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MÉTIS, NON-STATUS INDIANS AND OFF-RESERVE ABORIGINAL POLICY RESEARCH INITIATIVE COLLOQUIUM

Summary Report on Sessions held at the
Aboriginal Policy Research Conference
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Report prepared by the Institute On Governance

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ABORIGINAL RESEARCH AND POLICY: UNDERSTANDING THE CHALLENGES OF METIS, NON-STATUS INDIANS AND URBAN ABORIGINAL PEOPLES

COLLOQUIUM SUMMARY REPORT

Introduction

A. The Colloquium in Brief

This one-day colloquium was held on March 10, 2009 as part of the third triennial Aboriginal Policy Research Conference (APRC) in Ottawa. The goal of the colloquium was to explore central themes of the Aboriginal Policy Research Initiative, a policy research series led by the Office of the Federal Interlocutor for Métis and Non-status Indians (OFI) at Indian and Northern Affairs Canada and the Institute On Governance (IOG). The initiative has a particular focus on issues affecting Métis, non-status Indians and other Aboriginal people residing off-reserve. Hosted by the IOG and sponsored by the OFI, the colloquium was followed by a networking event.

The colloquium consisted of four sessions. Topic areas included: off-reserve self-government, self-determination and Aboriginal identities; defining and identifying Métis communities; Métis land claims, Métis indigenous knowledge and the duty to consult; and off-reserve health, social and justice issues. The colloquium involved both presentations of research papers and a dialogue among researchers and community members. Chaired by Ian Peach of the OFI, the sessions were moderated by John Graham of the IOG.

B. Welcome and Opening Remarks

Fred Caron, Assistant Deputy Minister at the OFI, opened the colloquium by stressing its purpose. The federal government realizes that it does not have the monopoly on best and brightest minds in the Aboriginal policy field. For its part, the OFI realizes that Métis and non-status Indians do not yet have the research attention they deserve. This series was created in order to address that lack. All presenters in the day's sessions had taken up the challenge of contributing new, relevant, peer-reviewed research that would help the OFI coordinate and inform federal policy for Aboriginal people living off-reserve. To guide this research, the OFI had created a research advisory circle of comprised of experts in Métis and off-reserve public policy areas. Most of its members would be serving as discussants of the papers, indicating their importance as policy advisors. Fred concluded his introduction by thanking John Graham and his partners at the IOG for managing the series and hosting the colloquium.

John Graham then introduced himself and said a few words about the IOG, a not-for-profit think tank based in Ottawa. As moderator, John would be responsible for ensuring that presenters and discussants remained within their scheduled times, thus allowing plenty of time for questions and discussion from the audience. John then turned the session over to Ian Peach of the OFI, who would chair the day's sessions.

Session 1: Off-Reserve Self-Government, Self-Determination & Aboriginal Identity

Ian introduced the first two speakers and their discussants. Brad Morse of the University of Ottawa and Julie Tomiak of Carleton would be discussing issues of off-reserve self-government, self-determination and Aboriginal identity in an urban context. Discussants for their paper would be Evelyn Peters of the University of Saskatchewan and David Newhouse of Trent University.

Ian then turned things over to the first presenter, Brad Morse.

"Is Aboriginal Self-Government Possible in Highly Diverse Cities?"

Brad Morse, University of Ottawa

Professor Morse suggested that he would get the day's discussion started with some context, summarizing some of the key demographic factors that should provide the background for any inquiry into urban Aboriginal self-government.

The latest statistics from the 2006 census indicate that Aboriginal populations living off-reserve have grown significantly—especially Métis but also other Aboriginal groups. Nearly 1.2 million respondents were Aboriginal in the 2006 census, up from nearly 800,000 ten years earlier. Métis and non-status Indian populations now represented 45 percent of the total Aboriginal identity population versus only 36 percent in 1996. Beyond this, a majority of First Nations, Inuit and Métis live in urban areas, with 53 percent of the Aboriginal population (and 69 percent of Métis) residing in urban areas in 2006 compared to 49 percent in 2001.

As a second aspect of the context, Brad noted the heterogeneity of urban Aboriginal populations. Aboriginal people continue to live on their traditional territories, which are now the locations of urban centres. In other cases, there has been ethnic redefinition, what statisticians call the 'ethnic mobility' of individuals who now represent themselves as Aboriginal. And finally, there has been substantial out-migration from both reserves and the territories in the North into urban centres. The variety of factors at play means great diversity in the Aboriginal populations of Canadian cities. The Maritimes are likely the most homogenous, where urban Aboriginal people are predominantly Mi'kmaq and Maliseet. From Quebec westward, however, there is diversity in the population and the basic language groups.

This diversity signifies the need for a variety of approaches. In Nova Scotia, the general education curriculum has been adapted relatively easily to include materials on the language, culture and contributions made by the Mi'kmaq. This can't be replicated in Quebec and westward. Here, most work has occurred on a pan-Aboriginal basis, with something like the

Friendship Centre Movement; or, in the case of a program like the Aboriginal Human Resources Development Strategy, streaming of the programs according to different communities has occurred.

Having outlined the demographic context, Brad then provided a brief background on some of the accepted legal understandings of government jurisdiction that would form the basis of any discussion of urban Aboriginal self-government. Jurisdiction tends to be understood in territorial terms, as exercisable over a specific geographical area and any people that are physically present within that territory. Yet jurisdiction can also be exercised over particular persons. The Canadian government, for example, will assert jurisdiction over Canadians who commit crimes outside Canada or it will apply tax laws to citizens outside the country. As a parallel arrangement with an indigenous government, the Yukon First Nations have jurisdiction over their people living off reserve in the area of child welfare. Finally, governments can exercise jurisdiction tied to certain enumerated subject matters. A government or a governance institution can have authority over an area such as health or education. Or, there can be varying blends of these three types.

In terms of the *extent* of jurisdiction, there are two possibilities. Jurisdiction can be exclusive, meaning it is exercised by only one government. Or it can be concurrent, meaning shared and exercised by two or more governments. Because concurrent jurisdiction leaves a lot of scope for disagreement, there must be a dispute mechanism to resolve any conflicts between laws passed by the two levels of government. Principles like the principles of paramountcy or cooperative federalism evolve, seeking to reconcile different laws according to how they fulfill different purposes or to a ‘meet or beat’ standard.

There are also different possibilities in speaking of the *nature* of jurisdiction. Jurisdiction can be seen as inherent, as flowing from the Creator to the society, as it is often perceived from an Aboriginal perspective. Or, jurisdiction can be seen as delegated: as provided to a government from a superior source (for example from the Crown or Constitution to a municipal, provincial or territorial government or administrative tribunal) or from the people to a government. Non-Aboriginal Canadian governments, courts and philosophy tend to see governmental jurisdiction in secular as opposed to spiritual terms. As a result, they seek to fit jurisdiction of Aboriginal governments into that framework, examining pre-contact occupation of land and existence as nations (*Sparrow*, *Sioui*, *Van der Peet*, etc) on a factual, historical basis versus accepting the spiritual one. Unfortunately, none of these frameworks are helpful for building urban self-government today. For public governments with jurisdiction over peoples, jurisdiction is most commonly justified through an act of consent by the people governed.

Jurisdictional authority has been easier for indigenous peoples to exercise in a rural context or where they are culturally homogenous. And there is also the new urban reserve model, with Aboriginal governments exercising government authority in urban centres. Yet it is clearly much harder to establish such models in cities with people from many different First Nations—or with Métis and, in some cases, Inuit communities. As was mentioned, Western cities have highly diverse Aboriginal populations. This diversity makes urban self-government a greater challenge than it is either in rural areas or in those that are culturally more homogenous.

Does the diversity in urban settings make it impossible for Aboriginal governments to exercise real jurisdiction in cities? “Not at all,” Brad submitted. There are many examples of entities that have served as more than non-profit organizations. Such entities have gained statutory powers as alternatives to provincial government agencies. Some religious communities, for example, enjoy a statutory basis for their separate school systems. The same holds for various linguistic groups – especially those with English or French minority populations. These agencies do not merely deliver education services but exercise real control via recognized governance mechanisms. In the Aboriginal context, one finds examples like the First Nations University and the Gabriel Dumont Institute in Saskatchewan. In Manitoba, the province began devolving authority to the Métis Child and Family Services Authority for child protection services in 2003, thereby expanding a longstanding initiative in the province regarding First Nations regional child and family services agencies. One finds Aboriginal schools in Ottawa, Winnipeg and in other cities. In Ontario, child and family service organizations for Aboriginal people living off-reserve have existed for almost thirty years. Finally, provincial arbitration legislation can serve as the basis for alternative Aboriginal justice systems, as these statutes are already utilized regarding various religious denominations in resolving family disputes.

On the basis of such precedents, Brad concluded that governments *do* recognize the ability to establish alternative systems for Aboriginal people on a regional or community basis. To this point, statutory authority has been granted only for particular sectors. But one could envision moving beyond a single sector into a comprehensive enabling act that permits urban First Nations, Inuit and Métis peoples to establish their own governing institutions.

Despite the manifest possibility of establishing urban Aboriginal governments, Brad suggested that many enormous questions remain in proceeding. Many of these questions will have to be addressed by Aboriginal organizations and governments that would be poised to exercise self-government in cities. First and foremost: who is in control and for whom? More generally, what jurisdictions will urban Aboriginal governments have? How does the individual Aboriginal person relate to this government? Who decides who is a member, and on what criteria? Will assumption of jurisdiction be voluntary or involuntary? How do urban Aboriginal governments fit into the understanding of inherent right sovereignty of existing First Nations and the Métis Nation? Does the multi-nation Aboriginal urban reality conflict with the inherent right, based on the generally common understanding of this right as applying within each historic nation individually in isolation from other nations? Federal and provincial governments have typically responded to rights claims with economic development initiatives and social programs; their responses to urban Aboriginal people have always been based on needs.

Moving to the all-important question of funding: how will urban Aboriginal governments be financed? Will it be through a tax on their members, who could then redirect part of their current taxes to the Aboriginal government, as Ontario has done for decades with its school tax allowing taxpayers to redirect from public to separate school boards? Would it be transfer payments from federal and provincial governments to these Aboriginal governments? How do we deal with disputes arising between non-Aboriginal and Aboriginal parties, particularly in mixed relationships or marriages?

Addressing the question of territory: what will be the boundaries of these entities? Will they be neighborhood or urban reserves within the entire city or metro area so there would be no legal overlap with the territory of the municipality, due to the distinct status that can be provided under s. 91(24) of the *Constitution Act, 1867*, although they would be jurisdictional islands in a municipal sea as is the case of urban First Nation reserves now? Will the land base be predominantly privately owned? How would conflicts of laws be resolved and by whom? Should there be paramountcy rules, as with self-government agreements? How would fears of city governments and general publics about the loss of jurisdiction and power be addressed? And why not simply tie everyone back to their own ancestral home First Nation, Inuit or Métis governments, which could then represent them within the urban centres as well, as many First Nations already assert that they do? Although there have been periods of attention to these issues, Brad stressed that both sustained, in-depth thinking and significant community discussions would be required to make urban Aboriginal governments a reality. That thinking and those conversations have yet to occur.

"Urban Aboriginal Self-Governance in Winnipeg and Ottawa"

Julie Tomiak, Carleton University

The next to speak was Julie Tomiak, a PhD Candidate from Carleton University. Julie's presentation was based on interviews she had conducted examining issues of urban Aboriginal self-governance in the cities of Winnipeg and Ottawa. Her central questions were: how do both local and extra-local processes of Aboriginal governance shape current realities? Do those processes present possibilities for decolonized futures for Aboriginal people in these cities? The approach she examines takes Aboriginal rights seriously.

Urban Aboriginal governance will mean different things in different cities, given the cultural heterogeneity of Aboriginal populations, the differences in socio-economic status, level of available services, political representation and so on. The communities differ in Winnipeg and Ottawa a lot in terms of size, composition, institutions. Policy environments are also uneven from city to city: responsibilities vary between the federal, provincial, municipal and First Nations governments, Aboriginal political organizations and local service providers.

Noting an issue with chronic under-enumeration, Julie presented a brief overview of the urban Aboriginal context in Winnipeg and Ottawa. Populations in both cities grew significantly between 2001 and 2006, with Winnipeg being home to the largest number of Aboriginal people. With 68,380 Aboriginal citizens represented in the 2006 census, the population comprised roughly 10 percent of the total population. More than half of the Aboriginal people in Winnipeg are Métis. In Ottawa, the Aboriginal population has grown rapidly since 2001, numbering 20,590 in 2006 and including a significant and growing Inuit population. Ottawa has one of the largest Inuit communities in southern Canada.

Aboriginal residents in Winnipeg and Ottawa live in conditions that are significantly worse than those of non-Aboriginal residents. They have higher unemployment rates, lower income, poorer health status, poorer housing, higher rates of homelessness, lower levels of education and depend

more on government support. In Winnipeg, unemployment and poverty rates are very high, at 25.1 and 62.7 percent respectively. In Ottawa, the gap is small with percentages of 16.3 for unemployment and 51.2 for poverty—largely due to the high number of professionals working for Aboriginal organizations or the federal government.

Julie noted that there had been a shift in federal policy in past ten years. Although there had been recognition of needs in cities, federal and other governments have marginalized rights-based claims to self-government. Dominant discourses on urban Aboriginal governance centre on community economic development and social cohesion rather than inherent rights, self-determination and sovereignty. Policy-makers appear to consider the notion of urban Aboriginal self-government “inconvenient” for four reasons:

- The heterogeneity of social, political, economic and cultural circumstances
- The limitations of ‘urban Aboriginal’ for capturing First Nations, Métis, and Inuit
- Jurisdictional uncertainties and problems related to multi-level governance
- The continued relevance of and connection to land-based nations

A small but growing literature suggests a consensus among practitioners that urban Aboriginal self-government will be urban-focused and pan-Aboriginal. However, this notion is highly contested, particularly in Winnipeg. Both the *Corbiere* decision and the existence of reserves in and around cities further call into question the focus of the current literature. Moreover, needs-based vehicles are not helping with self-government or assertion of rights.

Julie then outlined a number of issues identified in the expert interviews she conducted. Major challenges relate to funding arrangements, financial sustainability, political representation, institutional completeness and coordination among multiple governments.

On the funding side, she noted difficulties with the level and stability of funding. In absence of core funding, many agencies interviewed relied on project-based funding, which put them in a constant state of precariousness. This hindered much-needed coordination and collaboration among Aboriginal agencies as well as fostering competition among the groups. The climate of interagency competition was an issue all Aboriginal participants identified as a major problem. Current funding practices are seen as divisive, and can also lead to duplication of or gaps in services. This situation was more pronounced in Winnipeg, where there are a larger number of groups and governments continue to determine who represents urban Aboriginal people by choosing who should be present at UAS tables.

Relationships between First Nation, Métis and Inuit political organizations as well as those operating under the ‘urban Aboriginal’ umbrella are not always smooth. This is due largely to tensions over who represents who in the city. For community workers involved in service delivery, it becomes necessary at times to distinguish clearly between political advocacy and service provision as a means to deflect potential problems from both the communities and federal and provincial governments.

In the area of coordination, the multiple jurisdictions present at tables—whether municipalities, provincial governments or the federal government—make it more difficult for Aboriginal agencies to cope. The organizations are supposed to coordinate with all these levels, yet without receiving the core funding required to do so. Culturally appropriate access to specific services was also a problem. The category of ‘urban Aboriginal’ does not account for differences based on legal status; nor does it consider continued ties to land-based First Nations, Métis, and Inuit home communities. Métis and Inuit organizations in particular struggle with the category, stating that, in most people’s minds, Aboriginal means First Nations. In Winnipeg, Métis organizations perceive their concerns to be marginalized from the outset because Métis representation on the Aboriginal Partnership Committee is only one representative on an eighteen-member committee. Inuit organizations also stress the need for Inuit-specific services. Urban Inuit community organizations across Canada hold the position that a pan-Aboriginal approach in services and programs is simply not working.

Another decisive issue that emerged from the interviews was collaboration. Participants noted an urgent need for coherent policy development in the areas of urban Aboriginal education, health, employment, childcare, youth and seniors. That said, policies cannot be unilaterally imposed by federal and provincial governments. First Nations governments as well as First Nations, Métis, Inuit and Aboriginal political organizations and community-based service providers must be able to participate in these processes. This requires the creation of formal structures that foster more collaboration around issues of services, priority-setting, community development, social planning and place-making.

Julie concluded by stressing that the opportunity has not yet been seized to enhance urban Aboriginal self-governance. Although constructive processes and shifts in policy have occurred, a more coherent policy framework, more adequate funding arrangements, and principled commitments to the implementation of urban Aboriginal self-governance are lacking. One fundamental problem identified by interview participants was that the Canadian state has not made sufficient political *space* for organizations representing and serving Aboriginal people in urban areas. Making more space for urban Aboriginal self-governance would require significant long-term investments as well changes to structures and processes to enhance the capacities of local and regional organizations. The federal government has an important role to play here. But whatever the solution, Aboriginal bodies require a greater degree of power, control and resources. Without more scope for self-governance, the experience of marginalization that urban Aboriginal people face is exacerbated rather than relieved.

Discussion of Papers

The discussion of the two papers began with Evelyn Peters of the University of Saskatchewan. Evelyn thought that these two papers provided a good mix: the first identifying legislative frameworks or possibilities and the latter identifying the same issues, but as they arose on the ground among the various organizations and agencies at work in urban centres. Both papers pointed out significant challenges for self-government in cities—and she hoped to see them appear in printed form soon.

Both authors referred to the heterogeneity of urban Aboriginal populations. This was a point that she would underscore. Relatively homogenous urban populations are extremely rare. The norm is heterogeneous but relatively small, composite communities in the cities. Size in itself is not a big problem, as such small, non-Aboriginal nations as Lichtenstein and Monaco indicate. And Thunder Bay has an Aboriginal population about the same size as a major city in Labrador. With heterogeneity in the mix, however, there is an important challenge. It is a significant challenge, to be sure, but it should not be an overwhelming one.

Speaking specifically to Julie's paper, Evelyn noted the dynamic existing between First Nations and Métis in Winnipeg as a prairie city. In Ottawa, the Métis population doesn't have the same political clout as it does in the Prairies. In Winnipeg, the Métis population represents slightly over 60 percent of the urban Aboriginal population and has a very strong provincial political representative body. The Aboriginal population sizes of Ottawa and Winnipeg are also different, with the result that the Aboriginal population in Winnipeg can support many more organizations and therefore more complexity. Such elements must make the politics of organizing different in the two cities. As a general note on Julie's paper, Evelyn noted the need for a methodology section so that we know why the author chose to compare Winnipeg and Ottawa.

Speaking to Brad's paper, Evelyn suggested that its exploration of the ways that the various self-government arrangements can be given legal support is an important contribution. However, she found that it left many points open. For example, the paper describes three basic attributes of governances as legitimacy, power and resources but it does not develop them further. The notion of a jurisdiction linked to citizens is mentioned but is also not developed in the paper.

As a means to provide a nuance or round out the presentations, Dr. Peters wished to mention some developments on the ground in Saskatoon. In Saskatoon, there is not only an urban reserve but also the emergence of tribal councils representing different groupings of First Nations and having offices in the city and providing services for their members. In addition, the Saskatoon and Prince Albert tribal councils are beginning to sign MOUs with each other. The Métis have a strong local presence in Saskatoon and the Friendship Centre has been in operation for a long time. These organizations regularly come together to support major initiatives, so that emerging developments can be added to the repertoire. At this point, things are extremely geographically variable and complex, so it is difficult to create one model. But it is still possible to expand the repertoire of potential solutions and the Saskatoon example provides a further one.

David Newhouse of Trent University was the next to speak. Noting that the Report of the Royal Commission on Aboriginal Peoples had dealt relatively little with urban Aboriginal governance, he also noted that the final report wandered into this new territory and tried to give us a new lens for trying to view it. The RCAP advanced the idea of a 'community of interest' government, which marked an attempt to decouple the association between a particular territory and its government. Like many of the RCAP concepts, this one was relegated to level of impractical ideas. David saw the two papers as attempting to bring back this idea of urban government, with Brad's paper focusing on the legal aspects and Julie's on the practical level. He liked their resumption of the community of interest idea and also appreciated their optimism. Brad's paper posed questions that would help to move this project forward. Julie's took a different approach,

presenting the need for such a model from the bottom up. One important link that Julie's longer paper made was to the Declaration of Rights of Indigenous Peoples. In his view, it was an important issue to bring into the discourse as an additional basis of the right of urban Aboriginal self-government.

Beyond the community of interest notion, David thought would be useful (given the nature of urban environments) to begin to think of interwoven governments rather than simply community of interest governments. Thinking of them as interwoven would allow us to think about what strands of weaving might be. One he thought should be included is indigenous political theory. Indigenous political thought might be useful in beginning to think about the various possible political configurations and such things. He would like to see future work in this area incorporate that standpoint.

Following the comments of the discussants, John Graham opened up the session to the floor. The first question was directed at Julie Tomiak, asking whether she had noted any evidence of more coordination by Aboriginal organizations to work together for service delivery. Julie responded that Ottawa is an example of frontline Aboriginal service organizations working together. Her sense is that situation is different in Winnipeg, where coordination is more difficult and there is more of a divide between service agencies and political organizations.

The next question focused on the need to reframe cities as Aboriginal places. Why could the rights-bearers for the territory on which the urban area exists not provide the services for their Aboriginal brothers and sisters coming to their territories? Otherwise, there would be the risk of urban areas are becoming islands unto themselves, with no more traditional territory people having a say in their governance. To this Julie responded that she had written about this in the longer paper. It is important to recast cities as Aboriginal places, where this is so often forgotten. Also in terms of how state discourses have been framing urban Aboriginal populations: it is important to remind that these were and remain indigenous territories. Brad Morse agreed with this statement. David Newhouse indicated that this question was an example of where Aboriginal political theory and a return to traditional knowledge might be helpful. Traditionally, the indigenous landscape had been multicultural. American Indian visions of law and peace viewed it as such a landscape. So this could be drawn on as a resource in answering the question of heterogeneity.

At this point, John Graham interjected with a question. Part of his role as moderator was to ask provocative questions, so his question was: what is the evidence that self-government actually makes things better for urban Aboriginal people? Brad Morse responded that most people would agree that people do better when they are ruling themselves. Self-rule seemed to be the goal of all people everywhere. Not all governments will immediately work well, but we are still stuck with the concept of government. So if government is part of the solution, the question becomes: how can we make it better, more organic, belong more to Aboriginal peoples? Talking about First Nation and Métis governments, there are claims that may compete with those of municipal governments—so there may be a competition. But it seems that we are all striving for better governments to serve our needs.

At this, Fred Caron of the OFI interjected with a comment. He had enjoyed both papers and the comments of the discussants. As a resident of the City of Ottawa, he could say with some confidence that some Aboriginal people in Ottawa would say that they are not represented by existing governments. But the message here should also be that existing governments have to change how they do business. That to his mind was the biggest struggle. Because of the way that governments structure programs, Aboriginal organizations are placed in a position of reacting to where the money is. Governments are saying: you should fit your needs to our programs. But it should be the other way around. So governments have to change way they do business—in the cities as elsewhere. Finally, Fred stressed one that should never look at Aboriginal governance as a completely separate item. One has to look at where the cities themselves are going. Urban structures themselves are changing and Aboriginal people have to be part of the evolving city structure. Thus, while it is important to have Aboriginal governance, it is very important link up to the way the rest of the cities develop.

The next question focused on the critical role of healing and the spiritual in self-government. The participant began by thanking the Algonquin Nation, on whose territory the conference was occurring. He then stated that, if Aboriginal people were going to move forward with self-government, they should first go through a healing process. Self-government means a certain conduct one has to uphold, a conduct reflecting them as individuals but also their families and nations. Adding to the knowledge and research must be spiritual goods; for example, leaders of self-government could not be drug addicts or alcoholics. The *Anishinabe* meant “the people.” His people, who were Assiniboine and Sioux, were the same as others. They were all talking about human beings, with all their elements, including the spiritual one. Would it require some kind of constitutional adjustment to introduce the spiritual element into self-government?

Brad Morse responded by noting that he thought it was absolutely correct that the participant had emphasized the grounding in spiritual reality and the notion that human beings should be treating each other as full human beings. The spirituality dimension should be more recognized by all governments—in fact, this is one thing he hoped that Aboriginal governance could promote.

A participant representing the Manitoba Métis Federation (MMF) thanked the presenters for their work. He noted one thing about Julie’s paper that had caught his ear: the distinction between political advocacy groups on the one hand and needs-based delivery organizations on the other. Why had she made that distinction? Like any government, the MMF performs both delivery and political advocacy roles. The MMF has eighty democratically elected local executives. So there is a good governance structure there that represents a large population of Aboriginal people, specifically, Métis. His question was for Fred Caron: why then is the MMF not regarded as the political unit through which the service dollars should flow?

On this, Fred responded that the MMF was certainly welcome to participate at the table of the Urban Aboriginal Strategy, but the reality in the city of Winnipeg was that there are a variety of important players. The UAS for Winnipeg will evolve: it has been evolving and will continue to do so. But that was a difficult circle to square. There are a range of Aboriginal people with different views in the different cities. The OFI had been trying to work with the various Aboriginal organizations to determine the best linkages to the people.

Session 2: Defining and Identifying Métis Communities

After a brief break, the second session convened. John Graham introduced the two speakers and their discussants: Carrie Bourassa of the First Nations University of Canada and Ian Peach of the OFI followed by Michael Mills of Indian and Northern Affairs Canada (INAC). Discussants would be Chris Anderson of the University of Edmonton, Mike Evans of the University of British Columbia (Okanagan) and Joyce Green of the University of Regina.

“Care, Identity and Inclusion in Pluralist Societies”

Carrie Bourassa, First Nations University of Canada

Ian Peach, Office of the Federal Interlocutor

Carrie Bourassa began the presentation by thanking the Algonquin Nation for allowing this event to occur on their territory. She noted that the paper was a real passion for her personally. In the last session, a gentleman had stressed the importance of spirituality. Carrie shared that concern and could finally say that she is confident and feels good in her skin as a Métis woman. But for many Métis, the question of who they are has taken a toll on their health and well-being.

Carrie wished to begin the presentation with a quote from her grandmother. Talking about identity and the struggles of not fitting into the categories the government had created for Aboriginal peoples, her grandmother had said: “We are like trees, with roots stretching into the soil. Assimilation pulled us up by our roots. We have to rediscover our roots, our identities.” Carrie then turned the discussion over to Ian to set up the legal elements of the identity issue.

As a lawyer, Ian joked, he has no passion. But he did care about what notions of race and blood can do to identity. A lot of these categories extended back into pre-Confederation times. From at least 1850, the definition of an Indian had been grounded in notions of race and ‘blood’ rather than membership; and it was also long associated with the male line of descent.

In 1857, the Canadian legislature passed the *Gradual Civilization Act*, which established the process by which an Indian man could choose to become enfranchised. Upon enfranchisement an Indian man would gain the same rights as other Canadians but both he and his family would lose their Indian status and an Indian woman could not regain status except by marriage to another Indian man. This approach to defining “Indians” according to the status held by men was carried over into the first *Indian Act*, passed in 1876. The *Indian Act* referred to ‘Indian blood’ in determining status from the passage of the first *Indian Act* in 1876. This was replaced with the concept of ‘registration’ with the 1951 revision to the Act and a new bureaucratic entity, the Indian Register, was created to administer the process. This also served to tighten access to Indian status, and the benefits that flowed with it, for fiscal reasons. Overt gender discrimination continued in the post-1951 status rules. A status Indian woman who married a non-status Indian man automatically lost her status and the attendant rights, while a status Indian man who married a non-status Indian woman not only kept his status, but passed his status onto his wife. This

discriminatory rule was brought before the United Nations in 1981 by an Indian woman, Sandra Lovelace, who had lost her status upon marriage. Between this challenge and the inclusion of the new *Canadian Charter of Rights and Freedoms* in the Canadian Constitution in 1982, the Government of Canada realized that the overt gender discrimination in the *Indian Act* would need to be altered. The federal government did remove most of it with the passage of Bill C-31, but it did not remove all of it.

Many states, by contrast to Canada, have abandoned the notion of blood quanta. The only state with comparable legislation is the United States. But here too there had been challenges; so the United States Congress has been using a broader political definition since the 1970s. Neither New Zealand nor Australia legislate racial definitions of Aboriginality. The New Zealand government, for example, has long accepted the Maori identity of anyone who self-identifies as Maori and either has a Maori ancestor or is accepted as Maori by their peers. Similarly, while the Australian government had widely used ‘blood quantum’ criteria in defining who was an Aboriginal person in the nineteenth century and the first half of the twentieth century, it generally abandoned these definitions in the 1960s and 1970s. Later, a three part definition of an Aboriginal person as someone descended from the Aboriginal people of Australia, who self-identified as Aboriginal, and who was accepted as Aboriginal by the Aboriginal community took root as the ‘working definition’ of Aboriginal identity. This definition was also accepted by the High Court of Australia to give meaning to the reference to ‘Aboriginal race’ in the Australian constitution. The Australian courts have determined that the first part of this definition, descent, need not be proven by any strict legal standard, as identity is understood as a social construct.

Because Canada, unlike New Zealand and Australia, maintains its distinctions among Aboriginal peoples based on race and residency, Canadian legislation continues to be opposed by those Aboriginal people excluded from the benefits provided to status Indians who reside on reserves. One avenue for opposing the existing definitions has been the courts, where challenges under Section 15 of the Charter guaranteeing equality rights have a particular force. Recent decisions like *Misquadis* suggest a risk that exclusion from Indian status will be found unconstitutional, demonstrating the risk of treating Aboriginal communities differently based on their locations. So we are in a changing environment, although even court challenges that succeed require long and arduous processes.

Ian then handed the microphone back to Carrie, who indicated that Aboriginal identity was actually constructed through colonization. It affected not only those defined as Indians but also Aboriginal peoples, including Métis people. When status and access to benefits are disconnected from identity, the echoes remain with us today. This situation creates problems even within families, not to mention within communities. There are great distinctions between who is and who is not Métis—distinctions that stem in large part from the *Indian Act*.

The outcomes of the legal creation of Aboriginal identity can be seen and measured. As the Report of the Royal Commission on Aboriginal People noted, the history of assimilation has affected all Aboriginal people and contributes to socio-economic problems. The relationship between the health and the status of Aboriginal people is a complex issue. Yet on every health measure, the health of Inuit, non-status and Métis correlates directly with this robbing of identity

through assimilation. When you are ashamed of who and what you are, the message is just to fit in. But this message has profound consequences for our health and well-being. And the data are there to show it.

Carrie turned the presentation back over to Ian, who resumed by suggesting some legal actions that could be undertaken. Taking the evidence of worse health outcomes seriously, how should Aboriginal identity be reconceived? After providing some examples of movements toward re-conception in states like the United States and Australia, he suggested that we need not look as far afield. Both Métis groups and the Canadian courts have had to construct definitions of Métis. These definitions have generally been remarkably similar to the three-part definition that is increasingly being used in Australia to identify Aboriginal people. In the 2004 *Powley* decision, the Supreme Court did not legally define ‘Métis’ but it did “look to three broad factors as indicia of Métis identity for the purpose of claiming Métis rights under Section 35: self-identification, ancestral connection, and community acceptance.”

In Ian’s view, a three-part definition of this type provides a robust alternative definition to what continues to be strictly racial criteria for status Indians. There could be no real change within the confines of the *Indian Act*. As the RCAP had noted, the Act continues to interfere profoundly in the daily lives of those now defined as Indians. And if we accept that the creation of identity based on racial categories has negatively affected health and well being, it is reasonable to assume that reclaiming identity will help with healing. This allows us to imagine a world where the negative effects of well-being will themselves be reversed.

“Identifying Contemporary Métis Communities”

Michael Mills, Indian and Northern Affairs Canada

The next to speak was Michael Mills, who stated that he is an economist who has learned a lot of linear models but also one who believes that we have to start thinking about culture, both for its own sake and as a means to help improve socio-economic outcomes. But this means that we have to start thinking about communities. In his view, it is impossible to have culture without community. With regard to the Métis, however, it has always been a fundamental challenge to address Métis communities due to the lack of an established and comprehensive set of such communities. From a government standpoint, this situation is unfortunate because it prevents not only an exploration of practical, community-based policies, programs and institutions but also a reconnection of Métis with other Métis. If Métis communities were identified, it would be possible to begin reconnecting people to them.

Mike’s presentation would propose a means to begin identifying Métis communities. After exploring the definition of Métis communities that has been emerging through the courts, it would provide a framework for recognition of Métis communities based on the criteria of self-identification within a particular geographic area, display of a distinct collective identity, and demonstration of a continuous link to an historic Métis community.

How could these criteria be assessed? For the self-identification component, Mike noted that the census subdivision (CSD) of the Canadian census could be used for mapping self-identifying populations according to a particular geography. Where individual CSDs could be aggregated, this would not preclude regional communities. For the display of a distinct collective identity, Mike suggested mapping CSDs onto the political units of the Métis locals, which feature strongly in the political structure of Métis organizations. There are problems in some cases with correlating one community with only one local (some have two) or in others with having very few members. To meet this issue, Mike advocated use of a critical mass approach—with possibilities of an absolute test indicating communities of 250 Métis people or more; an Aboriginal Canada Portal proportionate test; or community within a community approach. The third criteria of historical connection to a Métis community could be filled by examining journals and other documents from sites including fur trade posts, hibernants, Red River and South Saskatchewan settlements, communities visited by Scrip Commissions, and Métis agricultural colonies.

Once the three kinds of criteria are applied, it would be possible to see where they overlap and then to define different types of communities with different types of features. The first type would possess all three characteristics: historic connection, self-identification, and distinct collective identity. The second type would have two of the three features, and so on. Through his preliminary analysis using this model, Mike came up with four different types:

1. Recognized Métis communities (CSDs with historic linkages, a Métis local and a significant self-identifying population)
2. Métis communities with historic linkages and a Métis local (but no significant self-identifying population)
3. Métis communities with historic linkages and a significant Métis population (but no Métis local)
4. CSDs with a Métis local and a significant Métis population but no historical linkages

Mike then showed maps of Canada indicating where potential Métis communities would exist. The maps showed hundreds of potential communities from Ontario and westward. Depending on how inclusive one wished to be, 148 to 268 census subdivisions could be seen as forming contemporary communities. This meant that there may well be many more rights-bearing Métis communities than had been previously contemplated.

The model also indicated that most Métis communities are minority communities within larger centres, raising the policy question as to why ‘transitional’ issues—often identified as important for the urban Aboriginal agenda—are deemed to be critical for Métis. Where many major centres have always had Métis and rights-bearing communities are located in the middle of many Western cities, a focus on ‘transition’ is likely not the right approach for Métis living in urban centres. Another observation the model had indicated is that the category of ‘unorganized’ census subdivisions does not fit well to Métis geographic realities. For example, most of the Métis Settlements—clearly communities in the cultural, contemporary and historical sense—do not have their own census subdivisions but are part of ‘unorganized’ census subdivisions. This

would suggest a point where the census could be improved, to the extent that it does not actually capture communities within its geographical areas.

Discussion of Papers

The first to address the two papers was Mike Evans of the University of British Columbia. Speaking first to the Bourassa and Peach paper, he noted that it was devoted mainly to clearing the ground by exposing the fact that essentialized categories actually affect how people live. People are rapidly de-essentializing these categories through their individual actions: adoptions, intermarriage, et cetera. In his view, the key issue is: how do people negotiate the dissonances? He agreed that the capacity to self-determine and self-identify does play out in health at community level.

Turning to the Mills paper, Mike Evans noted that the question of what is a community is hugely difficult—because how community is enacted is a key to it. There is a core tension in what Mills is doing, as there is in any discussion of Métis community. Mike recognized that Mills sees this point. For the northeast corner of British Columbia, for example, the map Mills presents captures only a single dot rather than the whole corner of Fort St. John. The dot on the map should not obscure that there are a whole bunch of Métis people up there. The use of census subdivisions should not freeze things spatially. Given especially that Métis are notable for their mobility, it can be particularly problematic to fix them to a certain locale.

The *Goodon* case just decided in Manitoba took *Powley* further away from Mike's conception of a Métis community. *Goodon* reconfigured the concept of community in a way that makes sense for Métis both historically and in the contemporary context. The approach Mills presents eliminates Métis communities that are too small because they do not meet the minimum criteria; it also eliminates those that are too large to be captured in a single CSD. Mike noted that he took Mills paper to be motivated by pragmatic concern. In itself, this was a very useful thing to do. But he was also thinking: is that enough? Is that a good start? And he regretted to say that his conclusion was 'no.' It is not a good start because it involves a misplaced notion of what a Métis community is and because it leads to an understanding of service delivery that is not linked to the pragmatics of governance. Governance of various dispersed Métis communities may have been a challenge in the past. But is it an insurmountable challenge today? Mike thought not. Given the new technologies that could be used for governance embedded in the things like the web, there are ways of governing people in dispersed contexts that work. The citizenship registries that are being formed within the members of MNC are a good place to start; all kinds of regional and larger governance mechanisms could develop out of them. Was Mike then saying that all programming for Métis would require a linkage to a larger political governance structure? No, but those structures do require the capacity, the development, and the right to develop those programs, which would come back to a different notion of what Métis communities are.

Chris Anderson of the University of Alberta was the next to comment. He wished to begin with the acknowledgement that he had learned a lot from the papers. His background was on legal rights and how Métis identity has been constructed, but he had also studied statistics. He had found the Mills paper very interesting in that one of its chief indicators of a Métis community

(presence of a Métis local) is a very political one. In Chris' recollection, *Powley* had stated that political affiliation could not denote a community in a more cultural sense. So a potential conflict with *Powley* might prove problematic for his model.

On the Peach and Bourassa paper, Chris's major comment concerned the claim that the identity distinctions made by the *Indian Act* remain essentially artificial. In his view, distinctions that may have started off as artificial are no longer artificial; people have really begun to identify themselves using them. This is the central problem with the legal construction of identity. After over one hundred years, it becomes very messy to try to disaggregate things and restore them to what they had been. It would be like popping sutures trying to undo these identities that were constructed by categories created long ago. Another question he had was Carrie's assertion of a need to return to tradition in determining membership. What would a return to tradition entail, given that most people aren't too reflective about such things? As with the contemporary world, tradition does not exist outside of a social power structure. What would that structure actually look like? He didn't wish to be discouraging; it would be tough to find a worse set of categories for defining Indians than we already have. Yet the question was what the alternative would look like. Without actually knowing this, he wouldn't be so sanguine about returning to traditional categories and means of determining membership.

The final discussant of these papers was Joyce Green, who regretted that it would be a difficult task to take on two such important papers in only seven minutes. Joyce began by reminding, "None of us is only one thing." The focus on Métis as mixed is of course foolish because all of us are many things at once. The notion of identity is linked to the notion of rights. Aboriginal rights are linked to individuals through communities, but elsewhere in Canada rights attach to individuals and are portable. In her view, trying to tie rights to communities does not work. Administrative rationality can never be used to drive recognition of rights. It is vitally important that the political project of identifying rights not be driven by the necessity of the state to count heads or to limit the scope of its programs.

Whenever we speak of Aboriginality, Joyce continued, we must immediately realize that we deal with a colonial state. Michael Mills sets out to construct a historically contextualized, empirically valid and verifiable formula for identifying contemporary Métis communities. She applauded the effort, but hoped that this attempt would not serve to limit the Métis community one more time. The non-Aboriginal heritage of the Métis was always considered by the state to be a step away from Aboriginality. Métis were always seen as less authentic—less authentic than white people and less authentic than Aboriginal people. This placed Métis in the position of continually trying to establish who they are. The Métis share some important colonial history with First Nations, yet they also have a distinct context and set of experiences. In the longer paper, Mills had sketched that history for us. The colonial objective of assimilation motivated the official policy set for Métis; the political culture of racism shaped its distinctions with the assumption that the Métis non-Aboriginal heritage had marked a partial step toward assimilation.

The *Powley* case was the first to affirm Métis rights, with the important caveat that these rights are exercised by communities. But try exercising rights as a community; rights can only be exercised by individuals. One danger of an authentication formula is that it would again subject

Métis, in all their diversity, to an external legitimization process for the purpose of colonial legal and administrative clarity. And once again, only some Métis would be legitimated. As a final remark, Joyce noted that not all historical Métis communities were actually Métis. Some people identified by default. They became Métis because they knew they could never be white. But for these communities, it would be wrong to say that they no longer have Métis identity or Métis rights. For such reasons, she was concerned about the implication of Mills' project.

On the Peach and Bourassa paper, Joyce stated that the paper may actually be two papers: a legal analysis of recent superior court cases concerning rights and identity on the one hand and a historical-political framework on the other. In her view, the paper would be stronger (either as one or as two papers) for more thoroughly engaging the relevant theoretical literature. The great strength of this paper was that it points to the power of the bench to deal with identity questions, but also to its complicity with state power. The Canadian state must decolonize; and non-indigenous courts must reflect on how settler communities can achieve this without distortion. In her view, the paper invites consideration of the following points:

- As a basis for rights, the focus on identity cannot accommodate naturalization (adoption, incorporation, citizenship), which may be a right of Aboriginal nations;
- Rights are necessary for personal wellbeing in community and for intergenerational transmission of culture and values;
- We are all, always, simultaneously all of our identities (see Said, Borrows, Green) and should not have to choose or fragment them;
- Administrative rationality cannot be allowed to drive the transformative political project of self-determination and decolonization;
- Identity is not status and should not be conflated with status;
- Aboriginal and treaty rights are species of human rights and thus are obligations of the state.

Joyce concluded by commending Peach and Bourassa for noting how decades of policy racism have impacted *both* status Indians and Métis communities. This important relationship had not been much commented on.

The floor was then opened to general participants in the colloquium. Representing the Manitoba Métis Federation, Al Benoit stated that he perceived a completely different world on the ground and in the field from the one either paper described. In his view, Carrie Bourassa confounded Métis identity with the sense that Métis were merely 'leftovers' from the *Indian Act*. But Métis identity isn't that at all—and it never was that. The idea of the Métis people defining themselves using their own terms has had a long tradition. Speaking to the Mills paper, he stated that it did not convey at all his conception of Métis community or how his people's identity could be captured. Al agreed with Mike Evan's critique of the paper. He was pleased to move along the lines of the *Goodon* decision away from a brick and mortar village or town to a more flexible, mobile, ethnic community. Although the local is an integral part of the governance system, it could not be seen as defining a Métis community; it is only part of that community. What he did like about Mill's presentation was its emphasis on a group of people sharing a geographic area and living a common way of life. Yet the extent of the community could include regions or

whole provinces, even cross-provincial regions. So there are different levels of community at play in a nuanced understanding of Métis community.

Michael Mills responded briefly to the question about the locals and about the possibility of regional aggregations of locals. It was clear in his work that people are investing in the locals. In a sense, then, he agreed that the locals are not exhaustive of a community. But the point of looking at the local level was that people are actually engaged at that level. So the local level must have a meaning. He really wanted to have a dialogue about how the different levels relate: how locals relate to the regional and how regional groups relate to the national. But he also did not wish to lose the local basis of communities.

One person asked Michael about Métis communities east of Ontario and what means he would see in place to recognize them. To this Michael responded that his model applied only west of Ontario. Another participant identified herself as the daughter of Stan Daniels. Indicating that she was a strong Métis nationalist, she wanted to emphasize the origins of the locals. Her father was a union leader: and that was why we have Métis locals. Another member of the audience identified herself as a board member of the Manitoba Métis Federation. She recalled having always been told, even as a little girl, to be proud that she was Métis. And she stressed that the Métis community is the Métis Nation. So both papers had gotten some major things wrong.

Annette Chrétien, who would later also be presenting a paper, spoke next. She was disappointed and thoroughly disheartened by an ongoing categorization and oversimplification of who Métis are. Her family is from eastern Ontario and was instrumental in the battles that later gave rise to the birth of the Métis nation in 1816. Yet there is still no recognition of Métis communities beyond what is now known as the Métis Nation. She was disheartened by the use of nineteenth century nationalism on which to build contemporary Métis communities. A poor, discredited nineteenth century nationalist framework would now be used to define Métis communities. She was a founding member of the Métis Nation of Ontario at a time when there was no recognition of Ontario people being Métis. The boundary has moved eastward since *Powley* but she still finds it disappointing, distressing and disturbing that many western Métis stick to this stance, making the fight so much more difficult.

Session 3: Métis Land Claims, Métis Indigenous Knowledge and the Duty to Consult

After the lunch break, the colloquium resumed with the third session. This session was also devoted to Métis issues. John Graham introduced the presenters: Gregg Dahl, Senior Policy Analyst at the OFI, Annette Chretien of Queens University, and Brenda Murphy of Wilfrid Laurier. The discussants would be Chris Andersen of the University of Alberta and Tony Penikett, author of *Reconciliation: First Nations Treaty Making in British Columbia*.

"Thoughts on Métis Economic Development"

Gregg Dahl, Office of the Federal Interlocutor

*Métis, Non-Status Indian, and Off-Reserve Aboriginal Policy Research Initiative
March 10, 2009 Colloquium Summary Report*

The first to present in the afternoon was Gregg Dahl of the OFI. Gregg began with his disclaimer that the paper reflected solely the views of the author and did not reflect the views of either the OFI or the federal government. He then indicated what had gotten him interested in this problem in the first place: the access to capital issue. Métis wished to develop economically, but had no startup capital to do so. To address the issue, Gregg began to imagine the possibility of attaining a final settlement between Canada and the Métis—in other words, a pool of capital that Métis could dip into for economic development. The narrative structure of his imagining was the form of the thought experiment.

Gregg's thought experiment had been informed by literature on business development (primarily Aboriginal business development) stating that access to capital is the primary hurdle to initiating economic development. This prompted him to wonder how the Métis might come up with some capital. In this context, he recalled that Canada might be found to possess a legal obligation to the Métis; the Honour of the Crown could also be involved. So he began thinking of a settlement. This settlement would occur along the same lines as those undertaken with the Inuit and First Nations, but this time issued to the Half-breeds, as they had been named in the *Manitoba Act*. The thought experiment would outline the contours of such a settlement. If a final agreement could be formulated to provide capital transfers from Canada to the Métis, what should it look like? Specifically, what should it look like in order to provide economic benefits to all parties to such an agreement?

Gregg then presented the assumptions lying at base of his experiment:

- That the term “Métis” relates to those people who are the descendents of the population labeled “Half-breeds” in Sec. 31 of the *Manitoba Act*, although the term has a broader application in present-day usage
- That Canada would treat any outstanding obligation to the Métis in the same way it has treated its obligations to the Indians and the Inuit
- That Canada would negotiate to fulfill any outstanding obligations it may have in relation to the Métis
- That the Métis indeed possess an outstanding claim against Canada
- Finally, that settlement of the claim could provide access to capital that would be set aside for economic development purposes

Gregg recognized that the assumptions he just outlined are contestable yet also nonetheless reasonable. For example, the assumption of an outstanding obligation to the Métis/Half-breeds of Manitoba can be reasonably held despite the recent decision in *MMF v. Canada and Manitoba*. For one, the decision is now under appeal. Besides that, Canada may also wish to settle with the Métis of what was formerly Rupert's Land regardless of the outcomes of any court decisions. As for the background on why any claim with the Métis could be resolved on a basis similar to that for First Nations and the Inuit, he follows a line of argument advanced by Joseph Magnet in his paper “Métis Land Rights in Canada” and Louise Mandell in her research done for the Royal Commission on Aboriginal People. More generally, his intention was not to diminish the importance or complexity of the process that would need to happen but to begin thinking in a forward direction if the Métis were again to assume their traditional place within the economy.

What would a final settlement possibly look like? How could it be structured so that it could be of benefit to both parties?

In examining how a settlement might look, Gregg had engaged a statistical analyst to analyze the final agreements for First Nations and Inuit claims. An agreement has two components: the financial and land mass components. Examining all the agreements, they determined a per capita amount of money and a land quantum. When they asked how much money individuals received and how much land they received, the range of money was somewhere between \$15,000 and \$23,000. The land quantum was not huge either, especially if only the percentage of fee-simple owned land was counted.

Investigating which form capitalization of a claims settlement could take, Gregg turned again to the example of First Nations and Inuit claims. These relied on one (or some combination of) the following forms:

1. Land in fee simple
2. Land in reserve
3. Impact benefit agreements
4. Cash

Gregg recommended impact benefit agreements for the geographic area of Rupert's Land and cash as the appropriate forms of capitalization in the Métis case. Asking what the Métis would receive in land, he and his colleague concluded that it would probably be nothing. So they converted the land in fee simple quantum of existing claims into a dollar amount to arrive at a figure for the entire settlement. The amount they came up with was about two billion dollars for an assumed number of Métis persons (those who had accepted scrip under the *Manitoba Act*). This amount would provide a 'rationally constrained amount' to be transferred to contemporary Métis communities as described in the recent Supreme Court *Powley* decision.

Thinking of economic development and the need to for startup capital, Gregg suggested that this large sum could be used in a trust fund set up for the purpose of business development. This would provide positive impacts to both the Crown and Métis. The Métis would benefit by having finally ended a stalemate without benefit for decades. The number of impact benefit agreements in a landless deal would be greater and the Crown would likely be willing to interpret them more generously. Economic development for the Métis would lead to a better quality of life for them. And Canada would benefit both from the newly attained prosperity of some of its least privileged citizens and from having finally addressed and settled for a policy that has blighted the Honour of the Crown for over a century. Both parties would benefit from the new clarity brought to the idea of a Métis community, which in turn would establish which regions are Métis for sake of the duty to consult.

If the Government of Canada were proven to have an obligation to settle a claim with the Métis, Gregg hoped that his thought experiment could someday inform a serious discussion between Canada and a ratified representative body of the Métis and Half-breeds. The broadest idea behind the paper is to be imaginative in the conclusion of a final settlement with the Métis, who would now be treated as equal Aboriginal people in Canada.

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

Annette Chretien, Queen's University

Brenda Murphy, Wilfrid Laurier University

The next presenters were Annette Chretien and Brenda Murphy, co-authors of a paper seeking to determine the appropriate role of Métis Indigenous Knowledge (MIK) in fulfilling the Crown's duty to consult on developments that may possibly influence Métis traditional territory. The document was a discussion document and very much a work in progress. The authors wished to thank reviewers for their helpful comments on what had turned out to be a really difficult paper.

Brenda began by presenting some background on the duty to consult. Where the courts had seen the duty to be embedded in the constitution, the Métis, as Aboriginal people, would have to be included in that process. Brenda would not go into detail into the various court rulings that applied here but would focus instead on the central questions applying to the Métis in particular: First, with whom should the Crown consult when in its duty to consult with Métis communities? And second: what are the sources of MIK that should inform any assessments of potential impacts on Métis traditional territories? If we are trying to integrate MIK into environmental knowledge, what is it?

On the first question, Brenda described the various legal interpretations of Métis identity. The Supreme Court *Powley* decision identified three elements required for determining rights related to identity: self-identification as Métis, evidence of connection to an historic Métis community, and acceptance by a contemporary Métis community. Subsequent cases applied the elements used in *Powley* in a narrow and strict sense, without indicating the outlines of the communities at issue in their decisions. One important decision concerning Métis identity was a recent decision of the Supreme Court of Newfoundland and Labrador Court of Appeal, which held that the duty to consult applied—even though ambiguity remained on the question of whether the claimants are Inuit or Métis.

Brenda then turned things over to Annette, who stated that the focus on the courts has obscured the true question. The question of Métis identity, or who is Métis, has been superseded by the question, "Who is Métis for the purposes of Section 35?" There is an enduring diversity and complexity surrounding the question of Métis communities. Métis political constituencies have been conflated with Métis rights-bearing communities; this in turn has created power imbalances and the marginalization of some Métis communities at the expense of others. Membership in a Métis political organization, in her view, cannot suffice to define a person as Métis.

Annette then proposed a way of rethinking Métis identity. "Self-identification" should be regarded as a process, not simply as a single event declaration. There are many means to identify who Métis people are—including tradition, history, ancestry, community, spiritual routes and beliefs, language and nationalism. Self-identification occurs when Métis people begin to think about, articulate and define these relationships. In Annette's view, diversity is possible without division because all have similar values as we define ourselves.

Turning to MIK, she indicated that indigenous knowledge generally is not a body of facts but ways of being. It is the same with Métis indigenous knowledge; it is not a body of knowledge but a process of coming to know. This is part of how the authors had been trying to rethink the ways in which we frame identity. They were not alone in their attempt to reframe it this way. The model for MIK suggested by one Métis community with regard to the management of nuclear fuel waste was similarly relational. Such a model might facilitate Métis rights-bearing communities in asking about who they are. This process would in turn allow them to include their self-defined MIK according to the same relational system.

Brenda then resumed the discussion, asking how the suggested process might work in a practical sense when confronted with environmental issues and strategic planning processes. On an ongoing basis, Métis communities would need resources to begin with the self-identification that would enable them to determine the nature of their indigenous knowledge. What one finds at present is something totally different: Métis communities are being asked to consult on a number of different processes after various kinds of events triggered inclusion. This forces decisions to be made after the triggering event. The proposed approach would be less reactive. It would focus on developing the consultation approach (including MIK) and then turn to assessing the impacts of a proposed process. A final decision and accommodation would be the next stage. With the proposed approach one would get feedback and social learning, then hopefully further capacity-building. This would become iterative, so that every time a community goes through the process it would move a little further ahead.

Brenda then pointed out the consultation guidelines and protocols that already existed, including Government of Canada Interim Guidelines based on the Supreme Court *Haida* decision. Aside from some guidelines produced by the Métis National Council and Métis Nation of Ontario, very few of the models address consultation with Métis specifically. Their hope was that this model could be included among those out there.

Annette returned to the podium to conclude the paper. While she did not doubt that the Métis will play an increasing role in environmental decision-making in the future, she perceived a real need for appropriate consultation processes and protocols. The relational model they had developed sought to facilitate self-identification to identify rights-bearing Métis communities and MIK using culturally-based definitions instead of political criteria. She concluded by urging policy makers to honour the process of self-definition by letting Métis communities define themselves in this way.

Discussion of Papers

The first discussant was Chris Andersen of the University of Edmonton. Chris confessed that he had been one of the original blind reviewers of Annette's and Brenda's paper. Both papers, he noted, are very interesting—very complex with lots of facts. In the interest of being provocative, he was going to play the hardcore nationalist Métis card and address the contention that MIK is hybrid knowledge. The basic consensus of that literature is that the notion of hybridity is white fantasy. As a Métis, he didn't know he was hybrid until he went to university and was told that

he was. All this talk about Métis being hybrid has to stop, and *Powley* hasn't helped matters in this respect. The implication is that Métis are mixed as though First Nations were not mixed. Speaking more directly to the paper, Chris thought that it is impossible to distinguish cultural from legal or political definitions because legal and political definitions always work back into culture. Although the paper does not explain what makes MIK hybrid—any more than the indigenous knowledge of First Nations living on the same land is hybrid—it does do an excellent job of describing how Métis don't have the institutional capacity to address the duty to consult.

Chris found Gregg's paper more difficult to critique, mainly because a good critique is presented in the first five pages of Gregg's paper itself. Gregg's focus is pragmatic, cutting right through the court cases and assuming that a settlement should happen. Anyone who knows negotiations knows that this is how it happens: you try to get the best deal you can get in the circumstances. Harold Cardinal used to use this analogy: "If it's forty below out and you need a jacket and somebody comes by and offer you a sweater, do you wait for the jacket?"

For Chris, a crucial question was what communities would be entitled to receive settlements. Because of the way Bill C-31 works, we could expect various different communities 'glomming' onto Métis rights. The legal definitions construct the way we see ourselves and relate others. We talk about Inuit, Indian and Métis as they were three bounded groups that didn't mix. There has to be an alternative to the idea that every Aboriginal person who is not Inuit and is not Indian must be Métis. What should we call them? "Why don't we ask them?" he suggested. In Chris's view, the categorizing of every community that is not Inuit or Indian as Métis had to stop.

The next discussant was Tony Penikett, formerly Premier of the Yukon. Because he was from the Yukon, Mr. Penikett explained that he was of the view that the modern treaties negotiated over the last thirty or forty years have been enormous nation-building features in Canada. He did not overlook the fact that they had been enormously painful and hard to achieve. Witness the BC situation, where the hugely expensive treaty process has produced next to no treaties. In his view, the treaty process will continue into the twenty-third century if governments do not make some policy changes very soon.

In best tradition of Canadian liberalism, Penikett stated, the treaty policy is totally committed to negotiations but not to settlements. What changed with *Haida* was that the Province could go directly into accommodation, bypassing treaties with accommodation agreements as a cheap and expedient alternative to treaties. These agreements allow companies to continue doing business without requiring governments to settle the governance and land question. Speaking from his experience in the North, he stated that it remains the case that more than half the self-government agreements negotiated remain in the Yukon Territory. And most of those agreements were concluded twenty years ago. This would all be vaguely depressing, except that a recent article had stated that coastal nations in British Columbia had used the accommodation agreements as building blocks toward self-government. The Haida Nation has rejected the BC treaty process, but it could now use this new section of the accommodation agreement—one devoted to governance—to set up its governance system. Impact benefit agreements allow First Nations to work outside the treaty box, which is totally restricted by federal and provincial policies. So we have a series of bottom-up solutions as an alternative to treaty negotiations.

In response to the papers presented, Mr. Penikett's answer would be: whether self-government agreements, accommodation agreements or impact benefit agreements, they are obviously easier to negotiate and achieve for a community that is clearly self-defined. Obviously, Métis identity is something internal to the community. The only thing he would suggest is that the more inclusive the definition, the more numerous and powerful the group will be. Finally, he would advise that the pattern of indigenous/settler is a recurring pattern of innovation and betrayal. We had the innovation of the Proclamation of 1763 and the next one was Section 35. It seemed to him that the challenge for policy makers and political leaders in Métis communities would be to have the innovations outpace the betrayals. That is what they could strive for.

John thanked the discussants for their comments and then opened up the discussion to the floor. The first question came from a member of the Métis Settlements of Alberta. The settlements had territories, so were an exception among Métis communities. But every one of the Métis settlement communities was different. Given this diversity among the Settlements alone, how were the Métis ever to arrive at a common definition for all of them? She thought it sufficed to say that they know what and who they are *not* rather than what they are. A lot of her community, for example, has a largely Cree background. But elsewhere it would be different.

The next person to speak identified himself as a half-breed from Saskatchewan—they had never used the term Métis to describe themselves where he came from in the Green Lake and Meadow Lake area. He found it exasperating to come to meetings and have the discussion revolve around, “Who are you? What are you?” It seemed peculiar to the Métis and it raised certain problems. For example, is a person that does not self-identify as a Métis, no longer a Métis? No one asks this about other ethnic groups. The focus on who and what the Métis are obscures a whole other set of issues that have to be addressed and at some point in time. For example, according to Statistics Canada, 60 percent of those identifying as Métis live in the city. Métis communities in an urban environment are very different from small rural Métis communities. Important issues like this do not even get touched on where there is a preoccupation with identity.

The next speaker identified herself as Cree Métis from St. Paul Alberta, but married to a Coast Salish First Nations man and living in Vancouver. She was concerned about the future of her children as Métis. Her son, for example, had status—meaning that he wouldn't be able to be part of the Métis Nation. She asked whether the Métis were doing anything about dual citizenship to allow Métis children with status also to be bound into the Métis Nation.

Annette Chretien indicated that she understood this question and suggested that the worst thing Métis people could do would be close their borders. She was not sure that the dual citizenship issue would come up, although she was certain that the issue of the existence of other Métis nations outside Western Canada would come up. How that would play out from a government perspective remained to be seen. More generally, Annette stressed that she was not suggesting that the Métis do not know who they are. She thought they did. But she also thought that there are problematic exclusions of some Métis. Do all Métis have Aboriginal rights or not? These things keep being raised.

The next participant to speak identified herself as Métis. Her question was addressed to Gregg Dahl, whose paper urged Métis people to give up their claim to land in order to move toward the cash settlement. The problem she saw with this was raised in part by the paper on the duty to consult. If Métis were to give up any claim to their land, this would make it more difficult both to determine who they are as a community and to retain their claim that they should be consulted on the use of their traditional land. Land was critical to the Métis gaining their rights. As things stand, Métis are pushed to the background because they, unlike First Nations and the Inuit, have no land. So if they were to give that up to benefit from economic development programs, how would Métis people obtain benefits First Nations and Inuit now enjoy in the future—access to non-insured health benefits, for example. So she would not be amenable to giving up any land.

Session 4: Off-reserve Health, Social and Justice Issues

The final session of the day addressed the health, social and justice issues faced by Aboriginal people living off reserve. Ian Peach introduced the three presenters and their discussants. Annette Sikka of the University of Ottawa would address the issue of trafficking of Aboriginal women and girls in Canada. She would be followed by Thibault Martin of the Université du Québec en Outaouais, who would present his case for self-government of urban Aboriginal health institutions, and by Judy Gillespie of the UBC (Okanagan), presenting a policy framework for enhancing Aboriginal child welfare in off-reserve rural regions. Discussants would be Kiera Ladner of the University of Manitoba and Frances Abele of Carleton University.

"Addressing the Trafficking of Aboriginal Girls"

Anette Sikka, University of Ottawa

Anette Sikka began by indicating that her goal in the first place would be to discern what we mean when we talk about trafficking. There are legal definitions of trafficking, but they are very vague and can be interpreted in many different ways. Asking first why anti-trafficking laws were initially developed, Anette stated that trafficking occurs when someone is in dire economic circumstances such that someone else can induce them to perform labor they cannot refuse. In Canada, we understand trafficking in terms of what we see in the movies. We ask: are there criminal organizations behind trafficking? Are the people being trafficked meek and in need of rescue? In Canada, almost nobody fits this picture. Aboriginal women in particular don't fit this picture. In her view, however, a lot of trafficking according to settled legal definitions occurs in this context.

Anette then briefly described the method underlying her research. She noted that she had talked to everyone who would talk to her, asking whether there were third parties involved in getting them into trafficking. She ended up focusing on urban settings because that's where the trafficking seemed to be happening. Through both her interviews and a broad literature search on trafficking in the Prairie Provinces, her discovery was that the sexual exploitation of Aboriginal women and girls is occurring in numerous forms. Some of them are trafficking and some are not.

Aboriginal girls are recruited into the sex trade through a variety of means, including force and familial ties, but quite often the entry point is through involvement with drugs or other criminal

activity. The child welfare system has had particularly detrimental effects on Aboriginal children and youth as there are a disproportionate number of Aboriginal youth in care and they are removed from their homes at a higher rate than non-Aboriginal children. Many girls in care become “chronic runaways” given the inability of their care facilities to address their specific needs, and they are made extremely vulnerable to persons who seek to exploit them during these periods. Individuals lure girls into the sex trade by developing intimate relationships with them or by introducing them to drugs and facilitating their addiction. Girls are also introduced to the criminal justice system—often through charges made against them while in care facilities. While in holding facilities or in juvenile detention, girls have been recruited by girls already working in the sex trade.

Anette continued by noting that, although Aboriginal women are extremely over-represented in the sex-trade, they are not disproportionately organized into prostitution rings or circuits—as we typically think when we think of trafficking. She had heard instead stories of great sorrow about people being exploited and their sex sold by family members. Gang affiliation also made them vulnerable; they were in some cases traded and then forced into it. In many cases, physical force entered in only when the women attempted to leave. Other cases mentioned were just random older individuals who were preying on girls in ministry care.

Some of these cases fit the definition of trafficking as defined in the *Criminal Code of Canada*. While we usually do not characterize such activity as trafficking, Anette stressed that trafficking legislation was designed to discontinue exactly this kind of situation. As the push into the trafficking system, interviewees also cited the child welfare system and its inability adequately to care for them. Because kids aren't getting what they need, they run away—and the people they run into exploit them. This picture does not fit general sense of trafficking beginning with being kidnapped; it is just kids running into individuals. And these, too, are not normally regarded as victims.

Based on these superficial differences, some people would recommend reworking the image of trafficking victims in order to include a picture that would include Aboriginal women and girls in it. Anette, by contrast, would suggest the following: instead of trying to recreate the image of the victim, there should be a shift away from looking for victims or focusing on a victim profile at all. Policy makers should look for people meeting the legal definition. And they should also take on the child welfare agencies to initiate reform at the level where the trafficking of Aboriginal girls begins. Law enforcement, non-governmental organizations and prosecutors across Canada should discuss and clarify the elements required to classify an act as “trafficking” and identify the specific types of trafficking taking place against Aboriginal women and youth in their areas. Programming should also be created within the child welfare system to address the specific needs of sexually exploited youth. Lastly, law enforcement, prosecutors and members of the judiciary in the Prairie Provinces particularly should be trained on interacting with sexually exploited Aboriginal youth, including components on recognizing and addressing associated criminal activity in a way that does not further exacerbate the conditions that make youth vulnerable to trafficking.

“Impacts sur le développement des politiques publiques et santé des Autochtones en milieu urbain,”

Thibault Martin, Université du Québec en Outaouais

Thibault Martin delivered his presentation in French, joking that francophones take many more words to say what they need to than English-speaking ones, so he might have to rush. He would also be presenting on behalf of his co-author, Eric Diotte, who had been unable to make it to the conference.

The question his presentation would address is whether self-government can improve the health of Aboriginal people living in cities. It seems obvious to him that it could, but it was not obvious to everyone. In recommending self-government in the area of health, Thibault acknowledged that he was not speaking on behalf of Aboriginal people. Rather, he was speaking to people in government: to ones who may not realize that self-government is both efficient and is already occurring. At the University of Quebec in Gatineau, for example, Thibault taught people who work on program management for Aboriginal people. This is itself an indication that self-government already exists. He had also taught at the University of Winnipeg, in a city where they decided to create an urban reserve.

If self-government already exists, how might it support Aboriginal health in urban areas? Referring back to the 1995 federal policy, *Gathering Strength*, Thibault reminded of the policy’s statement that all Aboriginal peoples, including urban-dwelling ones, have an inherent right to self-government. In the area of health, urban Aboriginal people have to be treated on an equal basis with those living on reserves. Why, he asked, should their migration to the cities be treated as an end to their claim to self-government? And particularly if many go to cities to gain access to health care that is not available in their territory?

Thibault then pointed out the obstacles that Aboriginal people now face in gaining good health care in cities. The Western medical profession holds a monopoly on health care. Yet the Western approach can be alienating to Aboriginal people, who traditionally have seen health to arise as a harmony between spirit, body and community. Aboriginal people have a different perception about being overweight, for example. Whereas there is guilt about being overweight in the Western medical system, there is not this sense of guilt in Aboriginal communities. His sense was that over sixty percent of Aboriginals living in an urban setting are discouraged by the mainstream health care system. They do not want to abide by the treatments prescribed to them by Western doctors and would seek more culturally appropriate, holistic medical care.

There are cases of self-government in health care, although these are only in their infancy. Following the Royal Commission on Aboriginal peoples, certain interesting initiatives occurred. In Manitoba, for example, there was devolution of responsibility for health care to Aboriginal people. But projects to this point have typically been silo-ed ones and there has been limited coordination of programs. A lot of further work must be done to obtain genuine, integrated self-government in health for urban Aboriginal people. By self-government he stressed that he meant self-government in the full sense, something that goes beyond merely managing programs. Thibault could not prescribe a detailed solution in this setting, but he urged those working in

federal departments to examine the options for enhancing the autonomy of urban Aboriginal self-government over health.

A good precedent here would be programs attempting to help promote the French language outside Quebec. For francophone people outside Quebec, bilingualism is important to their sense of maintaining their identity and well-being. He would argue that the same rationale is at work for self-government in Aboriginal communities. In response, therefore, to the inevitable question of whether self-government would actually improve the health of Aboriginals, a sociologist would answer yes. We have to refer here to the larger issue of the role of culture and self-determination in helping promote health and well-being.

“Network governance: a policy framework for enhancing Aboriginal child welfare in off-reserve rural and remote contexts,”

Judy Gillespie, University of British Columbia (Okanagan)

Judy Gillespie was the final presenter of the day. She wished to acknowledge her co-author, Dennis Whitford, coordinator of the Aboriginal Interagency Committee of the Northwest Alberta Child and Family Services Authority. The paper she was about to present had been a result of a community/university partnership between the two authors and the institutions they represent. Their research was funded by the Social Sciences and Humanities Research Council of Canada. The site of the research was with the regional Aboriginal Interagency Committee (AIC) working in northwestern rural Alberta. It was a rural setting with a regional focus including various towns and municipalities. In existence for twenty years, the AIC worked to support strong community through a variety of programs and prevention strategies.

Judy began her presentation by making a distinction between child protection and child welfare. Child protection is a late intervention, seeking to protect a given child from negative outcomes. She had worked for some years in child protection. It worked in some cases, but created as many problems as was intended to prevent in many others. This experience had indicated to her that it is much more productive to focus on prevention and child welfare promotion rather than child protection.

Thinking of child welfare in a preventive way, her paper asked: what actors are entailed in the governance of child welfare? Families, communities, and governments are all important. But what are the relationship between governments and communities in particular in enhancing child welfare off-reserve? There has not yet been much research focusing on policy frameworks guiding relationships of government and community. This was the topic of the research, which focused on the AIC as a case study.

To this point, the results of suggested that community is the locus where child welfare promotion happens. She likened the difference between protection and child welfare promotion as the difference between being the ambulance driver at the bottom of the hill and the fence at the top of the hill. When child protection agencies intervene, they do so when they children are about to crash at the bottom. A focus on communities would help to ensure that better fences are built at the top of the hill. Communities are where prevention happens.

Judy would not get into everything the AIC does, but she did wish to tell about some of the lessons learned so far from the prevention strategies the group uses. To date, her research had been based on focus groups as well as semi-structured interviews with community members.

The policy framework she had seen emerging was one of “community networks.” The AIC network is inter-sectoral, including not only health authorities but child protection agencies, education and school boards, native counseling services and the Peace River municipal government. The police and a few faith-based community organizations are also involved. The network forms a community in the sense of sharing common goals, norms, and values and of working together to achieve these. The various organizations engage in activities to promote child welfare in the community without any one of the agencies owning the activity. They pool money and labour in supporting common events. Yet the community is also a network, in the sense of manifesting more loosely structured links between a diverse range of individuals and organizations to information, ideas and resources. The advantage networks bring is a very wide pool of resources and ideas.

Stressing that the results of the research were preliminary to this point, Judy pointed out a number of policy lessons for off-reserve Aboriginal child welfare promotion. There is in her view a need for formal structures through which such networks can plan and implement their activities. Such structures require meeting space and time, financial and administrative support, coordination and leadership. Interagency committees are very common but people do the work ‘off the side of their desks’ and no one has the time to focus on coordination. In the case of the AIC, Dennis Whitford has a position devoted to this. He is the central coordinator of the network and has full-time administrative support and a budget.

In conclusion, Judy would argue that a lot of research is required to find other ways and means of social promotion of the kind that will protect child welfare. The community network she was working with wished to know about best practices elsewhere. The final thing she was asked to stress was that this group saw its work to be very geographically situated within the particular region. Community networking is something that has to be grass-roots, done from the ground up, rather than a format imposed from without.

Discussion of Papers

The first discussant of the two papers was Kiera Ladner of the University of Manitoba. Kiera wished to address Anette’s paper, which she found to be a very interesting one. She had read it in an earlier version months ago and it had stuck with her since then. She had known prior to Anette’s paper that trafficking is a racialized phenomenon, but she had thought of it more as an immigrant phenomenon in Canada. Anette’s paper addressed it as a phenomenon that affects Aboriginal people. Kiera was curious to know whether politicians and policy-makers are also talking about white people as victims of trafficking, or if the term is entirely racialized. She also wished to know whether indigenous women are targeted as a group beyond Canada’s borders. And finally, she was curious about whether Anette had ever looked into trafficking of Aboriginal boys: are boys also trafficked or is gender discrimination involved here?

Turning to Thibault Martin's paper, Kiera cautioned against a potential tendency to interpret self-administration as self-government. From what she could tell, Thibault was advocating self-administration, but that was not what Aboriginal people were arguing for. She also thought that Thibault should look at a broader understanding of institutional development as a factor. The National Aboriginal Health Organization, for example, has done a great job looking at the link between governance and community health and wellness.

Moving to Judy's paper, Kiera stressed that it is an area of much-needed work. In her view, more work should be done on the link between governance and community in every field, including that of child welfare. Yet there were a few things she would really caution on. Pan-Aboriginal frameworks or lenses appear throughout the study: the medicine wheel, for example. Yet the medicine wheel is not a pan-Aboriginal concept. She also cautioned on the use of some terms in the paper, referring to 'black people' or Asian people as 'Orientals,' for example. Since the work of Edward Said at the latest, such terminology was no longer acceptable in scholarly discourse. As a final note, she thought that the paper could become more coherent, with the first theoretical section linking more clearly into the third and fourth sections on the activities of the network.

Frances Abele was the second and final discussant of the papers. She stated that these are really important papers because they indicate how modern indigenous social factors are essential to realizing self-governance. She thought that the Martin/Diotte paper makes a very important step in helping link self-government institutions up to the policy field. Self-administration is not self-government, certainly, but it is a good start in the urban Aboriginal context. And self-government is a many-faceted initiative. She wished to leave Thibault with one question: had he thought much about the very practical question of funding and fiscal federalism and the need to have a coordinating body for urban self-governance in the health area?

Frances found the paper on trafficking a very arresting paper and one making a very important argument. One question she had was the role of communities in sustaining the exploitation: she sensed that a longer discussion could be had on this issue internally in Aboriginal communities. And externally she wondered: how, specifically, should the justice system be reformed in legal and policy terms? Answering these questions would take Anette one step beyond the analysis in the paper, but Frances thought the step should be taken in order to lead to some practical results.

On Judy's paper on child welfare, Frances confessed to being startled that Judy had not presented the theoretical aspects of the paper. In her view, the practical aspect describing Peace River and the innovations occurring there was the best part in any case. She thought that the region was very fortunate to have such a network in operation there. Her main issue was similar to the one Kiera had. Specifically, there were some clichés in the paper that had surprised her. She found it startling that the group Judy had been working with holds these views about the difference between their approach and that of the dominant society. The clichés serve to reify stereotypes and homogenize Aboriginal people. It is not true, for example, that non-Aboriginal people are not spiritual and Aboriginal people are not cerebral. In her view, there was a gap between the analytical tool that the Peace River network used to in its work and what Judy and Dennis actually found in place in practice.

The discussion then moved to some questions from the floor. One participant stated that he had been working in the area of social promotion for thirty years, and could affirm Judy's work and what has been called community development. Unfortunately its fortunes seem to rise and fall. In the cauldron of social policy, community development never seems to get sustained support and is often called too nebulous. He wondered if the Peace River network incorporated cultural practices into its work. The round dance, for example, is both a health dance and culturally a marvelously rich event. Or giveaway dances: such dances build community and they are there to teach by spirit. Beyond that, he wondered what indicators of social development or community development they were using to see what was being achieved over time. The same observation about community development could be observed of the trafficking paper. Trafficking as Anette described it marked a failure not only on the part of governments and families but on the part of communities too. Especially in urban centres: the communities are failing these women.

Judy Gillespie responded by thanking those who had discussed her paper. She noted that it had been a challenge to present the first results of the work in the time that she had been given, so that she still had some work to do on the theoretical or analytical framework. One thing she should have said, though, was that the work was truly grounded in Aboriginal culture and traditions and it was guided by the Elders in that area. There had been some challenges due to the diversity among the Aboriginal participants: there are Métis people involved as well as Dene, Cree, and Beaver. Some non-Aboriginal people are also part of this community, so they play a part as well. But, yes, the network's activities are grounded very much in Aboriginal cultural traditions in that diverse framework.

Brian Calliou of the Banff Centre thanked the presenters for their excellent papers. He then commented on what seemed a common thread running through them. What was clear was that the non-reserve Aboriginal communities cannot improve the socio-economic well-being of their members on their own—even with full self-government. He didn't think that First Nations communities could do this without help either. Brian wished to raise the following idea: if we are self-governing, we are also interdependent. We don't cut strings, burn bridges and say, "I'm self-governing." Communities that are truly self-governing build links, build bridges. Governments and agencies should be actively involved in building those bridges in a partnership involving dialogue. He suggested interdependence, dialogue and a partnership approach as three concepts to think about.

The next participant shared Brian's understanding of self-government and also stressed that dialogue and bridge-building must involve a use of common language. In her view, it is very important that the partners, which are culturally usually diverse, use the same language with the same meaning in speaking of these issues.

Thibault Martin responded with a quick answer both to this concern and to the one that Kiera Ladner had raised earlier. Referring to self-government in health, he had meant self-government in the full sense and not simply self-administration. Real and genuine self-government is possible along the lines of the self-government in education that the French-speaking minority outside

Quebec had gained. There is money for bilingualism. Urban self-government in his view should be funded as a national project, just as bilingualism has been.

The final comment of the session was directed at Anette Sikka. The first part of her discussion had focused on girls running away into exploitative relationships that are not already dealt with under the criminal code. Given this, would her policy recommendation push for including a new definition of trafficking under the criminal code that would include such relationships? He hoped not, because this would imply a sense that the criminal justice system is the best venue to deal with the participants in those scenarios. There is a whole host of issues and problems that arise when you define some of these relationships as criminal acts. The issues might be served better by other community organizations. His question to Anette was: did she feel that the criminal justice system is the most appropriate venue for addressing this problem?

Anette stressed that she did not believe that the criminal justice system was the appropriate point of reform. What she had indicated was only that there are some legal definitions in place to allow us to talk about this as trafficking and that these could be used. On the whole, though, the criminal justice system has contributed to creating the conditions that allow such trafficking to take place. What struck her in particular was the number of first-time offenders who are actually in group homes; that was where the exploitation actually happens. So Anette wholeheartedly agreed with his point that the criminal justice system alone would not be able to address it.

Conclusion

At the conclusion of the day's sessions, John Graham thanked both the audience and the presenters and discussants for having contributed the day's success. Allan MacDonald, Director General at the OFI also thanked those who attended as well as those at the IOG and the OFI who had helped put the colloquium together. He hoped that this event would solidify the network that the OFI was trying to create between academics and federal bureaucrats. On its own, neither group had the full solutions. Working together, however, they might be able to move the agenda further ahead.

Following the colloquium, a networking event hosted by the Institute On Governance occurred in the same room. It was accompanied by Métis fiddle virtuoso, Sierra Noble, and Métis jigging.

Appendix: Biographies

Presenters

Carrie Bourassa is an Assistant Professor of Indigenous Health Studies at the First Nations University of Canada. Carrie completed her Ph.D. (Social Studies) in January 2008. Her dissertation is entitled *Destruction of the Métis Nation: Health Consequences*. Carrie's research interests include the impacts of colonization on the health of First Nations and Métis people; creating culturally competent care in health service delivery; Aboriginal community-based health research methodology; Aboriginal end of life care and Aboriginal women's health. Carrie is Métis and belongs to the Riel Métis Council of Regina Inc. She resides in Regina with her husband, Chad and her daughter, Victoria.

Annette Chrétien is a Métis woman from Northern Ontario with 15 years of experience doing fieldwork in Aboriginal communities. Her research specializes in Métis culture, identity and epistemology. Dr. Chrétien's knowledge of the environment and indigenous ways of knowing is further informed by her ongoing traditional practices of making maple syrup, hunting, fishing and trapping. She has served the Aboriginal community in various capacities ranging from local participation to international lobbying. She has recently completed a post-doctoral fellowship at Queen's University focused on Métis education.

Gregg Dahl is a senior policy analyst with the Office of the Federal Interlocutor for Métis and Non-status Indians in the Department of Indian Affairs and Northern Development. He has worked on Aboriginal policy issues in a variety of areas for Canada, Ontario and Nunavut for the past nine years. His academic background includes degrees in math, economics and philosophy. Gregg is a proud descendent of the Half-breeds of the Red River Settlement, where his ancestors began to settle in 1817.

Judy Gillespie has had over 11 years of direct practice in child welfare in northwestern Alberta. She has also worked in private practice as a child welfare consultant for the province of Alberta, developing training and engaging in research relevant to child welfare policy and planning. She is currently an assistant professor in the School of Social Work at the University of British Columbia's Okanagan campus where she teaches in the areas of family and child welfare policy and community development. Her research interests focus on the role of community in the governance of child welfare, practice issues in rural and remote community contexts, and university-community partnerships.

Thibault Martin détient un doctorat de l'Université Laval en sociologie (2001) pour lequel il a obtenu le *Prix d'Excellence de la Faculté des sciences sociales* (meilleure thèse de doctorat). Il est l'auteur de plusieurs ouvrages et articles sur les questions autochtones dont *De la banquise au congélateur : mondialisation et culture au Nunavik* (2003, UNESCO et Presses de l'Université Laval) pour lequel il a obtenu le *Prix du jeune sociologue* décerné tous les quatre ans par l'Association internationale des sociologues de langue française à l'auteur du meilleur premier ouvrage de sociologie. Il est aujourd'hui professeur de sociologie et Directeur du programme en étude du développement à l'Université du Québec en Outaouais.

Michael Mills is Métis and was born in Thompson, Manitoba. After completing a Masters in Economics at Queen's University in 1999, he moved to Ottawa, where he works as an economist and policy analyst with the Government of Canada. His work has focused on such areas as Aboriginal business development, Aboriginal economic development, fiscal relations and Aboriginal education. Outside of his direct work, he has a keen interest in Métis political economy, with a particular focus on the relationship of the individual to the community. Specifically, he is interested in the relationships between beliefs, experience and knowledge and their interplay with geography, social institutions and the distribution of information.

Bradford W. Morse is a Professor of Law at the University of Ottawa (since 1976). He has also worked as an Executive Director at the Native Legal Task Force of B.C., as a Research Director at the Aboriginal Justice Inquiry of Manitoba, and as Chief of Staff to Hon. Ronald A. Irwin, Minister of INAC. Dr. Morse has also been a legal advisor and negotiator for many First Nations and national and regional Aboriginal organizations; a consultant to various royal commissions, governments and Indigenous organisations in Canada, Australia and New Zealand; and a Chief Federal Negotiator on several land claims in Canada. His publications include over 100 books, articles, chapters and commission reports.

Brenda Murphy conducts studies involves understanding the impacts of various risk events and proposed projects on Canadian rural and peripheral communities, including nuclear waste, water contamination (Walkerton), tornadoes (Pine Lake, Alberta), and the 2003 electricity blackout. She has been the recipient of a Social Science and Humanities Standard Research Grant (focused on the nuclear waste issue) and has been invited to consult for the Nuclear Fuel Waste Management Organization on several occasions. She has conducted research in Aboriginal communities, has provided background research to the Assembly of First Nations, and has recently been involved in a case study of a Métis community in British Columbia. She is fluent in English and French. She is currently an associate professor of geography and contemporary studies at Wilfrid Laurier University.

Ian Peach is currently seconded to the Office of the Federal Interlocutor for Métis and Non-Status Indians as a Special Advisor. He has been with the Government of Saskatchewan for fourteen years. Prior to coming to Ottawa, he was the Director of the Saskatchewan Institute of Public Policy, where he had previously been the 2003-04 Government of Saskatchewan Senior Policy Fellow and, later, the Research Director. In his nearly 20 years of public service, Mr. Peach has been involved in numerous intergovernmental negotiations and policy development processes on a broad range of issues. Born in Halifax, N.S., Mr. Peach holds a Bachelor of Arts from Dalhousie University and a Bachelor of Laws from Queen's University. He is currently completing a Master of Laws degree at Queen's.

Anette Sikka is a member of the Ontario Bar and a doctoral candidate at the University of Ottawa's Faculty of Law. She is currently researching the topic of trafficking and forced labour in Canada, including the trafficking of Aboriginal women and girls. Prior to her PhD studies she spent four years with the United Nations in Bosnia and Kosovo as a legal and human rights officer working to combat human trafficking and other gender-based violence in the region.

Julie Tomiak completed her MA at the Free University in Berlin and is now a PhD candidate in Canadian Studies with a specialization in Political Economy, at Carleton University. Her research interests include urban indigeneity, decolonization, and the interrelationships of space, scale, difference, and identity. In her dissertation research, she examines issues in Aboriginal self-governance in Ottawa and Winnipeg, with a particular focus on the role of Aboriginal organizations and service providers in transforming Indigenous-state relations.

Discussants

Frances Abele teaches in the School of Public Policy and Administration at Carleton University. She has worked with Indigenous communities all over Canada, having started out in the Mackenzie Valley in the early 1980s.

Chris Andersen is Métis, from northern Saskatchewan and is an Associate Professor at the University of Alberta, Faculty of Native Studies. He completed his PhD in sociology at the University of Alberta. His major research interests relate to the (il)logics of race in the construction of Métis in various kinds of government administrative categories, namely, legal and the census. He also does research relating to the production of distinctive urban Aboriginal identities.

Mike Evans (PhD McMaster 1996) is an Associate Professor and Head of the Community, Culture, and Global Studies – UBC Okanagan. His primary research relationships are with people in the Métis community in Northern BC, the Métis Nation of BC, the Urban Aboriginal Community of the Okanagan Valley, and the Kingdom of Tonga (in the South Pacific). Dr Evans has been involved in several community based research initiatives, and in particular has a long-term relationship with the Prince George Métis Elders Society. Together with Elders and community leaders in Prince George he put together a Métis Studies curriculum for UNBC and a number of publications including *What it is to be a Métis* (Evans et al 1999), *A Brief History, of the Short Life, of the Island Cache* (Evans et al 2004). He is currently working with the Elders Society and Stephen Foster and colleagues from UBC Okanagan on a participatory video project.

Joyce Green is a Professor of Political Science at the University of Regina. Her research interests are currently focused on Aboriginal-settler relations and the possibility of decolonization in Canada; and a transformative ecology of relationship with place, epitomized by many traditional Aboriginal conceptions of land and place. She is the author of several articles on post-colonial politics, self-determination, diversity, and citizenship. Most recently, she has been the editor of *Making Space for Indigenous Feminism* (Fernwood and Zed Books, 2008).

Kiera L. Ladner is an Associate Professor and Canada Research Chair in Indigenous Politics and Governance, Department of Political Studies, University of Manitoba. Dr. Ladner received her Ph.D. in Political Science from Carleton University in 2001. She is currently writing a book envisioning treaty constitutionalism (from Indigenous constitutions to the present day) and its implications for reconciliation and decolonization. Dr. Ladner is conducting community based research on constitutional reconciliation and decolonization which attempts to create deeper understanding both within communities and between Indigenous nations and colonial societies in

Canada and Hawai'i. Her research interests include: treaty constitutionalism, decolonization, constitutional politics, indigenous governance and sovereignty movements.

David Newhouse is Onondoga from the Six Nations of the Grand River community near Brantford, Ontario. He was recently appointed Principle for the newly created First Peoples House of Learning/Gzowski College. Professor Newhouse is an Associate Professor in the Department of Indigenous Studies and the Business Administration Program at Trent. He holds an undergraduate degree in Computer Science and a Master of Business Administration from the University of Western Ontario.

Tony Penikett provides facilitation, mediation and strategic analysis through his firm, Tony Penikett Negotiations Inc. He is also an Adjunct Professor at the Master of Public Policy Program at Simon Fraser University. Previously, Mr. Penikett has worked as Deputy Minister of Aboriginal and Public Sector Union Negotiations in the British Columbia Government and as Senior Aboriginal Policy Advisor and chief negotiator in the Government of Saskatchewan. His most recent writings include the book, *Reconciliation: First Nations Treaty Making in British Columbia*.

Evelyn Peters completed her B. A. (Honours) at the University of Winnipeg, and her Masters and Ph.D. in Geography at Queen's University in Kingston. Between 1990 and 1993, she held a post-doctoral Canada Research Fellowship. Upon completing her doctoral degree, she taught at Carleton University for one year, before taking up a tenure stream appointment at Queen's University. In 1994-5, she worked as policy analyst on urban Aboriginal issues with the Royal Commission on Aboriginal Peoples. In 2001, she moved to the Department of Geography, University of Saskatchewan, to take up a Canada Research Chair position. The focus of Dr. Peters' research has been First Nations and Métis people in cities.