

# INDIGENOUS PEOPLE IN ONTARIO: 201

A Municipal-  
Indigenous  
Relations Primer  
for Municipal  
Officials and  
Staff

Nov. 28, 2018

# BEFORE WE GET STARTED

This slide deck was developed by the Association of Municipalities of Ontario (AMO) with input from AMO's Indigenous Relations Task Force. AMO is a non-profit representing almost all of Ontario's 444 municipal governments. This slide deck is a 101, intended to provide municipal representatives with a high-level overview of Indigenous peoples and reconciliation in Ontario that speaks to the needs, interests and specific responsibilities of municipal governments in the Province.

This resource is limited and incomplete, with a complex subject matter that is rapidly evolving. It was created for municipal staff and elected officials by municipal representatives in light of a shortage of information designed specifically for Ontario's municipal governments. We encourage individual municipalities to supplement this deck with information and guidance from other sources, including from neighbouring Indigenous communities, local and provincial Indigenous organizations and other community champions in your area. Information and guidance is also available from the Federal and Ontario governments. In certain circumstances, it may be advisable to seek input from legal counsel. Content on Indigenous organizations was sourced from their respective websites.

# WEBINAR OBJECTIVE AND CONTENT

To give municipal officials and staff an overview on timely policy issues impacting municipal-Indigenous relations.

Topics include:

- Current Context for Action and Activities
- Municipal Responsibilities, Role and Interests
- Aboriginal and Treaty Rights
  - The Duty to Consult
  - Land Claims and Treaty Implementation
- Provincial, Federal and Other Resources

# **CURRENT CONTEXT FOR ACTION & ACTIVITIES**

# RECONCILIATION — WHAT IS IT?

- 'Reconciliation' is challenging to define. Processes of rebuilding nation-to-nation relations in accordance with Aboriginal and Treaty Rights and efforts to pursue reparations (e.g. amends + damages) for past wrongs are often referred to as reconciliation.
- *"The fundamental objective of modern law of aboriginal and treaty rights is the **reconciliation** of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions. The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding."*  
(Mikisew Cree, SCC, 2005 at para. 1)
- *Where do we want to be in 3 or 4 or 5 or 7 generations from now when we talk about the relationship between Aboriginal and non-Aboriginal people in this country? [...] **Reconciliation** will be about ensuring that everything that we do today is aimed at that high standard of restoring that balance to that relationship."*  
Senator Murray Sinclair, Chair of the Truth and Reconciliation Commission of Canada
- It involves working together based on mutual understanding and respect. It is not a one way street.

# RECONCILIATION — WHY NOW?

- Indigenous and non-Indigenous Canadians are increasingly calling on governments, corporations, non-governmental organizations, and other civil institutions to advance the objectives of reconciliation.
- Indigenous peoples are seeking justice, respect, self-determination, and a better life for their children and future generations. Environmental stewardship is a key priority for many groups.
- Colonization, and subsequent government policies/legislation, has resulted in a loss of political, economic, social and cultural autonomy, leading to pervasive and oppressive social and economic conditions within Indigenous communities.
- Today, Indigenous peoples are seeking to overcome these conditions by strengthening Indigenous nationhood, rebuilding healthy communities and reclaiming their Aboriginal and Treaty Rights.

# WHAT ARE THE DYNAMICS OF RECONCILIATION?

- Since the earliest days of settlement, Britain recognized that prior occupation accorded Indigenous peoples rights to the land. The 1763 Royal Proclamation affirmed these rights and named treaty-making as the legitimate process for the Crown to acquire lands from Indigenous peoples.
- The progress of European settlement after the close of the American Revolution in 1783, and more particularly after the end of the War of 1812, eroded the land base of Indigenous peoples and overwhelmed Indigenous populations. Over time Indigenous peoples were relocated onto reserves.
- In the pre-Confederation period that followed, British Crown policy was to assimilate Indigenous peoples into Euro-Canadian society through education, domestic and mechanical arts, and missionizing. The first residential schools in Canada opened in the 1840s under religious management.



# QUEEN ELIZABETH MEETING FIRST NATION LEADERS IN THUNDER BAY

Source: From  
the Toronto  
Star Archives,  
Toronto Public  
Library Digital  
Archives

Aboriginal and Treaty Rights are partially  
based in First Nations' enduring  
relationship to the Crown.



# WHAT ARE THE DYNAMICS OF RECONCILIATION?

- Policies of assimilation were codified in laws passed in the mid-nineteenth century, notably the *Gradual Civilization Act* of 1857, and, after Confederation, promoted by Canada for over a century through the *Indian Act* of 1876 and successor legislation.
- These policies were applied according to European norms and values of mid-nineteenth century Canadian society. They did great harm to Indigenous communities and led to residential schools, disenfranchisement and the banning of Indigenous cultural practices.
- The separation of families, underfunding, overcrowding and the abusive treatment of Indigenous children in the residential school system intensified the harms of this policy.

# WHAT ARE THE DYNAMICS OF RECONCILIATION?

- This history is evidenced in the hearings and findings of the Truth and Reconciliation Commission of Canada. The assimilation of Indigenous peoples has been described as cultural genocide.
- Constitutional recognition of Aboriginal and Treaty rights were codified in Section 35 of the *Constitution Act* in 1982.
- The Supreme Court of Canada has interpreted s. 35 of the *Constitution Act* as providing the legal basis for the reconciliation in Canada needed to resolve claims, address inequities, redress harms and rebuild nation-to-nation relations.
- The term “reconciliation” as employed by the Supreme Court of Canada implies the existence of two sets of interests – those stemming from s. 35 rights and those stemming from other societal rights and interests.

# AVENUES OF RECONCILIATION

- Decisions of Canadian courts — [\*Calder\*](#), 1973; [\*Sparrow\*](#), 1990; [\*Delgamuukw\*](#), 1997; [\*Powley\*](#), 2003; [\*Daniels\*](#), 2016; [\*Haida\*](#), 2004, etc.
- Federal government policy
  - Comprehensive claims (i.e. [\*In All Fairness\*](#), 1981)
  - Specific claims ([\*Outstanding Business\*](#), 1982; [\*Justice at last\*](#), 2007)
  - Unsold, Surrendered for Sale Reserve Land Claims
  - Self-Government ([\*Community Based Self-Government\*](#), 1986; The Inherent Right to Self-Government, 1995)
  - Land Agreements
  - Funding
- Provincial government policy
  - Claims Policy
  - Self-government policy (1989; 1993)
  - Service provision (i.e. [\*Indian Welfare Services Agreement\*](#), 1965; Policing Agreements; Aboriginal Health, 1992; [\*The Journey Together\*](#), 2017, etc.)
  - Natural Resources
  - Consultation
  - Funding



THE  
HONOURABLE  
FRANK  
CALDER,  
NISGA'A  
CHIEF AND  
FORMER BC  
MINISTER

Source: *The  
Canadian  
Press*, Chuck  
Mitchell

The Supreme Court of Canada's 1973 *Calder vs BC* ruling acknowledging the continued existence of Aboriginal title is named after Frank Calder.

# AVENUES OF RECONCILIATION

- Political organization and advocacy — S. 35 of the *Constitution Act*, 1982; Royal Commission on Aboriginal Peoples, 1992, etc.
- Academic papers — Indigenous studies
- Media Reports
- Public opinion and Social Movements —Idle No More, etc.
- International pressure — International Labour Organization Convention No. 107, 1957 and No. 169, 1989; United Nations Declaration of the Rights of Indigenous Peoples, 2007; etc.





## IDLE NO MORE PROTEST

Source: Picture taken in Ottawa by Justin Chin, "No Force More Powerful, the Idle No More Movement in Pictures." *Briarpatch*

# INDIGENOUS POLITICAL ORGANIZATIONS — ADVOCACY

- Indigenous peoples in Canada have and continue to advocate on a wide range of issues of importance to Indigenous communities, including environmental rights, poverty, missing and murdered Indigenous women, language and cultural rights, the overrepresentation of Indigenous peoples in the correctional and child welfare systems, and more.
- A “full box” approach to Indigenous rights is a common theme amongst Indigenous Political Organizations (IPOs) and Indigenous political leaders.
- The “full box” approach suggests that Indigenous peoples have the inherent right to determine their relationship to the Canadian state and to possess a territory sufficient to support the exercise of self-government rights.

# INDIGENOUS POLITICAL ORGANIZATIONS — ADVOCACY

- The UN Declaration on the Rights of Indigenous Peoples and the calls to action of the Truth and Reconciliation Commission support this “full box” interpretation of Indigenous rights.
- Indigenous political organizations buttress the “full box” interpretation with legal and historical arguments:
  - Self-government is necessary for the exercise of already acknowledged Indigenous rights.
  - The Two Row Wampum symbolizes the “full box” concept of Indigenous rights – two nations on parallel paths, neither interfering with the other’s internal affairs. It dates back to the early seventeenth century, and was allegedly adopted by the Crown in the mid-17th century and confirmed by the Treaty of Niagara in 1764.
- Indigenous political organizations sought constitutional clarification of the “full box” concept in the failed First Ministers Conferences on Aboriginal Affairs (1983-1987), the Meech Lake negotiations (1987) and the failed Charlottetown Accord (1992).
- Canadian courts have not addressed the “full box” concept.
- Federal Minister of Justice the Honourable Jody Wilson-Raybould has said section 35 “is a full box of rights to be filled up by First Nations, Metis and Inuit across the country.”



# WHAT HAVE THE FEDERAL AND ONTARIO GOVERNMENTS SAID?

The Federal and provincial governments have:

- Recognized and apologized for the harm caused by the denial of Indigenous autonomy, forced assimilation and a historical tendency to forget treaties and treaty rights.
- Committed to addressing the UN Declaration on the Rights of Indigenous Peoples and the Calls to Action of the Truth and Reconciliation Commission.
- Recognized the inherent right to self-government within Confederation and expressed a willingness to work on a tripartite basis to implement this right, including the consideration of land bases.
- Demonstrated a willingness to negotiate the resolution of land claims, including the provision of land and access to resources as elements of compensation.
- Expressed a willingness to consult on matters that may affect Indigenous rights and interests.

Federal and provincial governments have also expressed concerns about:

- The application of the *Canadian Charter of Rights and Freedoms*
- Regulatory continuity and compatibility
- Continued availability of natural resources for the public good
- Financial expenditures and accountability
- Public support



# RECENT PROVINCIAL DEVELOPMENTS

- In 2016, the Province of Ontario under the previous government released “A Journey Together: Ontario’s Commitment to Reconciliation with Indigenous Peoples” in response to the findings of the Truth and Reconciliation Commission. Key commitments include:
  - \$250 million to implement the strategy
  - A focus on understanding the impacts of residential schools
  - Closing gaps and removing barriers
  - Creating a culturally-relevant and responsive justice system
  - Supporting Indigenous cultural revitalization; and
  - Reconciling relationships with Indigenous peoples
- Ontario has also released:
  - An Ontario Indigenous Children and Youth Strategy
  - “Walking Together: Ontario’s Long Term Strategy to End Violence Against Indigenous Women”
  - Ontario’s First Nations Health Action Plan; and
  - An Urban Indigenous Action Plan
- A Political Accord was signed by the Ontario Government and the Chiefs of Ontario in 2015.
- An Ontario-Métis Nation of Ontario Framework Agreement was signed in 2008 and renewed in 2014. An Ontario-Canada-MNO Framework Agreement for Advancing Reconciliation was also signed in 2017. Ontario recognizes that some Métis communities have harvesting rights.
- Following the 2018 General Election, the Ministry of Indigenous Relations and Reconciliation is now the standalone Ministry of Indigenous Affairs. It shares a Minister with the Ministry of Energy and the Ministry of Northern Development.

# RECENT FEDERAL DEVELOPMENTS

- In August 2017, the Federal Government announced the gradual dissolution of Indigenous and Northern Affairs Canada and its replacement by both the Department of Indigenous Services Canada and the Department of Crown-Indigenous Relations and Northern Affairs Canada.
- The Department of Indigenous Services Canada was officially created in December 2017. At the time of writing, Indigenous and Northern Affairs Canada remains operational and has yet to be replaced by its second successor department.
- On February 14<sup>th</sup>, 2018, the Federal Government announced its intention to create a new Recognition and Implementation of Rights Framework.
  - Consultation activities began in early 2018.
  - The Framework is to be released sometime in late 2018, with implementation to start in 2019.

# **MUNICIPAL RESPONSIBILITIES, ROLE AND INTERESTS**

# MUNICIPAL RESPONSIBILITIES, ROLE AND INTERESTS

## Planning

- Under the *Provincial Policy Statement*, 2014, which outlines Ontario's policies with respect to land use planning, municipal governments are "encouraged to coordinate planning matters with Aboriginal communities."
- The document also requires planning authorities to "consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources," and requires that the Provincial Policy Statement be locally "implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and Treaty rights in Section 35 of the *Constitution Act*, 1982."

# MUNICIPAL RESPONSIBILITIES, ROLE AND INTERESTS

## Serving Indigenous residents

- Further to provincial requirements, municipal governments also have an interest in promoting reconciliation due to the prevalence of Indigenous residents within their jurisdiction.
  - More than 85% of Ontario's Indigenous peoples live off-reserve and in urban or rural centres.
  - Some municipalities are increasingly becoming home to large concentrations of Indigenous peoples.
  - Other municipalities serve as hub regions to which Indigenous peoples from nearby communities travel to obtain services.
- Indigenous residents give rise to issues such as the cultural appropriateness of services, cost-sharing and in some cases heightened racial tensions in a community. Indigenous peoples are disproportionately represented in social service provision and correctional facilities.
- Municipal residents of Indigenous heritage contribute to economic development and local cultural vitality.
- Indigenous ownership of land within municipalities can give rise to issues of governance, land use and taxation.

# MUNICIPAL RESPONSIBILITIES, ROLE AND INTERESTS

## **Municipal Relations with neighbouring Indigenous governments**

- Many Ontario municipal governments are located in proximity to First Nation communities.
- Municipal governments and First Nations can work together on areas of mutual interest, to address common concerns and to better serve Indigenous residents living within municipal boundaries or those who travel to municipalities to obtain services, education, and work.
- There are at least 81 Indigenous-Municipal agreements in Ontario, excluding agreements between municipalities and the Crown related to service provision on First Nations' territories. These agreements can be classified as service agreements, relationship-building agreements, decolonization agreements, or capacity-building agreements (Alcantara and Nelles, 2016).
- Indigenous land claims may also impact municipal interests and municipal business may trigger the (provincial and federal) Crown's duty to consult.
- Municipal leaders and staff can participate in and be part of reconciliation activities.

# THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION FOR MUNICIPAL GOVERNMENTS

- The Truth and Reconciliation Commission of Canada (TRC) was created in 2008 to explore the impact of the Residential School System on Canada's Indigenous peoples.
- In 2015, the TRC issued 94 Calls to Action to "redress the legacy of residential schools and advance the process of Canadian reconciliation."
- Of these 94 calls to action, 5 specifically refer to municipal government.





TRC CLOSING  
CEREMONIES  
AT RIDEAU  
HALL IN  
OTTAWA

Source: Photos  
by Shari  
Narine,  
published on  
*AMMSA.com*

## THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION FOR MUNICIPAL GOVERNMENTS

# 43. "We call upon federal, provincial, territorial and municipal governments to fully adopt and implement the UNDRIP as the framework for reconciliation."

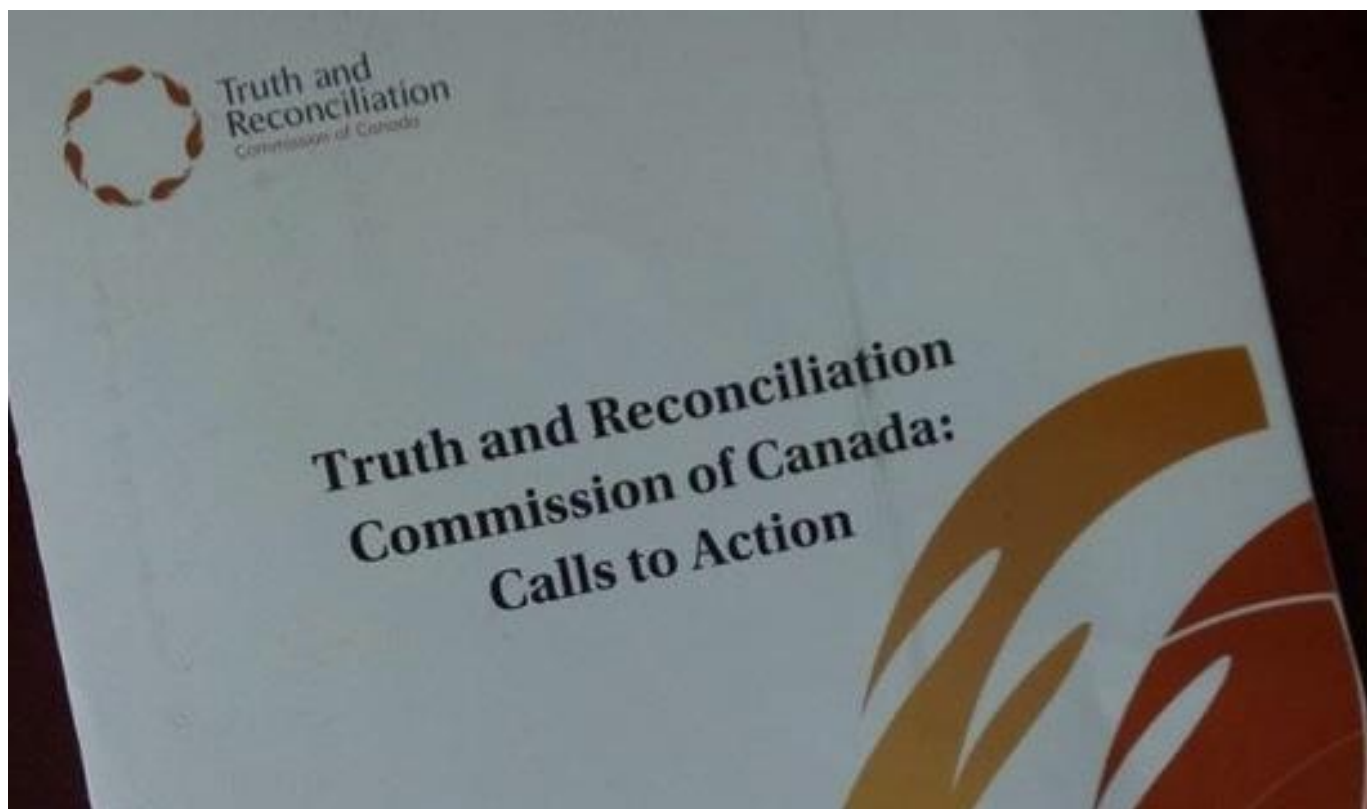
# 47. "We call upon federal, provincial, territorial and municipal governments to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands, such as the Doctrine of Discovery and terra nullius, and to reform those laws, government policies and litigation strategies that continue to rely on such concepts."

# 57. "We call upon federal, provincial, territorial and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the UNDRIP, treaties and aboriginal rights, Indigenous law and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism."

## THE TRUTH AND RECONCILIATION COMMISSION'S CALLS TO ACTION FOR MUNICIPAL GOVERNMENTS

#75. "We call upon the federal government to work with provincial, territorial, and municipal governments, churches, Aboriginal communities, former residential schools students, and current landowners to develop and implement strategies and procedures for the ongoing identification, documentation, maintenance commemoration and protection of residential school cemeteries or other sites at which residential school children were buried. This is to include the provision of appropriate memorial ceremonies and commemorative markers to honour the deceased children."

#77. "We call upon provincial, territorial, municipal and community archives to work collaboratively with the National Centre for Truth and Reconciliation to identify and collect copies of all records relevant to the history and legacy of the residential school system, and to provide these to the National Centre for Truth and Reconciliation."



## THE TRC CALLS TO ACTION REPORT

# ABORIGINAL AND TREATY RIGHTS

# ABORIGINAL AND TREATY RIGHTS

- Aboriginal and Treaty rights are protected under Section 35 of the *Constitution Act, 1982*.
- Land claims arise from a perceived breach of Aboriginal or treaty rights.
- An “established” Aboriginal or treaty right is one that has been expressly recognized through treaties, the courts or by an Indigenous – provincial (or federal) agreement.
- An “asserted” Aboriginal or treaty right is a right claimed by an Indigenous community that is not explicitly recognized by existing treaties, court rulings, or agreements.

## **Aboriginal Rights:**

- Collective rights based on occupation and use of land, and on Aboriginal customs, practices and traditions.
- Aboriginal title to traditional lands can only be extinguished through a treaty with the Crown (1763 Royal Proclamation).

## **Treaty Rights:**

- Specific rights of Indigenous people as set out in treaties with the Crown.
- They usually involve reserves, annuities and continued hunting, fishing and harvesting rights.
- Some treaties provide for other matters, such as gifts (e.g. agricultural implements and fishing equipment).
- Given their differences, treaties should be reviewed in conjunction with the writings and oral narratives associated with their specific treaty negotiation process.



# FIRST NATIONS AND TREATIES MAP

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# S. 35 RIGHTS UNDER THE CONSTITUTION ACT

*“35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.(3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.”*

- Notably, **s. 35 does not identify “aboriginal and treaty rights.”** The court has urged the Crown and Indigenous peoples to negotiate these rights. Failing this, the task of defining these rights has fallen back to the Courts.
- A few key legal decisions and their implications:
  - [R. v. Sparrow](#) (1990) — Resource rights, the Court also ruled that Aboriginal rights are not absolute.
  - [R. v. Van der Peet](#) (1996) — Asserts that an activity must be integral to the distinctive culture of a group to be considered an Aboriginal Right. Also emphasizes the objective of reconciliation between the Crown and pre-existing Aboriginal societies.
  - [R. v. Delgamuukw](#) (1997) — Confirmed Aboriginal rights to land based on occupancy predating the British assertion of sovereignty.
  - [R. v. Powley](#) (2003) — Confirms the existence of Métis rights under s. 35 of the Constitution Act.
  - [R. v. Haida](#) (2004) — Describes the ‘Honour of the Crown’ and clarifies the Crown’s Duty to Consult.
  - [R. v. Daniels](#) (2016) — Establishes that non-status Indians and Métis peoples are ‘Indians’ or Aboriginal peoples for the purposes of the Constitution.
- Section 25 of the *Canadian Charter of Rights and Freedoms* also protects Aboriginal and Treaty Rights and any rights recognized under the Royal Proclamation of 1763 from derogation by other rights set out in the Charter.



# THE DUTY TO CONSULT SPECTRUM

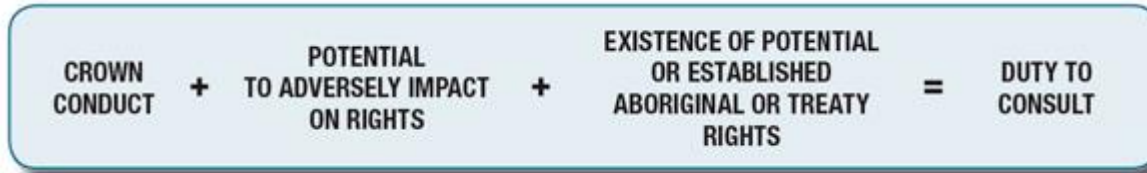


Figure 1

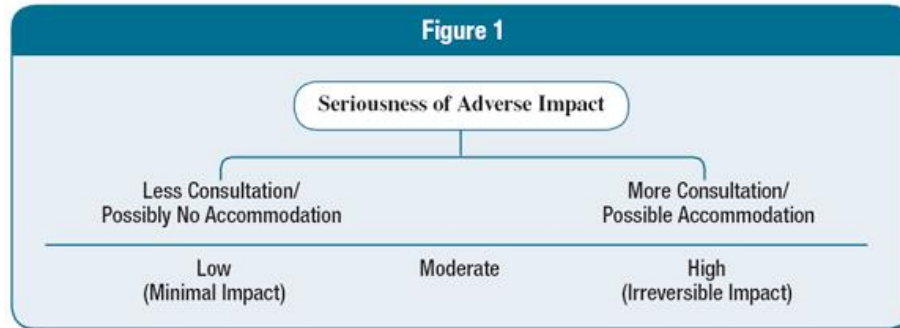


Figure 2

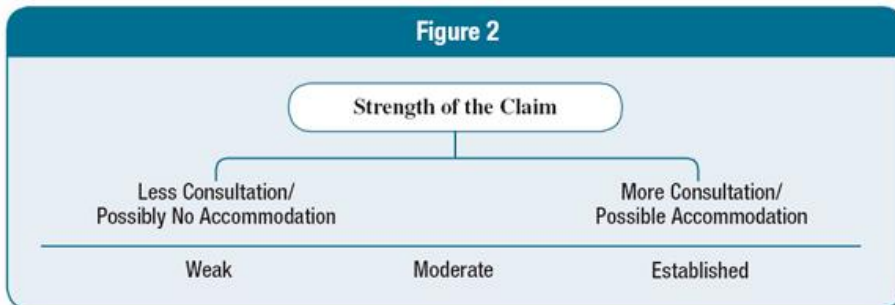
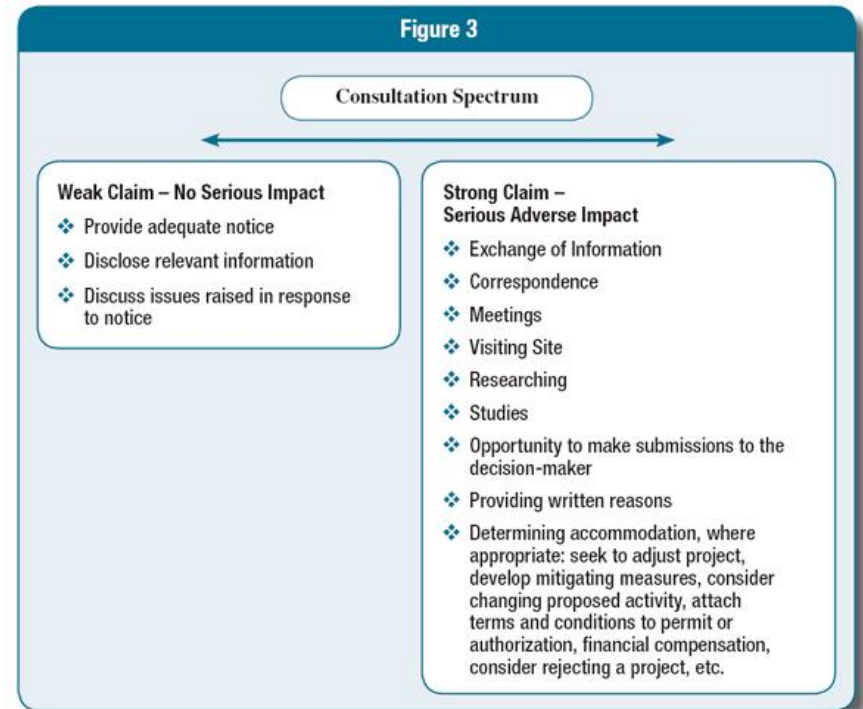


Figure 3



# DUTY TO CONSULT — DIFFERING VIEWS

- The Duty to Consult and the Duty to Accommodate are specific legal terms different from common municipal understandings of 'consultation,' 'engagement,' or 'notification.'
- These duties arise from the need for the 'honour of the Crown' to be maintained with regards to existing or asserted Aboriginal and Treaty rights.
- The legal responsibility for maintaining the 'honour of the Crown' and fulfilling the Duty to Consult with Indigenous peoples ultimately rests with the Crown (the federal and provincial governments). It cannot be delegated and must be met.
- This has been confirmed in multiple court decisions – *Haida*, 2004, [\*Neskonlith Indian Band vs Salmon Arm\*](#), 2012, etc.
- Municipal governments are not the Crown.
- A 2018 SCC decision distinguishes between the Crown (executive) and parliaments (legislative) when it comes to the Duty to Consult. The legislative branch of government is not bound by the Duty to Consult, only executive actions, including the implementation of legislation.

# DUTY TO CONSULT — DIFFERING VIEWS

- Although the honour of the Crown cannot be delegated, the federal and provincial Crowns have the authority to delegate procedural aspects of the Duty to Consult while remaining ultimately responsible for the duty's fulfillment.
- There is no higher-level Canada-wide legal decision or direction on an independent municipal duty to consult but it is recognized that municipal activity can trigger the Crown's duty in a way similar to private-sector proponents if these activities adversely impact known or asserted Aboriginal and Treaty rights.
  - The Supreme Court of British Columbia ruled in 2012 that BC municipal governments DO NOT have an independent duty to consult.
- Existing OMB decisions in Ontario confirm that the Province remains ultimately responsible for upholding the honour of the Crown with regards to Indigenous peoples in instances where municipal governments become involved in the Duty to Consult process.
  - Although proponents can refuse to accept delegated procedural aspects of the Crown's Duty to Consult ([Saugeen First Nation vs Ontario](#), 2017), it may be in their best interest to be involved and engaged throughout the process.

# DUTY TO CONSULT — DIFFERING VIEWS

- Despite the lack of a definitive legal framework, the previous Ontario government had a “view” that municipalities have an independent duty to consult “in some circumstances.”
- Discussions on these different perspectives were ongoing between AMO and the previous government. The recently elected provincial government has not publically commented on its position regarding the duty to consult.
- AMO’s advice to the province is that:
  - In instances where municipal business triggers the Crown’s Duty to Consult, the province should have an ongoing role to play in representing the Crown and supporting the municipal order of government.
  - Any provincial delegation of procedural aspects of the Duty to Consult to municipalities should be carefully approached and developed in consultation with municipal governments so that municipal strengths, limitations and capacity concerns are recognized.
  - Due to a municipal lack of knowledge, capacity and financial resources to fulfill the Duty to Consult and the Duty to Accommodate, it is not feasible for municipal governments to fulfill the duties in the same manner as the Crown. Municipal governments are not familiar with the Duty to Consult or procedural aspects of the Duty to Consult processes. They also lack access to information available to the Crown.
  - For this reason, municipal governments require Provincial leadership when it comes to the Duty to Consult, as well as guidance, resources and funding supports to enable the work to move forward. Provincial and Federal funding supports should also be provided to Indigenous communities to enable their participation.

# DUTY TO CONSULT – SPECIFIC RECOMMENDATIONS

The Crown in Right of Ontario should:

1. Clarify responsibility for the Duty to Consult and the Duty to Accommodate recognizing its constitutional Crown obligations and that municipal governments are not the Crown
2. Establish a practical process in consultation with the municipal order of government and rights-bearing Indigenous communities to address the Duty to Consult in instances in which municipal business triggers the Duty
3. Provide necessary funding, resources, guidance and supports in DTC proceedings that involve municipal governments
4. Promote Municipal-Indigenous relationship-building and local cooperation

# DUTY TO CONSULT — DIFFERING VIEWS

- Since 2012, AMO has requested that the Province develop a toolkit and provide resources to help municipal governments engage in consultations with Indigenous partners when municipal interests trigger the provincial Crown's Duty to Consult.
- In instances where municipal business triggers the Duty to Consult and municipal governments become involved in ensuing processes, it should be remembered that First Nations do not have a **veto power**. However, municipal governments must listen in good faith and meaningfully consider, and if appropriate respond to, Indigenous concerns and interests.
- On funding, the Ontario Divisional Court ruled in *Saugeen vs Ontario*, 2017, that "ultimately the decision on **funding** is the Crown's, as part of its design + implementation of a consultation process, and its decisions on funding issues will be reviewed on a standard of reasonableness."
  - Many municipal governments maintain that it is unreasonable for the province to download funding obligations onto a municipal government without the means to finance Indigenous participation in the consultation process.
- It needs to be emphasized that the lack of an independent municipal Duty to Consult should not be interpreted as suggesting that municipal governments have no role to play in reconciliation, nor does it preclude municipal governments from proactively engaging with their Indigenous neighbours on shared interests or common concerns.

*"A commitment to the [consultation] process does not require a duty to agree. But it does require good faith efforts to understand each other's concerns and move to address them."*  
— Haida 2004 Supreme Court Decision

# LAND CLAIMS AND TREATY IMPLEMENTATION

- Some aspects of land claim and treaty implementation negotiations between the Crown and rights-bearing Indigenous communities may impact municipal governments. For example:
  - Transfer of lands within a municipality to a FN;
  - Potential impacts on municipal revenues/the property tax base if lands are found to have Aboriginal Title (not common in Ontario);
  - Municipal land use planning jurisdiction, etc.

# LAND CLAIM AND TREATY IMPLEMENTATION

- The Algonquin Land Claim negotiations present a positive example of municipal inclusion:
  - A forum of municipal governments located in the land claim area was convened to provide advice and to share municipal perspectives.
  - The forum also served as an information-sharing vehicle for municipal governments to remain up to date about the negotiation's progress.
- Specific recommendation for the Ontario government:
  - AMO recommends that the Provincial Crown establish a similar procedure to involve impacted municipal governments in all land claim and treaty negotiation scenarios where these processes touch on areas of municipal jurisdiction.



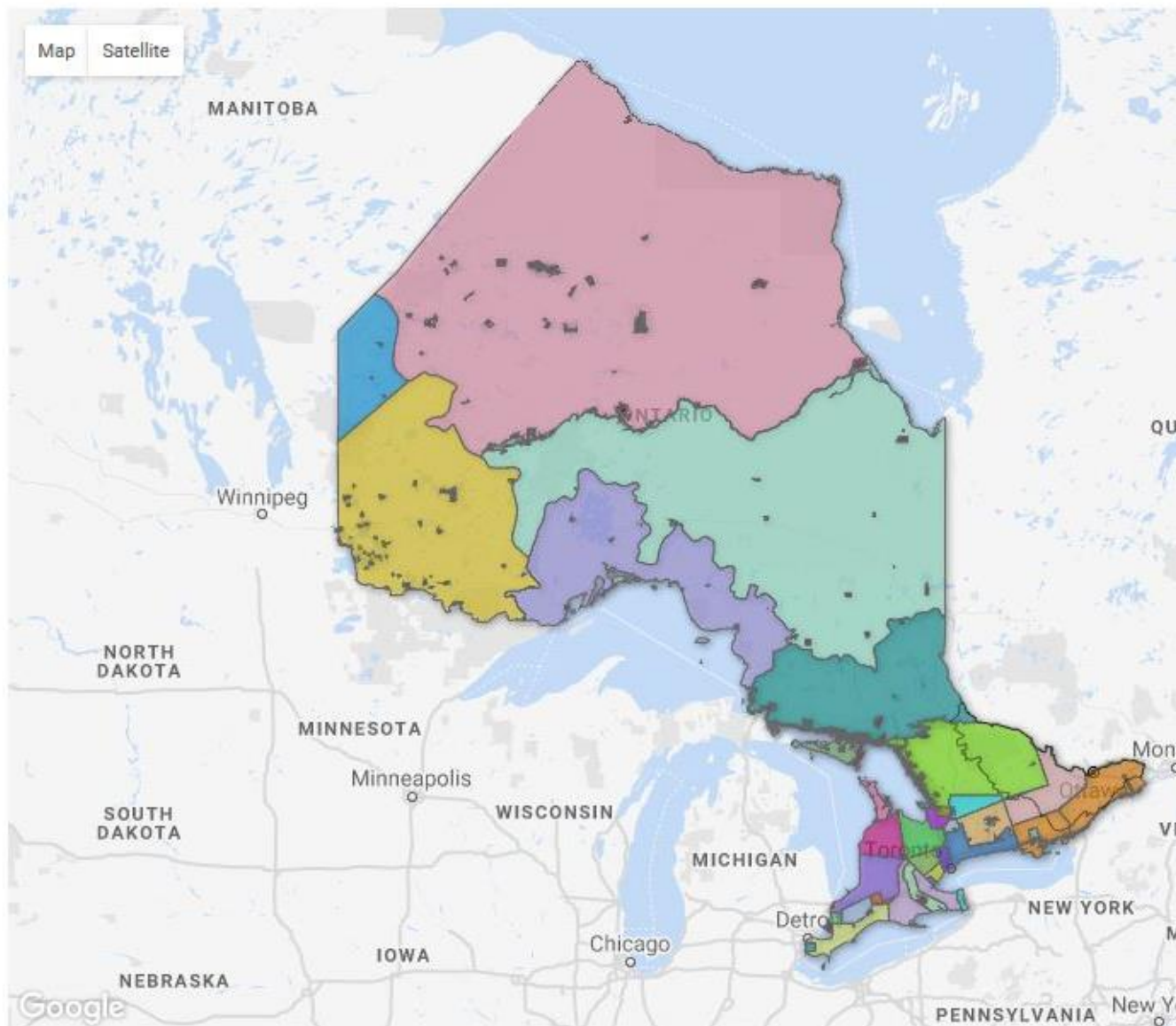
# PROVINCIAL/FEDERAL /OTHER RESOURCES

# PROVINCIAL RESOURCES

## Ontario

- On Treaties in Ontario:  
<https://www.ontario.ca/page/treaties>
- On the Province's response to reconciliation:  
<https://www.ontario.ca/page/journey-together-ontarios-commitment-reconciliation-indigenous-peoples>
- On the Duty to Consult: <https://www.ontario.ca/page/duty-consult-aboriginal-peoples-ontario>
- On land claims: <https://www.ontario.ca/page/about-land-claims>
- Municipal-aboriginal Relationships Case Studies:  
<http://www.mah.gov.on.ca/Page6054.aspx>
- Urban Indigenous Action Plan:  
<https://www.ontario.ca/page/urban-indigenous-action-plan>

Enter a city, address or complete postal code:



## NEW INTERACTIVE MAP OF ONTARIO TREATIES AND RESERVES

*Source:  
Government of  
Ontario*

*Link —  
<https://www.ontario.ca/page/map-ontario-treaties-and-reserves>*

# FEDERAL RESOURCES

## Canada

- On reconciliation: <https://www.aadnc-aandc.gc.ca/eng/1400782178444/1400782270488>
- The Aboriginal and Treaty Rights Information System (contains interactive maps of treaties and claims, information including Community Profiles, Treaties and Agreements, Court Cases and Claims): [http://sidait-atris.aadnc-aandc.gc.ca/atris\\_online/home-accueil.aspx](http://sidait-atris.aadnc-aandc.gc.ca/atris_online/home-accueil.aspx)
- The Consultation and Information Service: <https://www.aadnc-aandc.gc.ca/eng/1100100014686/1100100014687#sec2>

# OTHER RESOURCES

- The United Nations Declaration on the Rights of Indigenous Peoples:  
[http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)
- The Truth and Reconciliation Commission's Calls to Action:  
[http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls\\_to\\_Action\\_English2.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf)
- OFIFC's Indigenous Cultural Competency Training:  
<http://www.ofifc.org/indigenous-cultural-competency-training-icct>
- 21 Tips for Local Governments (Indigenous Corporate Training Inc): <https://www.ictinc.ca/free-ebooks?hsCtaTracking=87c5fddb-375b-4b9f-bde6-2e3316410907%7C1e50b5e1-2377-4d31-988b-897012bfe843>

