

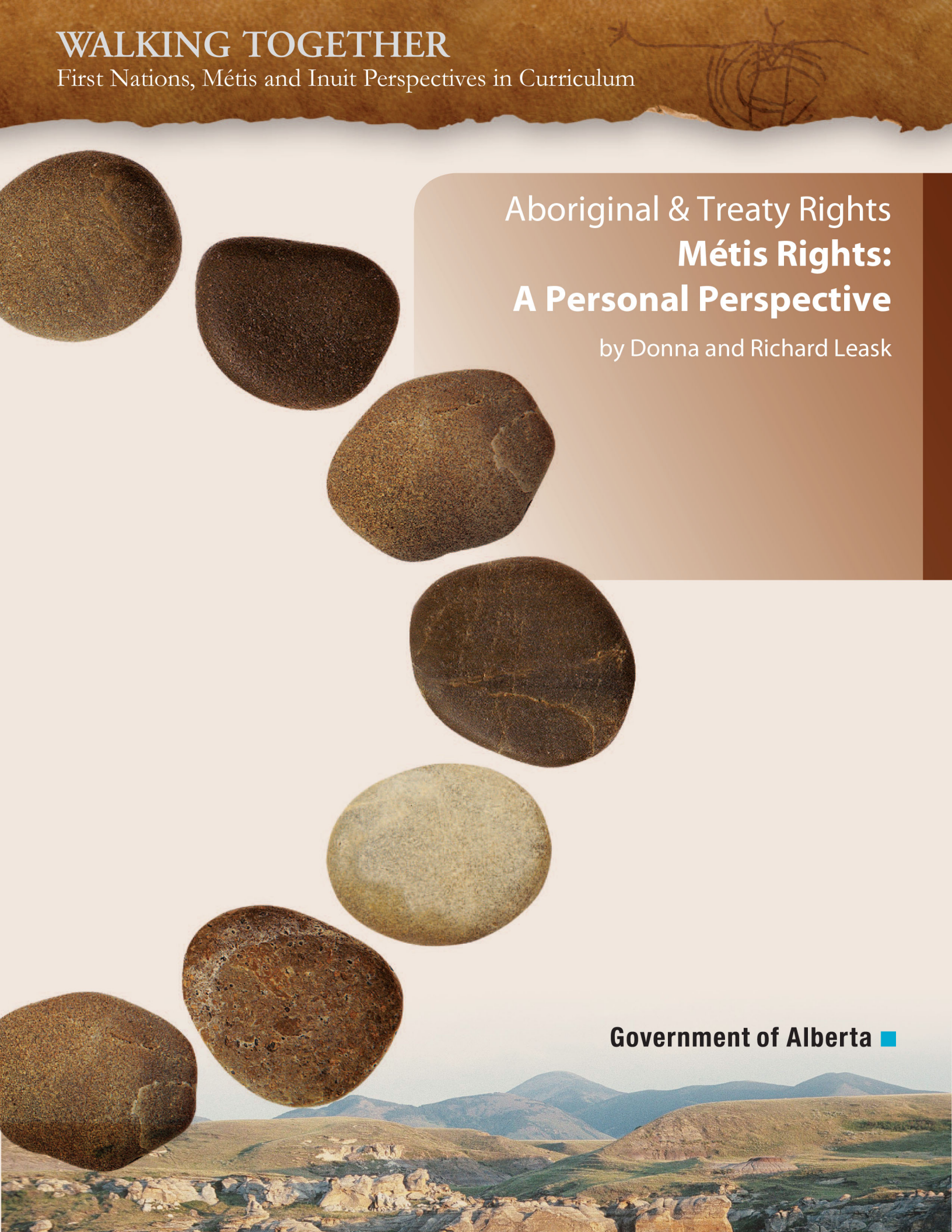
# WALKING TOGETHER

First Nations, Métis and Inuit Perspectives in Curriculum

## Aboriginal & Treaty Rights **Métis Rights:** **A Personal Perspective**

by Donna and Richard Leask

Government of Alberta ■





## **MÉTIS RIGHTS: A PERSONAL PERSPECTIVE**

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### **MÉTIS RIGHTS: A PERSONAL PERSPECTIVE**

#### **Question 1: Who are the Métis?**

We are the descendants of Indian women and European men.

We are also the descendants of Métis women and Métis men.

We not only self-identify as Métis, we have ancestral connections and community acceptance.

The national definition is *Métis means a person who self-identifies as Métis, is of historical Métis Nation Ancestry, is distinct from other Aboriginal peoples and is accepted by the Métis Nation.*

#### **Question 2: What is scrip?**

For the Métis, scrip played a pivotal role in Métis history in Western Canada, including Alberta.

Originally, scrip provided either a specified amount of land or money in exchange for title to Métis land rights identified in the Manitoba Act.

The application for scrip involved going before commissioners, filling out a form in English (which not all spoke), as well as swearing an oath regarding one's parentage, place of birth and place of residence and having two other people sign as witnesses. Not all were literate and able to read the documents.

The *Alberta Online Encyclopedia* notes that in the opening of the West to European newcomers, "the Government of Canada recognized that the Métis also had a claim to the Northwest and offered scrip instead of a treaty to anyone who claimed European and Aboriginal background. Scrip changed over time, but it was the promise of land or money to purchase land — if the person taking scrip wished the money for this purpose."

Many Métis people in Alberta contend that the scrip system was used to defraud starving Métis families of valuable land. In return, many who took land scrip were often forced to move away from their original land areas to others far away from their established communities. There are examples of a husband and wife taking land scrip of being "given" land far away from each other's land.

With the decline of the buffalo and the fur trade, many Métis were starving and money scrip was taken to feed families.



For many contemporary Métis, no discussion of Métis Aboriginal rights can occur until the issue of scrip and loss of traditional territory is acknowledged since a pillar of Métis identity and culture rests in their traditional relationship with and dependence on the land.

**Question 3: How did the formation of the Métis Association of Alberta, 1932, later changed to the Métis Nation of Alberta Association, impact Métis people?**

It gave the Métis a voice for bringing their issues and advocating on behalf of and meeting the needs and hopes for Métis people in Alberta.

It has evolved from a small organization focused more on community consultation, implementing special projects and reacting to Government policy to one that is a representative body and program and service provider as well as an active participant in policy making.

The MNA is directly involved in the Alberta/MNA Framework Agreement Process, the Federal/Provincial/MNA Tripartite Process Agreement process and the Government of Alberta's Aboriginal Policy Framework.

**Question 4: How did the Ewing Commission (1934-1936) impact the Métis in Alberta?**

This Commission was appointed as a direct result of the Métis Association of Alberta articulating their grievances and resolutions to the Province of Alberta.

It was to examine and report on Métis health, education, homelessness and land issues.

The Métis asked for land that they could not sell or mortgage, but land that would be their own and to which they would belong.

The Commission recommended that Alberta's Métis should have land set apart for them for farming colonies or settlements, homes and schools.

In recognizing that the Métis were the original inhabitants of the proposed land allotments, Métis collective rights were acknowledged as was the right of Settlement Métis to have precedence over non-Settlement Métis in harvesting the fruits of the land.

The Commission led directly to the Métis Betterment Act.

**Question 5: What is the importance of the Métis Betterment Act (1938)?**

This act identified the lands to be set aside for Métis Settlements: Peavine, Caslan, Cold Lake, East Prairie, Elizabeth, Fishing Lake, Gift Lake, Kikino, Paddle Prairie, Touchwood, Marlboro and Wolf Lake.



The vision was that the Métis and a minister for the Crown would jointly work to create programs to improve the lives of the Métis.

A framework for the creation of Settlement associations was enacted. Such associations would have the right and the power to set criteria for Settlement membership, constitutions, elections, board meetings and other aspects of managing the Settlements.

Changes in the Act reduced Métis decision making and management regarding rights.

Later changes led to first the formation of the Alberta Federation of Métis Settlements, and then to the Métis Settlements General Council.

Only in Alberta do Métis have a land base.

### **Question 6: What is the significance of the creation and later cancellation of the Interim Métis Harvesting Agreement, 2004?**

The Agreement constituted recognition of the Métis rights established in the Royal Proclamation (1763), the British North America Act (1867), the Constitution Act (1982) and the Supreme Court of Canada decision in *R. vs. Powley* (2003).

The cancellation of the Agreement in 2007 contradicted earlier recognition of these rights to hunt and fish, without cost or penalty year around.

The MNA launched a historic legal action against the Alberta Government for this cancellation, asserting that the termination of the Agreement was unconstitutional in that it undermines the ability of the Métis to continue their way of life, maintain their relationship to the land and pass on their customs and practices.

The MNA led protests against the charges leveled at Métis hunters and harvesters and made a commitment to financially support their Métis citizens who had been charged (2008).

The MNA lost its case in *R. vs. Hirsekorn* in December 2010. The MNA will appeal this decision.

### **Question 7: What is the Declaration of Métis and Indian Rights, 1979?**

It is a bill issued by the Native Council of Canada articulating Métis rights. It states:

We the Métis and non-Status Indians, descendants of the “Original People” of this country, declare

- that Métis Nationalism is Canadian Nationalism. We embody the true spirit of Canada and are the source of Canadian identity





- that we have the right to self-determination and shall continue in the tradition of Louis Riel, to express this right as equal partners in Confederation
- that all native people must be included in each step of the process leading to changes in the Constitution of Canada
- that we have the right to guarantee representation in all legislative assemblies
- that we have the inalienable right to the land and natural resources of that land
- that we have the right to determine how and when the land and resources are to be developed for the benefit of our people and in partnership with other Canadians for the benefit of Canada as a whole
  - that we have the right to preserve our identity and to flourish as a distinct people with a rich cultural heritage
  - that we have the right to educate our children in our native languages, customs, beliefs, music and other art forms
  - that we are a people with a right to special status in Confederation.

**Question 8: What are the Guiding Principles for the MNA?**

We believe in the National definition of Métis.

We believe in continuing to build our foundation for future generations.

We believe in fairness and respect for all people.

We believe in the need to work in unity and harmony.

We believe in Métis participation in building our nation.

We believe in encouraging and assisting Métis people to achieve their goals.

We believe in honesty, integrity and professionalism.

We believe we will achieve self-government.

We believe in our Métis rights as recognized and affirmed in Section 35 of the Constitution Act (1982).

**Question 9: Of what significance is the Constitution of Alberta Amendment Act, 1990?**

Métis Settlement land is protected from expropriation, seizure and sale under court order, writ of execution or any other process whether judicial or extra-judicial.

The Legislative Assembly cannot pass any bill that would amend or appeal the Métis Settlements Land Protection Act or dissolve the Métis Settlements General Council without the agreement of the Métis Settlements General Council.

A bill that would amend or repeal this Act may only be passed by the Legislative Assembly after a plebiscite of settlement members where a majority of members from each settlement vote in favour.



**Question 10: What are the existing rights according to the Constitution Act, 1982?**

Since Canada repatriated the Constitution Act (BNA Act 1867) in 1982, these rights are recognized in the supreme law of Canada as non-extinguished rights. This recognition gave credence to Aboriginal Peoples continuing to exercise their rights and have access to their traditional and ancestral territories occupied and inhabited with other Aboriginal Peoples from time immemorial.

The first milestone in the interpretation of the word “existing” in s. 35 (1) of the Constitution Act 1982 came in a Supreme Court of Canada ruling, *R. vs. Sparrow*, May 31, 1990.

In this instance, Judge Dickson C.J.C. found in reference to s. 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. (Canada Constitution Act, 1982) that “The term “existing” in s. 35 (1) of the Constitution Act, 1982, makes it clear that the aboriginal rights to which the section applies are those that were in existence when the Constitution Act, 1982, came into affect” (*R. vs. Sparrow* Supreme Court of Canada, Dickson C.J.C., May 31, 1990).

This now becomes the base of arguments between Aboriginal Peoples of Canada and Governments regarding what these rights are and who is responsible for them. Further disputes centre around which Aboriginal Peoples are entitled to these rights.

