own, comprised mostly of French nouns and Chippewa/Cree verbs.

The Metis homeland is in the heart of the North American continent. It is part of the Canadian United States border region that gave birth to an Indigenous American culture evolving from marriages between Indians and Europeans, marriage *a la facon du pays*--"after the custom of the country." The way of life born of such unions was the foundation of the fur trade and the development of the west from 1670 to 1885; its culmination was the formation of the Canadian province of Manitoba. Manitoba was initially a Metis, or mixed-blood, nation-the only native nation that resulted from the reconfiguration of North America.

For many years Metis people have lived a very culturally rich and diverse way of life. This way of life has given way to many unique cultural and lifestyle identifiers such as the Michif language and Metis sash. This vast diversity in culture and the political impact of external legislation has led to a difficulty in defining what a Metis person is.

Canada's First Nations Peoples have been on this land for thousands of years. When Europeans first visited this land they realized the rich and valuable resources it held and began to immediately explore and map to better take advantage of the resources. Following this initial exploration came the early settlement by the traders and representatives of European businesses with interest in Canada's resources.

The term Metis comes from the "Spanish word *Mestizo*; itself derived from the Latin word *mixtus* which means mixed". de Tremaudan p. 8 The term "Metis" has not had a precise meaning since the nineteenth century when it referred specifically to the French-speaking half-breeds of the Red River Settlement and adjacent areas. They also referred to themselves as the "gens libre" Free Canadians, also "bois brule (burnt sticks) and the New Nation". Sawchuk x

By the beginning of the eighteenth century elements of Metis nationalism were beginning to come into existence. The formation of Metis political institutions and the development of the Michif language were indicators of a distinct society. Documentation of Metis cultural

symbols such as a Metis flag, food, dance, and music were clear indications of Metis Nationhood

Metis political and military initiatives such as the the battle of Seven Oaks, the Battle of the Grand Coteau and the rejection of the Hudson Bay monopoly demonstrates the Metis desire to determine their political and cultural destiny. Metis political and military resistance to Canadian unilateral expansionism would later result in the 1869/70 and 1885 Metis Resistance struggle.

In 1821 the North-West Fur Trading Company and the Hudson's Bay Company amalgamated. The result was a drastic change in the lifestyle of the Metis. Their nomadic fur trading lifestyle became more settled. The area called the Red River valley became their homeland. Various schools and churches were organized and operated by the Roman Catholic Church.

A new era began as the Metis began to adjust to a sedentary farm lifestyle. They farmed on long narrow strips of land called "scrip". These were similar to the system used in Quebec. They continued to hunt and trade in furs, combining the Indian and European cultures to form a unique Metis culture.

In 1869 the Hudson's Bay Company sold most of the area in Western Canada to the British government. At this time there were approximately 10 000 Metis living in Western Canada. The government began to survey the area for settlement using a survey system which would have drastic implications on the scrip system used by the Metis. This led to the establishment of a Provisional government by the Metis in 1869 led by Louis Riel. On July 15th, 1870 the Provisional government became the official government of Manitoba. This was to last for very little time due to British settlers that opposed the new government. Many of the Metis who were persecuted, were then dispersed to the Batoche area of what is now Saskatchewan.

Following the annexation of the Northwest Territories by Canada in 1869-1870, the political economy of the Metis was destroyed. The Manitoba Act (1870), an Act Representing the Appropriation of Certain Dominion Land in Manitoba (1874), and the Dominion Lands Act (1879) recognized Metis claims to Aboriginal title, but the federal government moved to 'unilaterally extinguish' these claims through individual land grants and scrip. Denied the recognition of their collective rights, the Metis became Canada's "forgotten people". Only in Alberta was any action taken to alleviate Metis distress through the establishment of Metis settlements by the provincial government in 1938. The Metis were officially recognized as one of Canada's Aboriginal Peoples in the Canadian Constitution of 1982.

The Metis, often referred to as the 'children of the fur trade', became an important part in Canada's history through exploration and moreover the fur trade. In the late eighteenth century and into the nineteenth century the fur trade became an ever expanding industry. With this expansion the Metis population increased dramatically and very distinct physical features, dress, language and lifestyle began to appear.

As the fur trade expanded into the late eighteenth century, the Metis had become a vital

part of the industry. They had developed a number of different permanent settlements throughout Western Canada then called Rupertsland. Within these settlements there was a distinct political system and a close sense of community.

With the turn of the century came settlement of the Red River area. This also was the beginning of very fierce competition among the Northwest Company, whom the Metis aligned themselves with, and the Hudson Bay Company who backed the Selkirk Colony. This led to the Battle of Seven Oaks, called a massacre by the British. The new British Governor of the area, Robert Semple, and twenty one of his men as well as one Metis were killed. This was the beginning of a stronger political movement by the Metis to protect their lands and freedoms they had enjoyed up to this time.

Eventually settlement again was the cause for unrest. Again the Metis had chosen land along the river and proceeded to use the scrip system to divide it. This again led to conflict when the Metis led by Louis Riel and Gabriel Dumont. In December of 1884 a petition was sent to Ottawa in hope of establishing a Province which recognized the rights of the Metis. Again the government did not recognize the Metis and their rights. This led to what is known as the Riel Rebellion in 1885.

In 1869-70 and again in 1885, the Metis Nation under the leadership of Louis Riel was attempting to determine the relationship between the Metis Nation and the Canadian State. This remains the political agenda of the Metis Nation yet today and is to date, unfinished business. Defining our citizenship is an integral part of nation building.

Most Metis live in Western Canada, both in remote and urban communities and in Metis-only and mixed communities. There are over three hundred Metis communities, most are English-speaking with some communities using Michif or other Aboriginal languages.

The Metis have never received the benefits governments grant to Status Indians and Inuit. In its recently released report, the Royal Commission on Aboriginal Peoples stated "it is unjust and unreasonable to withhold from Metis people the services and opportunities available to other Aboriginal peoples".

The estimated number of Metis in Canada varies widely, from 300,000 to 800,000. A proposed federal enumeration should provide a more accurate count of the Metis population in Canada. According to the recently released 1996 Census data, there are over 210,000 Metis in Canada, representing 26% of the Aboriginal population.

Currently the Canadian Constitution recognizes the Metis as one of Canada's Aboriginal Peoples. The challenge is to define what constitutes being Metis through our own processes as well as getting a population count before further recognitions of rights can be pursued.

3) Defining Our Citizens

The following information is taken from the MNC's report dated March 1998 written by Paul

Chartrand. For the purpose of consultation, the original report has been edited to provide as much information as necessary within a smaller written report. The MNS apologizes for any deletions which may have occurred due to editing, and can make the original report available at the provincial office for review of interested parties.

This consultation discussion paper is designed to provide guidelines and direction for discussion regarding citizenship within the Metis Nation. The national definition within this paper is considered acceptable from both the MNC's and MNS's position. The purpose of the consultation process is to determine the criteria and procedures for acceptance.

The process for consultation will take the form of community meetings (one in each of the 12 regions). The dates and times of these meetings will be advertised after scheduling has been confirmed. All local presidents will receive a communication package well in advance of any consultations as well as copies of this paper for circulation to members.

The scheduled start time will be in the fall of 1998 with completion of the process and a report before January 1, of 1999. Following this process will be a province wide enumeration process to be undertaken beginning early in 1999.

The result of this process will be a recommendation to the Metis National Council on the text of a national definition of "Metis" for the purposes of the MNC and it's constituent organizations.

4) Ongoing Consultation With Respect to Definition

As a result of the discussions on a national Metis definition at the recent MNC National Workshop on Enumeration and Registry held in Toronto on March 13 and 14, 1998, it became quite clear that:

- A. The MNC current definition, established in July, 1992 for the Charlottown Accord, was unacceptable because it is tied to external government legislation in its defining criteria (that is, Manitoba Act 1875, Dominion Lands Act, Constitution Act 1982, etc.). There needs to be a national process by which the Metis Nation and its members would be consulted and then ratify a national metis definition.
- B. The workshop participants clearly stated they wanted a national Metis definition that respects and acknowledges the historic and cultural Metis Nation. External legislation may be used as descriptors, not as defining criteria.

Therefore a new way of defining Metis in a 'Metis way' was tabled. This discussion and new approach was supported and recommended by the entire MNS delegation.

Aside from the discussion on 'who' is a Metis, there was also a good discussion on where does a Metis end and on what basis. While no decisions were made on these discussions other than to refer the issue for further consultation to the MNC Board of Governors; however there was a clear understanding that a 'cut-off' was necessary, especially in Saskatchewan where we may have the task of counting Metis through an enumeration.

The MNS recently made changes to its Constitution that brought its definition of Metis closer to the current MNC definition. Yet without an acceptable national definition of Metis, it is incumbent on the MNS to redefine Metis in an appropriate way for the enumeration. Since the Saskatchewan Metis Enumeration is the first of its kind within the Metis Nation, the MNS must clearly define who is a Metis and who is not a Metis for the purpose of counting Metis in a province-wide enumeration.

As a final note on the national workshop, it became clear that the MNC is further away from a definition of Metis than the MNS is in Saskatchewan. Other provinces and MNC affiliates are aware of the definition issue in their negotiations on conducting an enumeration of Metis in other provinces. They quite possibly could adopt a national definition based on a Saskatchewan Metis definition developed for its enumeration/count.

EXCERPTS FROM MNC'S (PAUL CHARTRAND) DISCUSSION PAPER

A national two-part definition

"Every person who

**a) identifies himself or herself as Metis
and**

b) is accepted as such by the Metis Nation,

**[on the basis of criteria and according to procedures determined
by the Metis Nation]**

Is a member of the Metis Nation.

METIS NATION GUIDELINES FOR ACCEPTANCE OF MEMBERS

The Metis Nation would be free to determine what criteria and procedures for acceptance would be required, on the basis of the principle that the right of self-determination of 'peoples' (the Metis Nation) includes the right to establish the criteria for identification of its members. Self-determination includes a right of self-definition.

'Aboriginal persons'

The Metis Nation is indigenous to North America. This means that the Metis Nation was born on North American soil. The constitution of Canada, since 1982, includes the Metis people as one of Canada's 'aboriginal peoples'

The term 'aboriginal' comes from the Latin 'ab origine' meaning 'from the beginning'. It is suggested that the Constitutional meaning of 'aboriginal' will have to take into consideration the fact that, unlike the Indian and Inuit peoples, the Metis people evolved as a distinct social and political entity, subsequent to the first arrival of the Europeans.

'Distinct from Indian and Inuit people'

Section 35 of the Canadian Constitution expressly refers to Indian, Inuit, and Metis peoples. It recognizes and affirms the rights of all "aboriginal" peoples, regardless of their formal designation as Indian, Inuit or Metis.

'The Indian Act category'

The MNC, by convention restricts membership in its member organizations to persons who are not "Indians" within the meaning of the *Indian Act*.

If the MNC asserts, on behalf of the Metis Nation, a right of self-determination that includes a right of self-definition, then the MNC is free to decide its own membership rules.

Double Entitlement

One reason some persons oppose the inclusion of status Indians as Metis is to prevent persons from receiving the same, or similar benefits or entitlements from more than one aboriginal status.

It should be noted that today once a person is registered as a status Indian, whether under the 1985 amendments to the Indian Act commonly known as 'Bill C-31', or otherwise, there is no choice available to forego this legal status. Once a status Indian always a status Indian is the law since 1985.

'CITIZENSHIP' AND 'MEMBERSHIP' DISTINGUISHED

'Membership' refers to the persons who belong to a group, such as a provincial Metis political organization, a sports club or a political party. 'Citizenship' on the other hand, refers to members of a state or commonwealth. Both terms imply that particular rights, or status, is vested in the individuals on account of membership in the group, but 'citizenship' has a more pronounced political significance. Used in the context of the Metis Nation, a Metis 'citizen' would imply that the MNC asserts the authority to determine the political status of its members, and the consequent rights and obligations that flow from that status.

5) CRITERIA FOR IDENTIFICATION OF MEMBERS

Ancestry or blood quantum

This factor is emphasized in the provincial codes that require the person to be 'aboriginal' in the sense of being a descendant of aboriginal persons. This factor puts value on natural birth, or parentage, or generic inheritance.

The blood quantum factor is common in American Indian tribal codes, which were drafted mostly on the basis of Indian Affairs models. Since a blood quantum code discourages 'outmarriage' (because the blood quantum rule determines that there must be a minimum 'blood' requirement for membership, and it is 'diluted' with each outmarriage.) this factor is not popular in societies which favour freedom of choice in marriage.

The blood quantum is popular with governments who have duties to finance Aboriginal groups (like in the USA) because in effect it keeps the group numbers down in a society that permits outmarriage, and may value it.

Kinship ..

This factor refers to personal family relations. For example, the Indian Act definition has traditionally been based on the male head of family. The spouse of the male head of family became a status Indian and, by the same token, women who married a man who was not a status Indian, consequently lost Indian status.

Lifestyle

This factor refers to culture, or style of life. An example of a style of life criterion for membership is the Catholic faith for membership in the church. Early Indian Act definitions included the style of life criterion, and early cases in the law reports are illustrative, focusing on residence, clothing, association with known 'Indians', and so on.

Economic style of life is another example, and it was adopted by the court in the McPherson case in Manitoba, where only Metis who hunted moose as a part of their life-style were held to be entitled to the aboriginal right of moose hunting.

Adoption

There are historic examples of non-Metis people, usually children, being adopted by a Metis family. These people were accepted by the Metis community, one example was Louis Schmidt, who served as Riel's secretary. This leads to the question of whether Metis citizenship can be bestowed upon non-Metis peoples.

Third Generation Disqualification

The question of lineage must also be addressed. When does a Metis person lose citizenship; should there be a distinction between citizenship and membership. It has been proposed that after three generations of outmarriage those persons would be required to reaffirm their status within the citizenship requirements of the Metis Nation.

6) THE TWO BASIC ELEMENTS OF THE METIS DEFINITION

The two basic elements are self-declaration and community acceptance.

Self-declaration, as an element of a Metis definition, makes it plain that being Metis is not only a matter of birth or ancestry, but also a matter of the heart, the soul and the spirit.

Once it is recognized that individuals have a CHOICE about self-identification and group identification, then it is clear that being Metis (or Indian or Inuk) is a political and social

issue, and not a race issue, since the identity is based on the conscious exercise of the political will of the individual (by self-declaration), and of the relevant Metis community.

Community Acceptance

This is the second essential element of a definition; it is based on the assertion of a right of self-determination that includes a right of self-definition.

The Royal Commission on Aboriginal Peoples, in its Final Report, concluded that, "When a government wishes to know a nation's membership for the purposes of engaging in nation-to-nation negotiations, it can legitimately consider only two criteria; self-identification and acceptance by the nation."²

7) THE METIS NATION AS ACCEPTING COMMUNITY

It is the Metis Nation in which is vested the right of self-determination and arguably also, the common law aboriginal right of self-government (RCAP) that is protected by the Constitution. As a consequence, it is the representatives of the Metis Nation that have the discretionary authority to determine the rules for accepting self-identifying applicants to membership.

Political recognition of the Metis Nation

The MNC has been accepted as the political representative of the Metis Nation by Canada.

Internationally, the MNC has been accorded status as a non-governmental organization (NGO) at the United Nations

The RCAP has proposed that the government of Canada enter into Nation-to-Nation negotiations with Aboriginal 'peoples', including the Metis Nation, and that it appoint a Minister of Aboriginal Relations to conduct the new relationship.

Identification of relevant communities

The MNC, as part of the process of establishing a national system of definition, will be able to decide on the details of a membership application and appeal procedure.

Metis communities today exist as villages and towns, or as local or regional political organizations within urban areas.

The Metis Nation, following the consultations, will be able to establish a system of rules and guidelines to govern applications and acceptance. These would comprise both procedural rules and substantive rules based upon the factors discussed in this paper.

PLEASE NOTE THAT THIS IS A DRAFT ONLY!

REVISIONS OR COMMENTS WILL BE WELCOMED BEFORE AUGUST 15, 1998.

PLEASE DIRECT YOUR COMMENTS TO THE ATTENTION OF :

SASKATCHEWAN METIS ENUMERATION PROJECT

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