

# Do Métis have Rights in British Columbia?

## Let our Métis People be heard in a Good Way

by Stephen Mussell

**EARLIER THIS OCTOBER**, the Métis Nation British Columbia (MNBC) released a new report called “A Tale of Two Nations.” It is of great import and deeply problematic. The report was accompanied by [stories in the media](#) that quoted MNBC’s re-elected president, Clara Morin Dal Col, as saying that MNBC “...want[s] to ensure that our Métis people are heard.”

As a proud Métis man and citizen of MNBC and the Manitoba Métis Federation, I write this to be heard.

In their report MNBC makes important points relating to disparities in funding, health care and service delivery between Métis and First Nations people living within the artificial borders of British Columbia. We are a people who have been forcibly displaced, alienated from our Homelands, seen our traditional economies obliterated and largely have no land base. Many of our people have settled in British Columbia - some originally as refugees fleeing state violence. The Crown has obligations to us in this regard; it is long past time the Crown provided our people with adequate funding, health care, service delivery, and an opportunity to reimagine and revitalize our economies.

**However, there is a baseless and deeply troubling aspect of the report I do not agree with: MNBC asserts that we have constitutionally protected Aboriginal rights to lands and resources in British Columbia west of the Rocky Mountains.**

### ARE THERE MÉTIS WEST OF THE ROCKY MOUNTAINS?

With few exceptions Métis who reside in British Columbia west of the Rocky Mountains are settlers. Our ancestors are not descended from British Columbia First Nations whose lands are west of the Rocky Mountains and [our Homeland](#) has never extended into British Columbia west of the Rocky Mountains. To be Métis you must self-identify as Métis, be distinct from other Aboriginal peoples, be of historic Métis Nation Ancestry and be accepted by the Métis Nation. No recognized historic Métis Nation community is located in British Columbia west of the Rocky Mountains. It is important to note that, by this definition, no “mixed blood” person descended from a First Nation in British Columbia west of the Rocky Mountains is Métis either.

While such individuals might be connected to other Indigenous communities, they will not be accepted as a citizen of the Métis Nation, a point rightfully defended by our people.

**Métis are an Indigenous people. But we are not Indigenous to British Columbia west of the Rocky Mountains. This fact does not change because we settled here in large numbers.**

More, Métis do not have existing Aboriginal rights or title in relation to lands and resources in British Columbia west of the Rocky Mountains. No associated duty to consult is owed to the Métis because we have no legal right to this place. This is due, as I have said, to a complete lack of historical presence, use or occupation.

Finally, if Métis were to claim a right to land or resources in BC west of the Rocky Mountains, such claim could only be mediated and legitimized through establishing relationships with those First Nations already there - something that my colleagues have **noted** about Métis claims in Ontario.

**MNBC AND THE POLITICS OF CREDIBILITY**

First Nations in British Columbia west of the Rocky Mountains have laws and legal traditions that far pre-date Canadian law and Métis settlement in this place. But MNBC regularly refuses to engage with or abide by these laws and legal traditions. This is ostensibly for the “benefit” of our people but, in doing so, MNBC replicates the behaviour of the Crown: we run roughshod over Indigenous law. This backwards orientation, pushed by modern Métis leadership, runs contrary to our laws and legal traditions as Métis people — such as our history of establishing legal and kinship relationships with First Nations — and to the broader goals of decolonization.

MNBC has made a shameful habit of signing onto and lending “Aboriginal credibility” to projects which face widespread First Nation opposition (an opposition often grounded in their laws). The Crown and project proponents are more than happy to make use of MNBC’s ill-given consent. Examples include the Trans Mountain Pipeline, the company **announcing** that “one of British Columbia’s largest Aboriginal organizations” had signed a Mutual Benefits Agreement. Or MNBC’s controversial decision to enter into an **equity-sharing deal** with Enbridge on the **Northern Gateway Pipeline**.

**In both instances the proponent happily pointed to agreements with MNBC as evidence of broad Aboriginal support for the projects. This is not what good relations look like.**

Recently, and as a specific example of the real world impacts MNBC’s actions have on Métis/ First Nation relations, MNBC has taken its contemptible rhetoric to Canada’s highest court: the Supreme Court of Canada. In hearings for *R v Desautel*, a case concerning whether a Native American citizen can have Section 35 rights to hunt in the traditional territory of their First Nations ancestors located in Canada. Thomas Isaac, counsel for MNBC (and relying exclusively on colonial law), asserted that “the Kootenay region for the Métis Nation British Columbia is a core traditional territory.”

But this region falls squarely within *Syilx/Okanagan Nation Territory*. MNBC’s assertions have deepened pre existing tensions with the *Syilx/Okanagan Nation* that have existed at least since Gregory Willison, a Métis man, attempted and failed to establish a right to hunt in *Syilx/Okanagan Nation Territory* in *R v Willison*.

From the beginning it has been emphasized by our people that our rights to our Homeland are predicated on the fact that our ancestors *come from the Homeland*.

**Beyond treaty or marriage or alliance or some other permission (all of which our ancestors regularly sought and some Métis individuals appropriately seek today), what other justification could we have as Indigenous people to assert an interest in lands that fall outside of our Homelands?**

This fact is apparently too inconvenient for MNBC, modern Métis leadership, and their legal advisors. It is therefore ignored.

**A NEW APPROACH: REVITALIZING MÉTIS LEGAL TRADITIONS**

What is required is a transformation of our relationships. We must focus our time, resources and energy on revitalizing and reclaiming our own law and legal traditions and understanding how our ancestors related to and interacted with peoples whose lands we settled on. We must work with First Nations to establish legal, economic and kinship relations — some might say *treaties* — in ways which honour and strengthen their laws and legal traditions, uphold our own, and provide us with legally and morally defensible access to resources on their lands and within their waters with their consent.

**As Indigenous settlers on their lands we must also stand shoulder to shoulder with First Nations when their lands and waters are under threat rather than undercutting their efforts and profiting off of their exploitation.**

We must not let ourselves become tools for proponents and the federal and provincial governments who have a vested interest in marginalizing Indigenous resistance through divide and conquer tactics.

We must focus on a relationship with the Crown that is firmly rooted in our history of forced displacement and alienation. A relationship that acknowledges our presence and existence in British Columbia west of the Rocky Mountains but that focuses on sufficient funding, health care, service delivery and reimagining and revitalizing our economies rather than the baseless and offensive assertion of Métis rights and title. Métis prosperity here can not and must not come at the expense of First Nations.

So yes, President Morin Dal Col, let our Métis people be heard; but let us be heard in a good way.