

Métis Perspectives on Governance; a Self-Review of the Manitoba Métis
Federation's Governance Practices through the Lens of Harvesting Rights

By

Caterina A. Ferlaino

A Thesis submitted to the Faculty of Graduate Studies of

The University of Manitoba

In partial fulfillment of the requirements of the degree of

MASTER OF ARTS

Department of Native Studies

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Abstract

Good governance at the Métis national level requires grassroots leadership within local communities and that good governance also requires a results-based measures approach to demonstrate accountability and transparency. Specifically, the paper assessed the Manitoba Métis Federation's (MMF's) governance practices and how the MMF provided "good governance" to its membership on important issues that affect the Métis community in Manitoba. In doing so, this involved determining what "good governance" means for the Métis community and how this was interpreted by the Métis political leadership. Furthermore, good governance was assessed in terms of addressing the concerns of the Métis community, both at the grass roots level and at the institutional level. Finally, to examine how a specific policy issue is addressed within this governance framework, this thesis examined the relationship between good governance and harvesting rights, since the issue of harvesting rights is a major and current issue facing the Métis community in Manitoba.

Acknowledgements

From a young age, my parents instilled in me the importance of post-secondary education and the many opportunities that pursuing a University education would present for my future. In following their advice, I have been privileged to have had the opportunity to obtain a Bachelor of Arts Advanced in Political Studies and now a Master of Arts in Native Studies. To my parents Francesco and Richetta Ferlaino, thank you for guiding me on this wonderful path. Thank you for your endless encouragement, even when my stress levels were at the maximum. Mom, during these times, you always knew how to talk me through the stress and the many tears, and you always reinforced that my hard work and dedication would allow me to accomplish whatever I put my mind to. Thank you for always being there for me. Mom and Dad, from the bottom of my heart thank you for believing in me. Thank you for your understanding, and for always supporting me, in allowing me every possibility to follow my dreams. I love you both very much.

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In the course of my undergraduate work I was lucky enough to cross paths with many inspiring people who became my role models. These people guided me in the direction of pursuing a Master of Arts degree, always with encouragement and a tremendous amount of support. As a result of meeting these people, I am now completing this MA in Native Studies. It has truly

been a wonderful journey that has allowed me to grow and foster a profound sense of understanding and knowledge regarding an array of issues and concepts that continue to challenge us all as a peoples. I have had the opportunity to participate in a wide range of discourses and debates which has really opened my eyes to various perspectives shared by various people. I feel a great sense of accomplishment and self-confidence for having had the opportunity to take part in this and look forward to what is ahead of me. For this I am truly blessed.

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This experience has allowed me to contribute to social change in my area of study by expressing my interest in and raising awareness to key issues surrounding Métis governance and harvesting rights. Even if this work contributes in the slightest way to shedding light on Métis governance in Manitoba and the several challenges that the Métis Nation faces in their path of self-governance, it was all worth the while and I am proud to have had the opportunity to have made a contribution.

Let no one be discouraged by the belief there is nothing one man or woman can do against the enormous array of the world's ills- against misery and ignorance, injustice and violence...Few will have the greatness to bend history itself; but each of us can work to change a small portion of this generation...It is from the numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, these ripples build a current which can sweep down the mightiest walls of oppression and resistance.

~Robert Kennedy~

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Chapter 1: The Right to Harvest has never been Relinquished

Harvesting Rights is just one component of what the Métis Federation's Government stands for. Our constitution is very clear; we fight for the rights of our citizens and every spectrum or field that is affecting our citizens. We look at it from the context that harvesting rights happens to be one of the principles that we know we have never given up the right to, to any government. Our government and our nation have been maintaining its positions and principles of what degree of constitutionality our rights encompass, and that are intertwined with our own nation. So, that prospect of maintaining our direction, standing on the principle of fighting for the rights of our citizens means we protect our citizens no matter where they are.

Whether our citizens live in Churchill or live in St. Malo or in Turtle Mountain, their rights are equal and they have to be treated in that fashion. So we look at it from the concept that we are a minority in this country, and so we look at even within our nation that there are smaller communities that have clearly a minority status but their rights aren't lesser than the rights of the majority. For instance in the majority of the Métis population does live in Winnipeg, but their rights aren't greater than the smaller communities that live as far away as Churchill or Thompson or any of these smaller communities such as Wabowden or Duck Bay. In all of these communities that exist, all of our rights are maintained to be equally available to all of our citizens and we must stand steadfast to protect that...these rights stem from Nationhood.

*President of the Manitoba Métis Federation, David Chartrand
Personal Communication, 2008.*

1.1 Introduction

As David Chartrand, President of the Manitoba Métis Federation explains above, Métis harvesting rights represents one of the key issues that is vital to, not only the Métis traditional way of life but, as this research will conclude, must also be maintained as it is paramount to Métis identity and the Métis community as a nation. It is an issue that is very important and ongoing

for the Métis community in Manitoba and is a current governance challenge facing the Manitoba Métis Federation (MMF). For this reason, the issue of harvesting rights will be used as part of this governance analysis. Like all citizens who expect good governance from their government, the Métis community in Manitoba demands accountability from their political leadership, the Manitoba Métis Federation, in addressing and taking political action on the issues that concern its membership and the Métis Nation of Manitoba. It is the responsibility of the MMF to do so and to be held accountable and to be responsible for the actions it takes on behalf of the Métis community in Manitoba.

Since good governance is the central theme in this thesis, focusing on results, accountability, transparency, improved quality of services, efficiency and effectiveness, are all important elements or indicators in providing 'good governance' on harvesting rights as a policy issue. Determining the cultural appropriateness of these indicators is paramount in identifying the mechanisms the MMF uses in assessing its capacity to govern and in measuring its results and success in doing so. The issue of harvesting rights will be used as a case example to assess and evaluate the MMF's governance practices as well as the political action taken in addressing the concerns of the Métis Community. Furthermore, the way in which the MMF governs at a grass roots level and how this is translated at the institutional level will be examined, which will allow for the outcomes of political action to be measured accordingly.

Another major theme of this thesis research, and related to good governance, was to explore what has been coined 'performance measurement'. Performance measurement is an effective management tool and is an important element in public management and modern day administration. Performance measurement allows for the communication of priorities and the ability to assess progress and organizational capacity to align the efforts of an organization or government with its strategic goals. It also motivates employees or civil servants to perform better, it clarifies expectations, and it assesses the achievements of the organization on whether it is achieving its intended goals and objectives. Furthermore, performance measurement allows the ability to learn how to accomplish and reach goals and objectives more effectively than in the past (Kennedy School of Government, 2001, p. 2-6).

The interviews conducted for my research allowed for Métis perspectives to be explored but also gave specific insight into the world of Métis harvesting rights and what this means for the Métis Nation in Manitoba. These interviews also explored the issue from a political level which is a major component in the controversy over harvesting rights. It is for this very reason that I chose to ask questions to the participants in the interview process in a semi-structured format. This method allowed for free flowing discussion surrounding governance, good governance, performance measurement, and self-government as the interviewees defined and explained these concepts, related to harvesting rights, and provided and discussed their

personal experiences related to the topic, to conclude that there is a direct link between measuring performance and providing good governance.

1.2 Structure of Thesis

This proposed research has several components and includes: the historical evolution of the Métis Nation (including a brief political and legal overview); an analysis of Métis harvesting rights, an examination of the political action taken by the Manitoba Métis Federation on the issue of harvesting rights in Manitoba and an assessment of Métis governance to understand why the issue of harvesting rights remains a very important political issue for the Métis. Further, an analysis of performance measurement will take place to assess the MMF's governance practices on the issue of harvesting rights to identify how performance is being measured in relation to harvesting rights.

More specifically this includes examining the MMF's governance structure in identifying how the MMF's governance structure and governance practices reflect the values and principles of the Métis Nation in Manitoba; defining what "good governance" means to the Métis community in Manitoba; identifying how the MMF takes political action within local communities, as a requirement of good governance; and beginning to identify the ways in which the MMF provides accountability and transparency (as principles of good governance) and whether the MMF uses results-based performance measures as well as input, output and process measures to assess and evaluate its ability to govern and how it governs.

1.3 Methodology

This research has been conducted using three approaches; secondary analysis, legal analysis and, elite interviews. I conducted this research by using secondary analysis and reviewed and analyzed literature including historical information on the Métis of Canada, academic and institution literature produced on governance, Aboriginal governance, performance measurement, internal documents created by the Manitoba Métis Federation, and press releases by the Province of Manitoba.

A second component of this research involves an analysis of court cases related to harvesting rights and a legal analyses of the Supreme Court decision on R. v. Powley, as well as other historical and legal information that may be useful for this research topic, such as the Commission on the Métis Laws of the Hunt, the Métis Law Summary, the Powley Implementation Committee Report as well as other government of Manitoba documentation regarding the Métis harvesting issues, and MMF and Métis National Council documents regarding the issue of Métis harvesting rights.

I also conducted five elite interviews with individuals with knowledge regarding the issues presented in this research including Métis political leadership and senior administration from the Manitoba Métis Federation, as well as legal experts who have been involved with Métis harvesting rights. Interviews were framed accordingly to coincide with the respective themes of the proposed research. All of the interviews were conducted with people who have had direct involvement with harvesting rights in an extensive capacity.

Linda Tuhiwai-Smith states that Indigenous research “is a field which privileges indigenous concerns, indigenous practices and indigenous participation as researchers and researched” (1999, p. 107). This research was deliberately conducted in a participatory and collaborative way with and for the Métis community of Manitoba and has involved the Métis community throughout the research process. It addresses the concerns of the Métis community, and provides the space for the voices of the Métis community to share their perspectives. This research is situated within a theoretical and ideological framework that addresses the history, the struggles and the challenges that the Métis Nation has faced in light of colonization and the challenges the Métis Nation continues to face as they have moved towards self-government. This research also provides a basis for a thorough analysis of each of the concepts to be explored.

The process of this research is respectful of the people it concerns and has been conducted in accordance with the ethical and cultural protocols of the Métis community and the University of Manitoba. The terms and conditions of the proposed research have been negotiated with the parties involved throughout the process. This proposed research has been given the approval of the University of Manitoba Ethics Committee which involved an extensive application process. (Please see Appendix 2). The purpose of this research is to benefit the Métis Nation of Manitoba, the Manitoba Métis Federation and the University of Manitoba.

1.4 Stakeholders

The following institutions are considered stakeholders in this proposed research: The Métis Nation in Manitoba, the Manitoba Métis Federation, the Province of Manitoba, the Government of Canada, the University of Manitoba as well as other individuals who may be involved and or included in the research such as lawyers, historians, and academics, such as the Powley Implementation Committee, lawyers and historians who are involved in the harvesting issues, as well as the MMF.

This research is intended to be built on trust and long-term relationships with the Métis community in Manitoba and predicated on the importance of grass roots cultural, political and historical perspectives from within local Métis communities. The findings of this research highlight the social problems that are at the root of Aboriginal self-government, and the unique struggles that Aboriginal governments, in this case the Manitoba Métis Federation, face as they move toward self-determination and in the process of de-colonization. As the researcher, I took a critical approach in working with the Métis people who were interviewed in this research. I have created a space for issues surrounding social change to be discussed and have noted the knowledge and the mechanisms that need to be in place to create the necessary social transformation within mainstream society.

Chapter 2: Historical Perspectives on the Métis Nation

2.1 A Brief Historical, Political and Legal Overview of the Métis Nation

The Métis have been part of the political, social and legal fabric of what is now Canada since 1763, and the signing of the Royal Proclamation (Teillet, 2006, p. 10). The Métis Nation evolved as a group of Aboriginal people from the intermarriage between European men and Indian women as a result of the early fur trade (RCAP: Métis Perspectives, 1996, p. 1). The bringing together of European fur traders and Indian women through the birth of their children, and in the continued relations between both parties, created a new culture with mixed European and Indian ancestry. From these continued relations emerged a distinct people, with a unique culture, traditions, language and way of life (RCAP: Métis Perspectives, 1996, p. 1). The dissent of various Métis communities and their members play an important role in how the Métis identify themselves, however, due to the complexity surrounding the issue of identity, and the points of contention that arise as a result, the issue and debates on identity are beyond the scope of this research. For this reason, this research will analyze the Métis nation, and Métis identity as per the definition provided by the Royal Commission on Aboriginal Peoples, the Manitoba Métis Federation, and as defined by the Powley Case.

During the 1700s, Métis communities were established throughout the Red River Settlement and Great Lakes regions. Métis settlements were generally organized around a mixed economy by combining economic trade

and a subsistence-based way of life which was the basis of the fur trade (Madden, Graham & Wilson, 2005, p. 12). Since, economics played a major role in expansion of the fur trade and since the Métis were at the heart of the fur trade having played such a pivotal role, the Royal Commission on Aboriginal Peoples explains that:

The special qualities and skills of the Métis population made them indispensable members of Aboriginal/non-Aboriginal economic partnerships, and that association contributed to the shaping of their cultures. Using their knowledge of European and Aboriginal languages, their family connections and their wilderness skills, they helped to extend non-Aboriginal contacts deep into the North American interior. As interpreters, diplomats, guides, couriers, freighters, traders and suppliers, the early Métis people contributed massively to European penetration of North America (Métis Perspectives, 1996, p. 1).

Historically, a defining characteristic of the Métis is that they have been recognized for their ability to adapt to their surrounding environments in order to sustain themselves, their families, and the community at large. Although many Métis settlements were established at “fixed locations,” the fur trade required extensive travel and networking. This translated into “growing kinship connections between the fixed settlements” (Madden et al, 2005, p. 12). As Madden et al argue, the identity of the Métis evolved from “more than just a mixing or adaptation of two divergent cultures. Through a process known as ‘ethnogenesis’, a distinct Métis culture, language (Michif), dress, music and way of life emerged” (2005, p. 13). Thus, the Métis no longer saw themselves simply “as an extension of Indian or European communities, but as a distinct Aboriginal group who operated and asserted themselves as such” (Madden et al, 2005, p. 13). In the midst of the creation

and emergence of a new and distinct culture, the Métis began to consciously recognize themselves as a nation.

The Métis first began to identify and assert themselves as a nation from the period of 1812-1816 to protect their livelihood from the arrival of the Selkirk Settlers. As Joe Sawchuk argues, the rise of Métis consciousness as a nation (in a contemporary sense) is largely a response to the “political and economic pressures” (1978, p.10) that the Métis faced during this time. Jennifer Brown argues that, “it was in Manitoba that the Métis became conspicuous as a socio-political entity in Canadian history. By 1810, they had established roles as buffalo hunters and provisioners to the North West Company (NWC)” (1991, p. 139-140). The Métis of the Red River region, led by Cuthbert Grant actively protested the arrival of the Selkirk Settlers. The settlers were seen as a threat to the Métis because of their focus on agriculture which would disrupt the traditional way of life of the Métis who were dependent on the fur trade and the buffalo hunt for survival. The North West Company at this time was actively seeking to discourage settlement in the Red River area as they too were dependent on the work of the fur traders, primarily on the pemmican supplied by the Métis, to keep business going (Brown, 1991, p. 140). The interests of the Métis were very much in line with that of the North West Company and thus, they worked together to fight for their common interest (Teillet, 2004, p.10).

There was much conflict between the North West Company, who supported its “native-born employees and associates” (Brown, 1991, p. 140)

and the incoming Hudson's Bay Company (HBC) who supported the settlers and, in doing so, founded the colony of Assiniboia in 1811 (Brown, 1991, p. 140). The HBC's continuous encroachment on Métis territory was seen by the Métis and the North West Company as a "direct threat to their trade, livelihood and territorial interests" (Brown, 1991, p. 140). The relationship between the North West Company, also referred to as the Nor'Westers, and their "Métis associates" was becoming more and more complex and Métis Leader, Cuthbert Grant "pursued the ideal of the new Métis Nation" by cutting ties from the North West Company (Brown, 1991, p. 140).

In 1815, The Hudson's Bay Company signed a treaty with the Métis (Teillet, 2006, p. 10). The HBC's decision to support the Métis in this manner was largely due to the growing number of "Hudson's Bay Natives" and the extent to which HBC servants with Native wives lobbied for "the establishment of a community where they could retire and have lands, livelihoods, schools, churches, and other amenities" (Brown, 1991, p. 140). In further supporting the Métis, the HBC relocated many of these dependent families to settlements where they could become self-supporting, thus drastically reducing costs for the HBC (Brown, 1991, p. 140).

Although these events led the Settlers to leave the area and allowed the Métis to return to the buffalo hunt, the settlers returned later in the same year, with their new governor, Robert Semple, with the intentions of rebuilding the colony. This led to increased tensions between the Métis and the settlers. The Métis were very disgruntled by the settlers' actions and the

threat of their presence led to what is known as the Battle of Seven Oaks in 1816. The Métis were successful in killing virtually all of the settlers who attacked the Métis of Seven Oaks, including Governor Semple, and the colony was dissolved as a result (Teillet, 2006, p. 11). In proving their victory and in demonstrating their nationalism, the Métis Nation flag was raised, further enforcing the Métis Nation's powerful existence (Madden et al, 2005, p. 12). These events led to several attempts to arrest Grant for the actions of the Métis. Finally, Grant surrendered and was taken to Lower Canada where he was put on trial. The Grand Jury in Lower Canada released Grant as they found no reason to try him for murder and he returned to the Red River settlement. Grant was later tried by proxy in the Courts of Upper Canada and was, for the second time, cleared of any charges (Teillet, 2006, p. 11). In the meantime, the HBC and the NWC merged in 1821 (Brown, 1991, p. 141).

In 1830, the colonial government, which was the HBC Company in the Red River, sought to remove the Métis from the Red River settlement and in the mid 1840s, the government, along with mining and timber speculators who wanted control over the lands and the resources, tried again to remove the Métis from the area in and around Sault Ste. Marie. In 1848, this particular land was surveyed, and in 1849 discussion began to investigate the potential treaty negotiations with Aboriginal people and the Government of Upper Canada (Teillet, 2006, p. 11).

The colonial government in Upper Canada at the time was serious about signing a treaty with the Aboriginal peoples in the area; however, due to the status of the relationship between the Aboriginal peoples and the colonial government which was not premised on positive relations, the attempt to create a treaty had negative repercussions. In 1849, an armed force of Métis and Ojibway took over a mine at Mica Bay on Lake Superior without harming any of the miners. Colonial soldiers were sent to Sault St. Marie however, the two influential Métis leaders involved Pierrot Lesage and Charles Boyer, turned themselves in, were arrested, and sent to trial in Toronto. The charges were dropped on procedural grounds and in the meantime, the situation in Sault St. Marie was very tense as 2000 Red River Métis were rumored to be allying against the colonial soldiers. William Robinson was instructed to negotiate a treaty with the Aboriginal people in the area. The Métis in Sault St. Marie asked to sign a separate treaty but were denied. They then asked to have their lands protected in a separate clause in the treaty but Robinson denied the fact that he had the authority to deal with the Métis and thus they were not included as a separate and distinct people in the treaty (Teillet, 2006, p. 11-12).

The 1850 Robinson Treaties were followed by land speculation. The western move of the fur trade resulted in the Métis population being dispersed further west from the Upper Great Lakes. The Sault Ste Marie Métis community remained the central community in the Upper Great Lakes but diminished greatly in size (Teillet, 2006, p.11). At this time, the issue of

Métis harvesting was unfolding in the Red River settlement. In 1849, Guillaume Sayer, who was originally from the Métis community in Sault Ste Marie but who was living in the Red River, was charged along with two other Métis for illegal trading of furs. This was deemed illegal because it was in contradiction of the Hudson's Bay Company trading monopoly. Sayer was put on trial in the Red River settlement while Louis Riel Sr. and several Métis hunters surrounded the building in which the trial was taking place. Although Sayer was found guilty of illegally trading furs, no sentence was imposed. This resulted in breaking the HBC's trade monopoly and was a victory for the Métis (Teillet, 2006, p. 11).

In 1851, after a long fight between the Métis and Sioux over control of grazing lands and the buffalo, a battle took place at the Grand Couteau. The Métis were once again victorious in their pursuit against the Sioux. In 1869, Louis Riel was successful in establishing a provisional government which eventually worked to negotiate the terms of Manitoba's entry into Confederation. The negotiations between the Métis and the Canadian government led to the inclusion of the Métis in the Manitoba Act which came into force in 1870. However, this did not have the positive ramifications the Métis had hoped for. Instead of building a new relationship with the Métis, a "flawed system of land grants and a Scrip process intended to extinguish the Aboriginal land rights claimed by the Métis" was established (Teillet, 2006, p. 12) and from this point, several negative events unfolded.

Métis political rights under the provisional government were dominated by the interests of the powerful settlers from Ontario who were anti-Catholic, anti-French and racist towards the Métis. The continuation of this hatred towards the Métis and the interference by many eastern settlers in the activities of the Provisional Government and the Red River Settlement led to the execution of Thomas Scott, an “active and zealous Orangeman” (Library & Archives Canada, 2005, p. 1) who was heavily influenced by John Christian Schultz, leader of the Canadian party. Both Scott and Shultz held Riel and the Métis in contempt as they were actively interested in the future of the Red River Settlement. After having been captured by Riel’s army, Scott was successful in escaping but was later re-captured and sentenced to be executed by Riel’s Provisional Government for his defiant actions towards the Provisional Government (Library & Archives Canada, 2005, p. 1).

Following the execution of Thomas Scott on March 4, 1870, the Canadian government called for the exile of the Métis national leader, revolutionist, and founding father of Manitoba, Louis Riel. The racist undertakings by the settlers of Ontario continued as they drove many Métis from their lands. These “illegal seizures” of Métis land were allowed and the government did nothing to stop these events from occurring. Furthermore, the government deliberately delayed distributing 1.4 million acres of land that was promised to the Métis under the Manitoba Act (Teillet, 2006, p. 12). Many Métis were left with no land base and were forced to disperse to the northern and western parts of Canada and even to the United States. Many

Métis took up settlement in Fort Edmonton, St. Laurent, Batoche, and Duck Lake (Teillet, 2006, p. 12).

In 1875, the Métis of Rainy Lake and Rainy River were allowed by the government to adhere to Treaty Three as “half-breeds”, This action is known as the Half-Breed Adhesion to Treaty number three (Barkwell, 2005, p. 3). The Métis did not lose their status as Métis because they adhered to Treaty three in this manner. The adherence of the Métis to Treaty Three granted the Métis provisions to land as well as harvesting rights (Teillet, 2006, p. 12). Over a ten year span, immigration had increased to significant levels and led to the “encroachment of lands and resources, in particular the loss of the buffalo” (Teillet, 2006, p. 13) which caused problems for Métis and Aboriginal peoples in the highly populated areas. In an attempt to protect their livelihood and in times of economic struggle, the Métis and plains hunters joined together in alliance and battles took place in Batoche, Duck Lake, and Fish Creek as a result. However, the leaders of the Métis and Plains Indians who participated in the battles of 1885 were found guilty of treason and were sentenced to terms of imprisonment for their actions. This resulted in seventy-one men being charged with treason-felony including three influential men, Big Bear, Wandering Spirit and Poundmaker. Along with these, nine Indians were hanged, fifty were sentenced, and eleven Métis councilors were sentenced to prison for seven years (Teillet, 2006, p. 13). Furthermore, three more men were sentenced to three years in prison, four

received one year sentences, and seven prisoners were discharged on conditional grounds.

Some Métis who had participated in the battles were not convicted. Gabriel Dumont managed to escape to the United States but Louis Riel was “captured, tried and convicted of high treason” (Teillet, 2006, p.13). Riel was subsequently hanged in Regina on November 16, 1885 for leading what has been labeled the ‘the Second Métis Resistance or the Northwest Rebellion’ (LaRocque, 2001, p. 385). Larocque argues that the Northwest Rebellion of 1885 produced “marginalization and landlessness. The Métis had neither treaty rights nor private property” (2001, p.385). As Sealey and Lussier claim, the events of 1885 and afterwards led the Métis to become “Canada’s forgotten people” (1975), as their contributions to the fur trade and to the development of Canada’s economy, based on their land-based skills that included hunting, fishing, trapping and farming, were lost to the introduction of agriculture and rise of the industrial revolution created by white settlers. Thus, the Métis and their contributions became irrelevant (LaRocque, 2001, p. 385).

Not only did the Métis become marginalized and their contributions to the evolving economy become irrelevant but as Jennifer Brown explains, the period from 1885 to the mid-1900’s was very harsh for the Métis as “poverty, demoralization, and the opprobrium commonly attached to being “half-breed” led many people of Indian descent if they could, to deny or suppress that part of their heritage” (1991, p. 143). In other words, the marginalization of the

Métis fostered oppression which in turn became internalized by the Métis. During the late 1800s and early 1900s, many Métis attempted to challenge the land grants system which dislocated them from their traditional lands. This also included many non-Métis who had acquired Scrip (Teillet, 2006, p. 13).

On a positive front, the Union Nationale Métisse St-Joseph de Manitoba was established in 1909 by former Riel supporters and others from the Red River region and they worked to document the history of the Métis in the Red River settlement. In 1902, the federal government established Métis townships in Saskatchewan at Green Lake and the creation of these townships continued over the next forty years. In the 1930's, land was set aside by the Alberta government for Métis settlements. The settlements in Saskatchewan were, for the most part, lost and the townships at Green Lake are currently subject to litigation. In Alberta, Métis settlements have continued, however, they have decreased in numbers over the years. In 1990, the *Métis Settlements Act* was enacted, and there is reinvigorated hope for future settlements to be negotiated (Teillet, 2006, p. 13). It is evident that throughout the history of the Métis Nation, colonial powers sought to interfere with the Métis people's traditional way of life. This next section explores the concept of decolonization, how it is defined and how the Métis Nation in Canada has pursued decolonization in their quest for self-government.

2.2 Confronting Colonization: Decolonization through Nationalism

Decolonization is defined by Bill Ashcroft, Gareth Griffiths and Helen Tiffin, as the “process of revealing and dismantling the colonialist power in all its forms (1983, p. 63). This includes dismantling the hidden aspects of those institutional and cultural forces that had maintained the colonialist power and that remain even after political independence is achieved” (1998, p.63). Memmi asserts that “it is not a coincidence that colonized peoples are the last to awaken to national consciousness” (1965, p. 96). The marginalization of colonized peoples and the oppression they face in the process causes the colonized not to “enjoy” the “attributes of citizenship” which are either his own, or that of the colonizer . Thus, the colonized “almost never experiences nationality and citizenship, except privately” (Memmi, 1965, p. 96) or do so in the wake of decolonization when the barriers of colonization are dismantled.

Joe Sawchuck, in *The Métis of Manitoba*, argues that the rise of Métis consciousness as a nation in a contemporary sense, “is largely a response to political and economic pressures” (1978, p. 10) that the Métis have faced, and that they lack the “cultural markers” that distinguish Métis culture from any other culture and thus these cultural markers are limited to “identity to the whims of politics and economics” (LaRocque, 1986, p . 19). LaRocque argues that the Métis encounter the problem of explaining their identity because they do not have the “anthropological ‘boundaries’ such as geography, legal status, or one language” (1986, p. 23) that is spoken by all

Métis as there are several Native languages that are spoken by the Métis as a result of the communities they originate from. This lack of boundaries is a result of numerous factors. For example, the colonial control that was imposed on the Métis largely disconnected the Métis from their traditional territories and land bases, from their cultural practices and the imposition of colonial laws that halted their traditional practices of harvesting and deemed them “illegal”. Furthermore, LaRocque argues, the Métis have been largely “negated” from history and their contributions, for the most part, have gone untold and if they were mentioned they have been misrepresented from a colonial point of view (1986, p. 23).

2.3 The Rise of Métis Nationalism

The previous brief legal, historical and political overview of the Métis Nation is intended to demonstrate that the Métis Nation has historically resisted the colonial imposition of the colonizer. The Métis Nation has contributed to the social, political and economic shaping of what is now Canada, regardless of how the Métis have been depicted in historiography. They also have been politically active in protecting their territories and their harvesting rights that are integral to the Métis as a nation. As RCAP outlines, “Manitoba’s constitution, the Manitoba Act, 1870, contains guarantees of Métis rights within the limited geographic area of the original ‘postage stamp province’ of Manitoba” (Special Sources of Métis Nation Rights, 1996, p .4). Section 31 of the Manitoba Act granted “half-breed” families one million four hundred thousand acres of land. Section 32 of the Manitoba Act contains

“guarantees” to the Métis and their “descendents” in Manitoba ensuring that those Métis residents who possessed land prior to the creation of Manitoba would continue to own that land, even if those rights to the land were not formally acknowledged by the land grants system. Although these rights are explicitly dealt with in these sections in a limited manner, the rights of the Métis were recognized in 1870. RCAP argues that sections 32 guarantees have played a significant role in the “saga of Métis rights in Manitoba”, have contributed to the discriminatory manner in which the Métis have been treated and are significant factors in the dispersal and loss of Métis land rights (Special Sources of Métis Nation Rights, 1996, p. 4-5).

This discrimination and loss of rights has led the Métis Nation to seek the recognition of “rights” within a formal collective context of “nationhood” because these rights have been infringed upon. This has added a whole separate and additional level to the theoretical underpinnings of decolonization and liberation, stemming from the constructs and constraints of colonialism, whereby decolonization occurs through the rise of nationalism, as defined by the particular colonized nation, in this case the Métis Nation. It is an interesting phenomenon which questions how, in this particular case, the Métis become conscious of themselves as a Nation, in their collective struggle for self-determination and as they fight to “preserve and strengthen” their identity and culture as Métis people. Memmi argues that “in all of the colonized people there is a fundamental need for change” (1965, p. 119). For the Métis, and any colonized people to be conscious of

this fact, means that they are aware of and have an understanding of the powerfulness of the colonial systems that have oppressed and marginalized them in the first place (1965, p. 119).

A key element in the preservation of identity is the recognition of nationhood. RCAP asserts that there are several definitive attributes that are essential to nationhood; however, they are not all easily definable and are all necessary. Some of the distinctive attributes include “social cohesiveness, collective-self consciousness, cultural distinctiveness and effective political organization” (*Métis Perspectives*, 1996, p. 6). It is quite evident that the Métis “possess” these very attributes, and their struggle for recognition as a distinct people, with a distinct culture, and with a distinct political and social fabric that is unique to their people as a Métis Nation, speaks to these very attributes encompassed in nationhood. As RCAP asserts, this degree of nationhood has not been reached by many communities outside of the Métis Nation (*Métis Perspectives*, 1996, p. 6). RCAP goes on to argue that “recognition of nationhood is an essentially political function” (*Métis Perspectives*, 1996, p. 6) and is evident in many communities who are fighting colonial impositions. A formal recognition policy is sought after, not only for recognition through the development of policy, but is used as a political tool to exert political power and to pursue rights based claims.

Howard Adams, in *Prison of Grass; Canada from a Native Point of View*, asserts that “an important force in liberation is nationalism” (1975, p. 167). He explains that nationalism is difficult to define because:

It is subjective, spiritual, ideological, and surrounds people continuously. Nationalism gives spirit and content to a community of people by bringing them together under a common history and state of mind. Under ordinary conditions, nationalism will be a positive and rewarding force, giving its members a sense of belonging and pride and serving to educate people both culturally and politically (1975, p. 167).

Nationalism has served to bring together the Métis people, as they share a “common history”, culture and tradition. It is this sense of nationalism that has created the pride that distinguishes the Métis from other Aboriginal peoples and the term “the Métis Nation” is a result of this sense of nationalism.

Adams explains that there are several forms of nationalism but that nationalism as it pertains to Aboriginal people in Canada is best explained as “radical nationalism” (1975, p. 167). Radical nationalism encompasses such goals as “economic, social, and cultural autonomy and control over all political affairs concerning the natives as a nation, beginning with complete local control of Indian reserves, Métis communities, and native urban ghettos” (1975, p. 167). In other parts of the world, “revolutionary nationalism” has been the foundation upon which the “native liberation movement” has taken place. This type of nationalism has involved violent measures in achieving liberation. As Adams notes, this type of nationalism is not feasible in Canada because Native people do not have the population that is necessary to overthrow the government, restructure it and take “re-control” over the lands (Adams, 1975, p.167). However, Franz Fanon argues that “violence will free them (Native people or any colonized people) from their

sense of inferiority, despair and inaction” (Fanon quoted in Adams, 1975, p. 166). This “inferiority, despair and inaction” has been internalized by colonized peoples because of the inextricable forces of colonialism.

Adams further explains that it is important to understand that nationalism is founded on the “historical development of a particular nation” (1975, p. 167) and that “it is in their present awakening that Indians and Métis are becoming concerned about their heritage and culture in relation to the larger Canadian society and its colonialism; since natives identify themselves as separate from white mainstream society” (1975, p. 167). This is evident in the Métis struggle for the recognition of their distinct social, cultural and political rights as a nation as it provides a “meaningful” sense of Métis identity that is very different from the nationalism that the Canadian state attempts to perpetuate (Adams, 1975, p. 167).

Adams goes on to explain that “radical nationalism is activated through a deepening of social and political consciousness” (1975, p. 168). This type of nationalism “is linked to, or contains within itself, a progressive political ideology that serves to advance the social awareness of oppressed native people regarding their colonized circumstances” (Adams, 1975, p. 168) and it is through this social action that decolonization takes place.

Adams argues that at the “neighborhood level” or grassroots level, nationalism works to unite the native masses through participation and through social action. He argues that this is the only “natural” way to deal with the struggles of a people. He states that “radical nationalism is created

by the people, who, by participating in the struggle, make the nation a reality to everyone, and, in turn, make the nation part of their personal experience” (1975, p. 168). Thus, Adams is arguing that nationalism cannot work from a top-down approach, or through leadership, because it does not reflect the “changing developments of the people” (1975, p. 168) and thus, it “does not belong to people” (1975, p. 168) as it loses its meaning as it does not have a deeply rooted connection to them. This, Adams argues, is the reason for the “failure of Native leadership” (1975, Pg. 168).

Adams argues that the system of “divide and rule” is still used all over the world by colonizers (1999, p. 3) and that Native leaders are being “co-opted” into the mainstream colonial governance process. Adams further says that they are “being manipulated by an imperial nation” which in turn is controlling Native peoples. This is also occurring in Canada, and is evident in Band Councils, Métis, Aboriginal and Inuit organizations are provided with government funding in order to control their activities socially and politically (1999, p. 3). Adams explains that:

The last twenty years have seen increased political turmoil, excessive corruption, deepened ghettoization and increased colonization in Aboriginal communities. Managing the resistance of the oppressed has resulted in schemes of manipulation which in effect co-opts the victims. Most Métis, Inuit and Indians are now being socialized and integrated into the mainstream. Many have harmonized their lives and goals to the political culture of the colonizer (1999, p. 3).

Adams further argues that Indian and Métis organizations were formed in response to the “red awakening” of the mid 1960’s and that “Aboriginal organizations and multinational corporations are cunning and corrupt, and

they are a threat to Native because they have access to power. If the local Métis and Indians do not realize this situation exists, they will fall into deeper colonization” (1999, p. 4).

In other words, Adams is suggesting that European or colonial interests are being advanced by manipulation and control over Native interests. However, Adams argues that in order to decolonize, Indian, Métis and the Inuit must disengage from the mainstream political arena and resist the mainstream ideology. Engaging with the mainstream political process only leads to further mainstream socialization and integration and further subjection of Native peoples to powers of colonialism (1999, p. 3-5).

Alfred argues that Indigenous peoples have been actively involved in the movement that has been termed such things as “Aboriginal self-government”, “Indigenous self-determination”, and “Native sovereignty”, in other words, in their plight towards restoring Indigenous autonomy. This movement towards self-government “is founded on an ideology of “Native nationalism” and is focused on models of governance that are rooted in the values of Aboriginal peoples, thus rejecting models of government that are “rooted in European cultural values (Alfred, 1999, p. 2). Native Nationalism refers to “the values, principles and approaches of an indigenous cultural perspective that accepts no compromise with the colonial structure” (Alfred, 1999, p. 3).

In other words, this movement is about establishing and promoting the values and traditions of Indigenous people in hopes of creating a “post-

colonial' future" that recognizes the ideals and values of Indigenous peoples, that breaks way from the colonial relationship that has bound the state and Indigenous peoples since European contact, and that gives Indigenous peoples back control of their lives (Alfred, 1999, p. 3). In many respects this quest or movement is known as the process of decolonization, which Alfred defines as the "mechanics of removing ourselves from direct state control and the legal and political struggle to gain recognition of an indigenous governing authority" (1999, p. 3).

Alfred, like Adams, argues, this process of decolonization has led Native political leaders' to accommodate Western cultural values and has moved them towards integration of the mainstream political and economic system instead of breaking free from them, and from focusing on the principles of their Native traditional cultures. In this sense, Alfred also argues that Native political elites have been 'co-opted' into the mainstream political system (1999, p. 4). This, in turn, denies the fact that there are inherent differences that exist between mainstream governments and governance systems and those of traditional Indigenous ones. For Alfred, this results in the continuation of colonial control and the dishonoring of the political and social aspects that distinguish Indigenous governments from mainstream governments (1999, p. 3-4). Indigenous people's engagement in mainstream politics in the way that Native elites currently are engaged, constitutes playing the power game that is enshrined in mainstream politics. Furthermore, the language of sovereignty in the mainstream political process

causes problems for Alfred because of the implications associated with it (Alfred, 1999, p. 5). The term 'sovereignty' and other language used by the state carries with it the colonial mindset and with that, also the connotations of power and the states' control over the peoples it governs. This has further implications for Indigenous peoples because of the control the colonial sovereign has had and continues to have over the lives of Indigenous peoples (1999, p. 5).

Alfred believes that in order to reclaim Indigenous governance and political cultures it is necessary to abandon the structures that have been imposed upon Indigenous peoples, and thus, the elements such as values, attitudes and beliefs that continue to perpetuate colonization (1999, p. 43). In other words, it is crucial to break away from the power game that is embedded in the mainstream electoral politics that undermines the very essence of Indigenous governance because they are bound by, and are structured by, colonialism (Alfred, 1999, p. 43). He also argues that "Native political elites must move away from this and reject the Western system. We have to disentangle their interests from those of the state, and replace the manipulative Western notion of leadership with one based on traditional indigenous values" (1999, p. 45). Although Alfred argues for this disengagement with the state, he does acknowledge the reality that in order to negotiate this disengagement, Native leaders must, in fact, interact with the state to do so. He explains that "the fact remains that in order to negotiate a withdrawal from the colonial relationship they must still interact with the

state, which uses all kinds of incentives to prevent Native leaders from representing traditional understandings” (1999, p. 48). In other words, Native leaders are engaging in a mainstream political process in their efforts to disengage, and, as Alfred states, are being co-opted in the process instead (1999, p. 48).

Although much attention has been directed to the process of decolonization, Alfred argues that there has been little attention placed on the end results or goals of the struggle for decolonization and self-determination (1999, p. 2). In doing so, Alfred ponders what Native governance systems will look like once self-government is achieved. Although Alfred acknowledges the fact that Native governance structures will have to incorporate modern administrative and technological techniques to be consistent with modern government systems across the board, he questions whether it is necessary to streamline administrative and management systems in order to be consistent (1999, p. 3). He further questions whether this ‘streamlining’ compromises the very essence of self-government and if it is possible in the self-government process to replicate traditional systems of government that governed Native communities in pre-colonial times (1999, p. 3). Furthermore, Alfred asks whether colonization is so deeply entrenched in the very essence of government in its totality, that the very structure of governments must all be consistent, leaving the political issues at hand to be the only aspect of Indigenesness that distinguishes Indigenous governments from mainstream governments (1999, p. 3).

Alfred's greatest fear is that "they (contemporary Indigenous governments) will simply replicate non-indigenous systems-intensifying the oppression (because it is self-inflicted and localized) and perpetuating the value dichotomy at the root our problems" (1999, p. 3). Thus, the process of decolonization, as noted by Alfred and Adams, presents a new set of challenges.

2.4 The Problems with Nationalism

The growing nationalism among Aboriginal peoples is a result of the "political awakening" fostered by the distinct values and principles that are embedded in the cultures of Aboriginal people and their struggles for liberation. In other words, this growing nationalism is also a "cultural awakening" which "revives" native "cultural traditions that give stability and security to the nation" (Adams, 1975, p. 169). This is also known as "red nationalism" which Adams explains is "essential to Indian/Métis liberation" because it must be a spearhead force for the native movement, and must provide the machinery for educating the masses politically" (1975, p. 169). Adams argues that cultural awakening is only one aspect to liberation, and thus, it is necessary that national consciousness be developed politically. If not, the attention will be placed on cultural nationalism, which Adams argues is dangerous because it is "reactionary nationalism" that is imposed upon by the colonial power and it is largely focused on returning to "traditions and tribalism" (Adams, 1975, p. 169).

Alfred puts forth a perspective that is much in line with this return to traditionalism that Adams discusses. He argues that healing must take place in order for Indigenous peoples to move past the barriers of colonization, and a return to Indigenous traditions, philosophies and values must take place in order to do so (1999, p. xi-xii). This perspective is structured around a core argument which asserts that Indigenous peoples are facing a major crisis, one which Alfred states “reflects our frustration over cultural loss, anger at the mainstream’s lack of respect for our rights, and disappointment in those of our own people who have turned their backs on tradition” (1999, xi-xii). However, this type of nationalism becomes problematic because it shares characteristics with fundamentalism, which at the best of times is deeply rooted in traditionalism.

Although nationalism does share some common characteristics with fundamentalism, such as commitment to the nation, in an “exclusive” manner, and although nationalism can “create a positive sense of identity and common cause” (Green, 2003, p. 8), it can become problematic when it becomes focused on traditionalism. Traditionalism is “rigid” and “exclusionary” (Green, 2003, p. 3) and often “becomes the social prescription for natural or cultural rejuvenation and its practice reinforces boundaries and behaviour” (Green, 2003, p. 1). Furthermore, traditionalism becomes totalitarian in nature (Green 2003, p. 3). Explained in this way, “fundamentalism is reactive to the rapid transformation of societies, cultures, economies, and politics” (Green, 2003, p. 2). This further perpetuates

colonization because it segregates nations, and creates “ethno nationalism” which “consists of a political national discourse and programme for the culturally bounded, if not always geographically or politically bounded community” (Green, 2003, p. 9-10). As Adams would argue, this leads to further oppression rather than liberation (1975, p. 169).

Green asserts that academics understand nationalism to “refer to a sense of allegiance on the part of a self-conscious community to a territorially bounded, politically constructed entity known as the state- or to the idea of creating such an entity” (2003, p. 9). Green goes on to say that “nationalism is about collective aspirations and boundary maintenance in achieving them” (2003, p. 9). National identity is comprised of several characteristics including “territory, common myths and history, common culture, shared legal rights and duties, and a common economy with territorial mobility for members” (Green, 2003, p. 9). Green further states that “national and cultural resistance, are a reclaiming of authenticity, of dignity, and of an anti-colonial frame for political and cultural reference” (2003, p. 10). To this extent the sense of national identity does not become problematic; however it does become problematic when it reaches the extremes of ethno nationalism.

Adams argues that it is possible to achieve liberation, however in doing so, “it must be recognized that attempts to decolonize Indian and Métis by integration into mainstream will only be self-defeating, because white supremacy and the white ideal reinforce and perpetuate colonization and inferiorization” (1975, p.166). Thus, he asserts that “if the white ideal is

gradually destroyed, a reformed education system, a re-created economy, and a spirit of purpose could be regained” (1975, p. 166). This spirit of purpose is engrained in nationalism. It “creates unity and political consciousness” (1975, p. 178) and gives meaning and strength to the particular nations identity. As Green points out, “part of the decolonization narrative” includes the “recovery of culture and strategies for resurrecting political power flowing from culture” (2003, p.12) and many indigenous nations have “formulated a nationalism that claims difference from the colonial states as a justification for self-determination” (2003, p.12). As long as this can be done without inflicting racism, then it is acceptable and appropriate, because decolonization is about liberation. Fundamentalism further perpetuates colonization, so it must be steered away from, and thus is not the prescribed form.

Denis Gagnon, Canada Research Chair on Métis Identity at College Universitaire de Saint-Boniface, is conducting “an ethnohistorical study on the culture of Manitoba Métis” (Gagnon, p. 1) focusing largely on the issue of identity. His work is primarily based on the foundation that Métis identity is “mistreated and misunderstood” and that “Canadian Métis were marginalized and ostracized for nearly two centuries” (Gagnon, p.1). He argues that this marginalization and ostracization has resulted in the Métis Nation being “almost entirely assimilated into mainstream Canadian culture” (CRC-Chairholders, Denis Gagnon, p.1). He goes on to note that “despite these persecutions and despite the way in which the Métis have been depicted in historiography, the past fifteen years has seen the emergence of a strong,

vibrant Métis identity” (CRC-Chairholders, Denis Gagnon, p.1). Furthermore, his research is intended to examine “Métis values and knowledge” as well as identity markers as they have contributed to the preservation of Métis identity through their political struggles and moreover, how these political struggles have encouraged Métis resistance against “assimilation policies,” (CRC-Chairholders, Denis Gagnon, p.1), and as I endeavor to examine, in their struggle to have their harvesting rights formally recognized.

Harvesting rights is a complex and multi-faceted issue facing the Métis Nation. It involves much more than having the right to harvest recognized by governments and implementing a formal harvesting policy. There are underlying factors at the very core of this ongoing struggle. Firstly, the Métis, still to this day, are struggling to define themselves as Métis people and as a Nation. The Métis continue to struggle to provide evidence that their cultural practices include such things as harvesting, and thus that harvesting continues to be an integral part of the Métis way of life. Further, the Métis are still struggling to have their rights recognized formally by the state and as an ethnic “Aboriginal” culture, what Charles Taylor coins the “politics of recognition” to which there is a supposed link between recognition and identity (1992). The importance of this demand for recognition emerges as a result of the “lack of recognition” as a distinct people with a distinct culture and with a distinct social and political fabric that makes the Métis people Métis.

Identity plays an important role in the lives of those who are oppressed because it is an understanding by people of who they are and of their defining fundamental traits as a human being that belong to a particular culture. Taylor argues that since a persons' identity is partly shaped by recognition (1992), the absence of this recognition can distort the image people or societies have of themselves and of one another. This absence of recognition can become a form of oppression which, in turn, forces a person or group of peoples into living a false way of being, with a "false consciousness" of who they really are (1992). This can lead to, and has led to self-hatred in the lives of those affected.

The process of decolonization has fostered what Alfred calls a 'political awakening', which has been manifested through the creation of Native organizations, which represent First Nations, Métis and Inuit, as the three distinct groups of Aboriginal peoples in Canada, with issues that are specific to each respective groups of peoples. In light of this development, and in the issues presented by Adams and Alfred, with respect to the way in which these organizations are structured and function, it is important to look at the development of Métis political organization in Canada, how they were created in response to the specific issues facing the Métis Nation in Canada, and specifically at the way in which the Manitoba Métis Federation is structured and functions in its relevance to this research.

Chapter 3: The Creation of Métis Political Organizations, the MMF and Harvesting Rights

This chapter focuses on the creation of Métis political organizations in Canada and specifically looks at the creation of the Manitoba Métis Federation, as the Métis governing body in Manitoba. Furthermore, the MMF's governance structure will be explained as a basis for the MMF's governance practices, as well as to explore how the MMF has governed on the specific policy issue of harvesting rights.

The 1920s and 1930s saw the rise of new Métis leaders who actively sought to defend Métis interests. These leaders included James Patrick, Brady and Malcolm Norris. Together these new leaders established a new “political and organizational base” which led to the establishment of western provincial Métis organizations (Brown, 1991, p. 141). These Métis organizations include the Métis Association of Alberta in 1932 which is now the Métis Nation of Alberta, the Saskatchewan Métis Society in 1938 which is now the Métis Nation of Saskatchewan, the Manitoba Métis Federation in 1967, the Métis Nation of Ontario in 1993 and the Métis Provincial Council of British Columbia in 1996. These organizations are Métis self-governing bodies that have taken on the responsibilities of securing social, political and economic benefits for their fellow Métis community members. Each Métis organization is a self-governing political body that entails Métis membership in each respective province and which have worked to seek political, social and economic justice for their people (Teillet, 2006, p. 13).

From the mid-1960s onward, “Métis political activity intensified” (Brown 1991, 143). The Métis formally confronted the federal government on issues such as the White Paper of 1969 and the patriation of the Constitution Act, 1982 and the subsequent Charter of Rights and Freedoms that denied the Métis rights as a distinct people. In 1985, after an amendment was made, Métis rights were included in section 35 of the Constitution Act of 1982 which formally recognized the Métis as one of the three classified groups of Aboriginal peoples in Canada. This was a “high point” for the Métis, after much political work to have their inherent rights formally recognized in Canadian law. Furthermore, the House of Commons and the Senate unanimously passed a resolution in 1992 that promised to formally recognize the Métis peoples (Teillet, 2006, p. 13).

From this point on, Métis political organizations, as Jennifer Brown explains, “repeatedly faced questions about whether to pursue their concerns jointly with status and or non-status Indians, or on their own” (1991, p. 143). Thus, the status and non-status Indians came together as a collective and established the Native Council of Canada (NCC) in 1970 to represent status and non-status issues on a national level, including Métis interests. In 1983, the Métis Nation decided that Métis interests were not effectively being defended under the NCC umbrella, and the Métis National Council was established to pursue Métis specific issues. Since then, the Métis have pursued a number of political legal cases in establishing their rights to the

land and resources, and their respective Métis political bodies continue to deal with several issues and challenges facing the Métis Nation.

3.1 The Manitoba Métis Federation

The Manitoba Métis Federation (MMF) is the present day successor of the Métis movement in Manitoba that dates back over one hundred years (Snapshot of the Nation, MNC, 2001, p. 59). The MMF was founded as the representative political organization of the Métis people in Manitoba in 1967 and is formally recognized as such by both the Province of Manitoba and the Government of Canada (Snapshot of the Nation, MNC, 2001, p. 59). The MMF is a representative government with a formal governance structure which is both “democratic and accountable” and is bound by these principles as per the Constitution of the Manitoba Métis Federation (Snapshot of the Nation, MNC, 2001, p. 59). The MMF has evolved over the years from being a political organization with a mandate much like that of an advocacy firm to being recognized and respected as a government with formal secret-ballot elections and a formal governance structure (Snapshot of the Nation, MNC, 2001, p. 60).

The MMF’s mandate is “to promote the political, social, cultural, and economic interests and rights” of the Métis Nation in Manitoba and advocate on behalf of the Métis Nation in Manitoba on these very issues where they concern the Métis Nation. In addition, the MMF “delivers programs and services to their community including: child and family services; justice; housing; youth; education; human resources; and natural resources” (MMF,

2006, p. 1). The MMF has established formal grounds for self-government as well as to redress on issues regarding historical grievances for its membership and the Métis Nation in Manitoba as a whole (Snapshot of the Nation, MNC, 2001, p. 59). In doing so, the MMF has “re-emerged as a powerful and dynamic force in Manitoba and in Canadian society” (Snapshot of the Nation, MNC, 2001, p. 59).

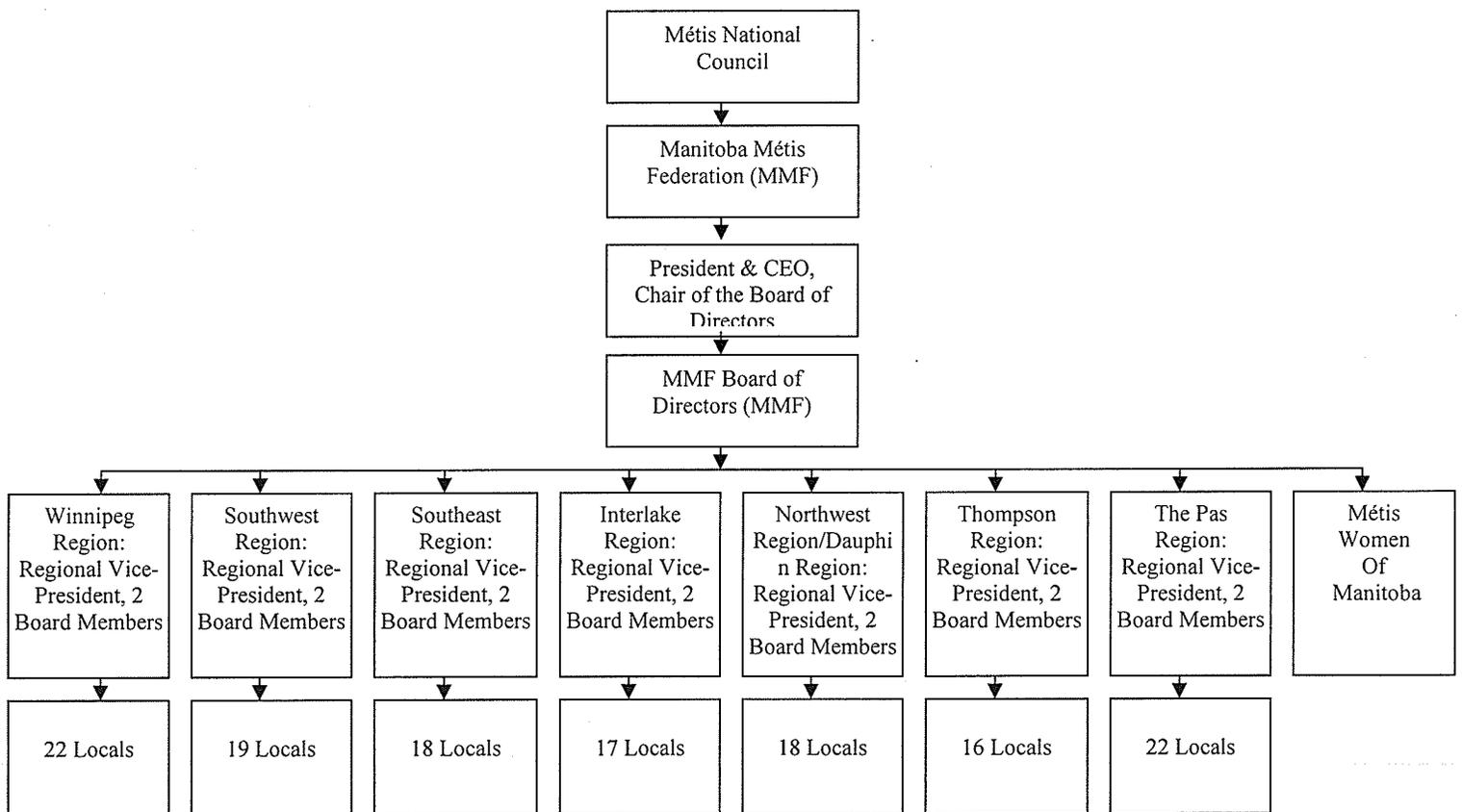
3.2 Overview of the Manitoba Métis Federation’s Governance Structure

The representative structure of the MMF is set out in its constitution and is founded on decentralized democratic principles (Snapshot of the Nation, MNC, 2001, p. 59). More specifically, this structure allows for a great deal of regional decentralization in which each region works together to form and provide a province-wide governance structure, yet maintains overall control over its own affairs. In examining the MMF’s governance structure (see figure 1 below), the base of the organization encompasses what the MMF refers to as “locals” (Snapshot of the Nation, MNC, 2001, p. 59). All MMF members belong to a local at the community level. The MMF’s organizational structure is divided into several local or community levels so as to reflect the Métis membership. An MMF local needs a minimum of nine members to be established, except for locals in Winnipeg as there cannot be more than one local per community. On average each local has between 200-300 members (Snapshot of the Nation, MNC, 2001, p. 59).

The MMF’s Constitution requires that each local meet four times a year in order to remain active. Each local elects a Chairperson, a Vice-Chair,

and a Secretary-Treasurer. All positions are on a voluntary basis and are held for a three-year term. Each local elects and sends delegates to both the annual Regional Meeting of the MMF as well as the MMF Annual General Assembly where the formal election process takes place. These locals fall under seven regional units across Manitoba and include the Winnipeg region, the Southwest region, the Southeast region, the Interlake, Northwest/Dauphin region, the Thompson region and the region of The Pas (Snapshot of the Nation, MNC, 2001, p. 61).

Figure 1.1 The Manitoba Métis Federation’s Governance Structure
(Snapshot of the Nation, MNC, 2001,)



To gain a better understanding of the size and representation of each region it is important to get a glimpse of just how many locals each region contains. The Winnipeg and The Pas region both contain 22 locals as the largest regions. The Southwest region and the Northwest/Dauphin region contain 19 locals, the Southeast region has 18, the Interlake region has 17 and the Thompson region has 16 locals (Snapshot of the Nation, MNC, 2001, p. 61). Each region is given a wide measure of autonomy as they are independently incorporated. This means that each region is permitted to enter into local service agreements with funding agencies, in addition to their responsibilities under the Manitoba Métis Federation (MMF Governance structure, 2006, p. 1). Each region has a regional office from which it delivers the programs and services to its local communities which are funded by the Federation.

Essentially, the MMF is a federation of the seven regions. Each region is equally represented on the MMF Board of Directors and elects a Vice-President and two Regional Board Members to sit on the MMF Board of Directors for a total of 21 members on a 23 member board (Snapshot of the Nation, MNC, 2001, p. 62). This is the basis of the Federative principle upon which the MMF is structured. The remaining two members include the President, who is elected by the whole membership in Manitoba, and the spokesperson of the Métis Women of Manitoba, who is elected to this position by the women delegates of the Métis in Manitoba at their own

separate Annual General Meeting (Snapshot of the Nation, MNC, 2001, p. 62).

The Vice-President and two Board Members are elected from each region in Manitoba through the MMF general elections and serve as members on the executive board of the regions which is referred to as the Regional Board. These elected members are also members of the MMF Board of Directors. The office of each regional Vice-President is vital to the overall organizational structure of the MMF. Each Vice-President carries a tremendous amount of responsibilities which include the day-to-day administration of his or her respective Regional Office, political and representative functions at the regional level as well as responsibilities as members of the MMF Board of Directors and the various portfolio committees and boards they are involved in (MMF Governance Structure, 2006, p. 1). The Vice-Presidential role carries much the same weight as a Cabinet Minister in a Provincial or Federal government.

The President of the MMF is also the Chief Executive Officer of the corporation as the MMF is an incorporated body, as well as the leader and main spokesperson of the Métis people of Manitoba. The President, as the CEO, is the Chair of the Board of Directors and thus calls the meetings of the Board. The President is the only Board Member that is elected by the entire membership of the Manitoba Métis Federation on a province-wide basis (MMF Governance Structure, 2006, p. 1). As the CEO, the President is responsible for overseeing the day-to-day administration of the MMF. As the

political leader of the Métis people in Manitoba, the President maintains a high public profile and meets with elected officials at both the federal and provincial levels on a regular basis. As well, the President speaks at numerous public engagements, speaks to the Media, attends local and regional meetings across Manitoba, is a member of the Board of Governors on the Métis National Council and presides over the MMF's Annual General Assemblies. As the political representative of the MMF, the President has a large political staff that assists him in fulfilling his duties as President and as leader of the MMF. The President's office functions much like that of the Premier's Office or the Prime Minister's Office, in that it carries significant portfolios.

The Board of Directors (BOD), as mentioned previously, is made up of 23 members. The Board of Directors is the executive body of the MMF and all major policy decisions are referred to and decided by the BOD. The Board is made of the President, the Vice-President and two Board Members from each of the 7 regions as well as the spokesperson for the Métis Women of Manitoba for a total of 23 members (Snapshot of the Nation, MNC, 2001, p. 62). The Board of Directors has created numerous committees to assist in managing the affairs of the corporation and to deal specifically with policy areas and larger portfolios of this nature. Portfolio committees are chaired by a member of the Board who in doing so becomes the elected representative responsible for that particular policy area. Thus, the MMF staff refers policy decisions concerning these particular portfolios to the Board member responsible (Snapshot of the Nation, MNC, 2001, p. 64).

In 1986, the MMF's Constitution was amended and innovated by introducing "ballot box" elections in order to function in a democratic manner (Snapshot of the Nation, MNC, 2001, p. 60). Prior to this amendment, Vice-Presidents and regional Board Members were elected at regional MMF assemblies while the President was elected at the General Assembly of the MMF. The changes brought about by this amendment stemmed from the MMF's withdrawal from the Native Council of Canada in order to become a founding member of the Métis National Council (MNC) in 1983. The MNC is the national Métis political body of the Métis Nation, or umbrella organization, in Canada. The MMF then adopted this new election procedure which called for province-wide elections for the position of President, Vice-Presidents for each of the seven regions, as well as two Board Members from each of the seven regions. This change meant that all members of the MMF would elect the above positions through secret ballot elections (Snapshot of the Nation, MNC, 2001, p. 60). The MMF became the first Métis organization under the MNC umbrella to implement province-wide ballot box elections which are held at least every three years.

The MMF argues that "this representative model is both democratic and efficient as it creates a regional network that has proven to be the most effective mechanism for providing equitable services to the Métis across the province of Manitoba" (Snapshot of the Nation, MNC, 2001, p. 61). In an interview with the President of the MMF, David Chartrand, he noted that the MMF's governance structure provides more democratic accountability than

any other Aboriginal organization in Canada (Personal Communication, 2008). This model of governance also entrusts executive authority in the Board of Directors to ensure that each region is equally represented and thus has an equal voice, so that each region shares equal responsibility to act in the interests of the entire membership of the MMF. Furthermore, this model allows the organization to function on the democratic principles that gives each member the right to vote and the right to choose their leaders through a fair and open election (Snapshot of the Nation, MNC, 2001, p. 61).

3.3 Accountability

Accountability to the Métis Nation in Manitoba remains a priority for the MMF and for this reason there are several layers of accountability within the MMF's governance structure. Accountability is a tool used to ensure that "the right things get done...and helps to identify things that should not be done" (Pealow, 2002, p. 7). As Pealow explains:

Strategic management will ensure that programs are developed in everyone's best interests and within capabilities. By holding yourself and others accountable, you protect yourself and the community...but if you really want the community to benefit, you need to look at how things are planned, managed and evaluated, and how you can better plan, manage and evaluate" (2002, p. 7).

Determining whether the MMF is providing good governance on the issue of harvesting rights is largely determined through measures of accountability.

Although there is no standard definition of accountability, for the purposes of this research accountability is defined as "responsibility to a person or group of people. Accountability is used to make sure people do the things they should, and don't do the things they shouldn't" (Pealow, 2002, p.

8). Accountability is classified as a principle of good governance and is of great importance in providing good governance. Pealow in his work on *Strategic Management for First Nations* outlines four types of accountability that are relevant to the management of Aboriginal communities.

The first type of accountability is *political or managerial accountability*. Political accountability refers to “the need for political leaders to work ethically, in the best interests of the citizens they represent” (Pealow, 2002, p. 8). Political accountability can be ensured through various customs and practices such as “elections, traditional governing practices, and open community meetings” (Pealow, 2002, p. 8). This ensures that Aboriginal governments are fully accountable to their citizens for the actions they take and for the decision they make. *Managerial accountability* ensures that managers are accountable for “all aspects of running an organization” such as spending, to the overall success of the organization or programs and all aspects of the organization that they are managing (Pealow, 2002, p. 9).

Program or Administrative Accountability refers to “policies governing staff and volunteers”, which should be developed and implemented to ensure the “efficient day-to-day operation of an organization” and that policies and projects the organization implement are fulfilled and delivered on (Pealow, 2002, p. 9). As Pealow explains, program or administrative accountability can be accomplished in using a strategic management model that uses performance measurement to ensure that accountability requirements are

fulfilled (2002, p. 9). This will be further elaborated on in the section on performance measurement.

Lastly, *financial accountability* refers to the development of fiscal by – laws, and policies and systems that are based on three key elements of accountability: transparency, disclosure, and redress. Transparency: “ensures that decisions and the decision making process is open and transparent”; disclosure: “ensures that information on administrative policies and standards is readily obtainable by stakeholders”; and redress: “ensures that procedures for review, including appeal mechanism are in place” (Pealow, 2002, p. 9).

Pealow argues that:

These principles are consistent with other governments in Canada, and are appropriate to traditions. Strong financial accountability practices that stress community information-sharing and the rights and obligations of stakeholder are essential practices. Financial accountability ensures that funds are being directed to the appropriate projects and are used for the purposes intended” (2002, p. 9).

Although financial accountability is beyond the scope of this research, it is a significant issue facing Aboriginal communities across Canada, and is an important aspect of accountability, strategic management that must be in place to ensure accountability and transparency both to community and to external stakeholders such as government and tax payers.

The Métis community demands accountability from Métis political leadership, the MMF, on issues that affect them in the short term and in the long term, as their representative government. The Métis harvesting rights issue represents one of the key issues that is vital to, not only the Métis

traditional way of life, but as the results of this research shows is a defining characteristic of Métis identity and thus, must be recognized as it is paramount to Métis self-government and in providing good governance. Thus, this research focuses on political/managerial accountability, program/administrative accountability and on individual/stakeholder accountability in assessing the MMF's governance practices and to determine to what extent the MMF is held accountable to the Métis Nation in Manitoba on the issue of harvesting rights.

Transparency, as discussed above, is a mechanism that flows from accountability. If an organization or government is deemed to be accountable, it may also be transparent in that information on government activities and expenditures are provided to citizens as stakeholder. Both accountability and transparency are classified as principles of good governance; however, not all of government is transparent and nor should it to be accountable. This is an issue that may be debated by citizens, as to what a desirable government should look like to provide good governance. For the purposes of this research, accountability and transparency measures work together to provide good governance, and will be discussed.

The MMF is formally accountable to its membership or shareholders in the following three ways:

Firstly; the Annual General Assembly where the constitution and any amendments to it must be approved by attendees. The AGA also provides an opportunity for members to review the activities and finances of the organization as well as scrutinize executive performance, secondly; General province-wide ballot-box elections (at least once every 4 years) in which the President and the MMF

Board of Directors are chosen by secret ballot, and thirdly; Regional Assemblies, which are basically AGAs for each independently incorporated Region, and function by the same rules (MMF Governance Structure, 2006, p. 1).

The MMF is accountable to its shareholders with respect to the guidelines set out by the Companies of Manitoba Act, by the MMF Constitution and through the election process. Like mainstream government, the MMF is given its mandate to govern through its election process (MMF Governance Structure, 2006, p. 1) and transparency surrounding the election process is an important factor for the MMF.

Due to the fact that the MMF was established as a non-profit corporation, its accountability procedures are defined by and bound by the terms and conditions of the *Companies Act* of Manitoba. Looking at the MMF's governance framework in this way is important in assessing the accountability and transparency measures that the MMF has in place. Since the MMF is essentially a political body which governs according to the rules set out in the MMF's Constitution, there is a political realm of accountability associated with the MMF, aside from the financial accountability measures set out by the Companies Act of Manitoba, which the MMF must address.

Accountability within and throughout the MMF's governance structure is what is relevant to this research, and thus will be examined with respect to how the MMF provides accountability to the Métis Nation on the issue of harvesting rights. However, as the MMF assumes greater responsibility for providing programs and services to the Métis people in Manitoba and thus, in shifting ever so increasingly from an organization to a

government, the MMF believes that it may be more suitable and thus a more effective legislative framework to shift towards legislating a “Métis Governance Act” (Snapshot of the Nation, MNC, 2001, Pg. 62). This would give the MMF, as the Métis government in Manitoba, more legal force than the Companies Act currently does. This would also give the MMF more weight in terms of directly negotiating issues of self-government, with the federal and provincial governments, instead of both governments deciding unilaterally that the courts must make decisions on such matters, as is evident with the issue of harvesting rights. This is an option the MMF has and will continue to consider moving forward (Snapshot of the Nation, MNC, 2001, p. 62).

3.5 Métis Harvesting Rights

It is evident that the Métis have played a large role and have a lengthy history since before Confederation and have been very active in the “political, social and legal fabric of what is now Canada since the signing of the Royal Proclamation of 1763” (Teillet, 2006, p. 14). The Métis first began to identify themselves as the Métis Nation from the period of 1812-1816, as they became very active in the Red River region. During this time, the Métis asserted themselves to protect their livelihood from the arrival of the European settlers. Since then, the Métis have pursued a number of legal cases in establishing their rights to the land and resources and their respective Métis political bodies continue to work to do so for the Métis Nation in each respective province.

The Métis have a very distinct political and legal history and have always taken political action to protect their lands and their resources, in order to protect the harvest that is central to their traditional way of life. The harvest continues to be an important element and an integral part of the modern Métis way of life and the Métis continue to fight for their inherent right to harvest as a nation. Although there have been several Métis harvesting cases put to the courts, *R. v. Powley* has set the stage for Métis harvesting rights in Canada.

As John Weinstein argues, “Breaking the impasse on Métis rights rested on the outcome of the litigation strategy that emerged from the ashes of the Charlottetown and Métis Nation Accords. The breakthrough would occur on the eastern fringe of the Métis homeland in Sault Ste. Marie, Ontario, and involved a Métis father and son, Steve and Roddy Powley...” (2007, p. 153). In 1993, Steve and Roddy Charles Powley were charged with hunting and killing of a Bull Moose as well as unlawful possession without a license near Old Goulais Bay Road, north of Sault Ste. Marie, Ontario; all of which was contrary to provincial statutes and hunting regulations under sections 46 and 47(1) of Ontario’s Game and Fish Act, of Ontario (*R. v. Powley*, 2003). The question posed to the trial judge was whether Steve and Roddy Powley, as members of a Métis community near Sault Ste. Marie had a constitutionally protected Aboriginal right to hunt for food and whether the infringement of this right by the Province of Ontario was justifiable under Ontario hunting legislation (*R. v. Powley*, 2003).

In 1998, the trial judge ruled in favour of the Powleys, arguing that the Powleys have “an Aboriginal right to hunt for food that is infringed without justification by the Ontario hunting legislation” (R. v. Powley, 2003), and that this right is protected under sec. 35 of the Constitution Act, 1982. Thus, Steve and Roddy Powley were acquitted of unlawfully hunting a moose and of unlawful possession of game. Although the charges were dismissed, the Crown appealed the decision. In January 2000, the Ontario Superior Court of Justice upheld (confirmed) the trial judge’s decision and dismissed the Crown’s appeal. The Crown then proceeded to appeal the decision to the Ontario Court of Appeal.

In February 2001, the Court of Appeal made a unanimous decision to uphold the earlier decision made by the lower Court, as noted above, and further made claim that the Powley’s have an Aboriginal right to hunt, as protected under s.35 of the Constitution Act, 1982 (Teillet, 2006, p. 15) which states the following:

35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; and

35(2) In this Act, “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada (Constitution Act, 1982).

In theory, s.35 of the Constitution Act, 1982, protects the basic rights of Aboriginal peoples such as the right to harvest, language rights, the right to exercise Aboriginal religions, culture and traditions, the right to self-government and land rights, all of which is “necessary to ensure the survival of Aboriginal peoples” (SMCL, Teillet, 2004, p. 15). Yet, there are several

issues surrounding the interpretation of the rights outlined in s.35 and which will be discussed in more detail in the following sections.

3.6 The Powley Test

In September 2003, the Supreme Court of Canada, unanimously made a judgment that the Powleys, as members of the Sault Ste Marie Métis community, were legally entitled to exercise their Métis right to hunt as justified and protected under sec.35 of the Constitution (Teillet, 2006, p. 25). The Supreme Court of Canada, throughout the Powley case, confirmed that “the inclusion of the Métis in s. 35 is based on a commitment to recognizing the Métis and enhancing their survival as distinctive communities” (Teillet, 2006, p. 25). Section 35 of the Constitution Act, 1982 played a pivotal role throughout the Powley case.

The Supreme Court struggled to provide a “comprehensive” definition of Métis, as it relates to Métis rights and only for the purposes of interpreting sec.35 of the Constitution Act. The Supreme Court argued that:

The term “Métis” in s. 35 of the Constitution Act, 1982 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs, and recognizable group identity separate from their Indian or Inuit and European forebears. A Métis community is a group of Métis with a distinctive collective identity, living together in the same geographical area and sharing a common way of life. The purpose of s. 35 is to protect practices that were historically important features of these distinctive communities and that persist in the present day as integral elements of their Métis culture (R. v. Powley, 2003).

Due to the fact that the Supreme Court had trouble defining who the Métis were, and whether they have the rights claimed, the Court identified three

factors which set out the ways to identify Métis rights-holders. This includes “self-identification, ancestral connection to the historic Métis community, and community acceptance” (Teillet, 2006, p. 27):

1. ***Self-identification:*** “the claimant must self-identify as a member of a Métis community. This self-identification should not be of recent vintage: While an individual’s self-identification need not be static or monolithic, claims that are made belatedly in order to benefit from a s. 35 right will not satisfy the self-identification requirement (R. v. Powley, 2003).;
2. ***Ancestral connection:*** “the claimant must present evidence of an ancestral connection to a historic Métis community. This objective requirement ensures that beneficiaries of s. 35 rights have a real link to the historic community whose practices ground the right being claimed. We would not require a minimum “blood quantum”, but we would require some proof that the claimant’s ancestors belonged to the historic Métis community by birth, adoption, or other means (R. v. Powley, 2003).; and
3. ***Community Acceptance:*** “the claimant must demonstrate that he or she is accepted by the modern community whose continuity with the historic community provides the legal foundation for the right being claimed. Membership in a Métis political organization may be relevant to the question of community acceptance, but it is not sufficient in the absence of a contextual understanding of the membership requirements of the organization and its role in the Métis community. The core of community acceptance is past and ongoing participation in a shared culture, in the customs and traditions that constitute a Métis community’s identity and distinguish it from other groups. This is what the community membership criterion is all about. Other indicia of community acceptance might include evidence of participation in community activities and testimony from other members about the claimant’s connection to the community and its culture. The range of acceptable forms of evidence does not attenuate the need for an objective demonstration of a solid bond of past and present mutual identification and recognition of common belonging between the claimant and other members of the rights-bearing community” (R. v. Powley, 2003).

The Supreme Court also gave direction with respect to the Métis in Powley.

Firstly, the Court indicated that identifying Métis rights holders is an urgent

matter and must be given priority. Secondly, the Courts argued that regulatory regimes that do not recognize and affirm Métis rights equal to those of First Nations are infringing upon Métis rights. Lastly, the Court argued that membership requirements must become standardized across Métis organizations in order to provide consistency (Teillet, 2006, p. 36). The reoccurring issue identified here, is that the government is still demanding a definition of who is and who is not Métis, which was pointed out throughout the Powley case and continues to be an issue in all cases dealing with Métis rights.

The SCC also developed a test to be used to define Métis rights in s. 35. This test is known as the “Powley test” and includes ten requirements that must be met by claimants for entitlement to Aboriginal rights. As argued by the SCC, “the onus is on the claimant to prove the existence of the right claimed” (SMCL, Teillet, 2004, p. 17). The ten requirements include: characterization of the right; verification of membership in the contemporary Métis community; identification of the historic rights bearing community; identification of the contemporary rights bearing community; identification of relevant time; was the practice integral to the claimant’s distinctive culture; continuity between the historic practice and the contemporary right; extinguishment; infringement; and justification (see appendix 1 for explanations of each criteria) (R. v. Powley, 2003).

The Powley Test is a modification of the Van der Peet test that was established by the SCC in 1996, to prove commercial Aboriginal harvesting

rights in *R. v. Van der Peet*. The Powley test will be applied to all Métis harvesting cases put forth to the courts in each province where negotiation agreements fail to be in place. Thus, the Métis right to harvest will depend upon whether or not the criteria set out in the Powley test are met (Teillet, 2006, p. 36).

3.7 Harvesting Rights in Manitoba

As the Powley decision indicated, Métis communities in Canada have an “Aboriginal Right” to hunt and fish locally and that this right is constitutionally protected under s. 35 of the Constitution Act, 1982. The Powley case sparked much controversy over the Métis Nations’ right to harvest and set the stage for further debate on the recognition of harvesting rights both politically, with respect to negotiations between Métis organizations and their respective provincial organizations and legally, in bringing forth harvesting claims to the courts. Prior to the Supreme Court decision on Powley, the Manitoba Métis Federation articulated the importance of recognizing the Métis Nation of Manitoba’s right to harvest. In doing so, the MMF began a formal negotiation process with the government of Manitoba in 2000 and has been negotiating harvesting rights ever since.

In March of 2001, Minister Oscar Lathlin, the Government of Manitoba’s former Minister of Conservation, committed to negotiating a Métis Co-Management Framework Agreement between Manitoba Conservation and the Manitoba Métis Federation. The agreement was to provide the basis for a new relationship between the Métis Nation and the

Province of Manitoba that was to benefit the future generations of Métis in Manitoba. The purpose of negotiating an agreement with the Province of Manitoba was to gain recognition of Métis rights to the harvest, traditionally used by the Métis Nation in Manitoba. President of the MMF, Mr. David Chartrand argued that prior to the incident that led to the Powley case, the Métis were confident of their traditional rights when they first entered into Confederation negotiations (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. ii) but, “over the years, governments have eroded the recognition of those rights (harvesting rights) and we now have to fight in court to practice the ways that have been taught to us by our ancestors” (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. ii). The initial negotiations between the MMF and Manitoba Conservation was looked at in a positive manner, as a step towards developing a cooperative approach that would recognize the inherent rights of the Métis in the practice of the harvest (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. ii).

This was a very important undertaking by both the MMF and Manitoba Conservation in two ways; firstly in responding to the concerns of the Métis community across Manitoba, and secondly in restoring the traditional balance to the Métis Nation in Manitoba (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. iii). As part of the Métis Co-Management Framework Agreement MMF President David Chartrand appointed The Commission on the Métis Laws of the Hunt, which

was led by Senator Ed Head and seven commissioners representing 7 regions in Manitoba. The Commissioners included Cecil Thorne- Thompson Regions, Diane McGillvray- The Pas Region, Brian Beach- Winnipeg Region, Gilbert Saindon- Southeast Region, Phillip Beaudin- Southwest Region, Eugene Fleury-Interlake Region, and Charles Vermeulen- Northwest Regions (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. iii).

Over a five month span the commissioners held nineteen workshops in the seven regions outlined above and held discussions with Métis members at Regional and Local meetings. Participants had the opportunity to share with the commissioners their thoughts and perspectives on the co-management process. Furthermore, six hundred surveys were completed with the Métis membership on a number of topics related to natural resources (The Report on the Commission on the Métis Laws of the Hunt, 2002, p. vi).

President of the MMF, David Chartrand made the following statement in the Commission's report:

The Métis Laws of the Hunt are based on the common sense way that Métis people approach our relationship with our environment. Our Métis Nation was built on the harvests we received from our natural resources, and it is our collective understanding that we must give back to the land and water when we take from it. We respect the Earth in this way. Métis people from across the province have expressed their belief that we must be responsible when we hunt, fish, trap and gather. The Report of the Commission on the Métis Laws of the Hunt offers the framework for how we will practice our rights in a responsible manner (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. iii).

Following the consultation process with the Métis Nation, the MMF requested that the workshop consultations and survey results be recognized

by the government of Manitoba in the Commission Report, to lay the foundation for upcoming negotiations toward the final Métis Co-Management Framework Agreement.

In 2002, a Memorandum of Understanding (MOU) was signed between the MMF and the government of Manitoba. The purpose of the MOU demonstrated the “Province’s willingness and good faith to work together with the MMF to negotiate the final Co-Management Framework Agreement...and to ensure that there will be sufficient resources and support available to allow for a complete and meaningful negotiation” (The Report of the Commission on the Métis Laws of the Hunt, 2002, p. 3). The MOU outlines the principles of negotiation for the Métis Co-Management Framework Agreement.

The consultations and the finding of the commission report, led to the implementation of a Métis Harvesting Initiative. This included adopting the Métis Laws of the Harvest, issuing Harvester Cards and establishing a Conservation Trust Fund. In September of 2004, and throughout the period leading up the Harvester cards being issued, the Minister for Manitoba Conservation, Stan Struthers, and the Premier of Manitoba Gary Doer were fully committed to respecting the Harvesting rights of the Métis. In a letter to MMF President David Chartrand, the Minister for Conservation stated that “the MMF Harvester Card system would be built towards fulfilling your right to practice those customs and traditions that are integral to the Métis way of life....Our Natural Resources Officers are aware of the needs of Métis hunters

and fishers who are harvesting in their traditional way. These practices will be respected” (Post-Powley Presentation, 2004, Pg. 23). In the fall of 2004, the MMF began issuing its Harvester cards to over 300 Métis in Manitoba (Post-Powley Presentation, 2004, Pg. 23).

Soon after the harvester cards were issued, the sentiment expressed by the Minister of Conservation quickly changed and Manitoba Conservation (The Province of Manitoba) no longer recognized the MMF’s Harvester cards. This decision to no longer recognize Harvester cards remains to be questioned by the MMF and Métis community and is thought of to be purely a political decision. The government of Manitoba argues that their decision not to recognize Métis harvester cards is due to conservation issues and their mandate to protect natural resources in Manitoba. In response to this negative change of action on behalf of the Manitoba government, the MMF applied a great deal of pressure on the government to formally recognize the rights of the Métis to harvest and as a result, the Province of Manitoba created the Powley Implementation Committee in 2005, to assist the government in creating and developing a Métis harvesting policy that sought to implement the Powley decision on Métis hunting rights.

3.8 The Powley Implementation Committee (PIC)

The Powley Implementation Committee (PIC) was formed by the Province of Manitoba and was mandated to assist the government in creating and developing a Métis harvesting policy in implementing the Powley decision on Métis hunting rights and to provide recommendations that would

enable the government of Manitoba to implement the principles recognized in the Powley decision (Government of Manitoba News Release, 2005, p. 1). The PIC was seen by the Manitoba Métis Federation as a “creature of the government” and since there was no involvement from the Métis community or the MMF, its recommendations were not seen as valid. Members of the community and the MMF believed strongly that the recommendations of the PIC should carry no weight with regards to the rights of the Métis in Manitoba because they feel that the government does not have the right to dictate to the Métis, whether or not they have the right to harvest.

The role of the committee was to provide recommendations on harvesting in Manitoba that would, in turn, enable the government of Manitoba to implement the principles recognized in the Powley decision. The task before the committee was to review preliminary research on the Powley decision and make recommendations to the government as to which Métis communities meet the criteria set out by the Powley Supreme Court decision (Government of Manitoba News Release, 2005, p. 1).

The government of Manitoba appointed three people who were chosen “based on their contributions to knowledge of Aboriginal peoples and their livelihood including historical and cultural perspectives, traditional and contemporary living-off-the-land experiences and the role that research plays in legal jurisprudence” (Government of Manitoba News Release, 2005, p. 1). The committee included Dr. Wanda Wuttunee, Associate Professor in the department of Native Studies at the University of Manitoba who acted as the

Chair of the committee, Dr. Raoul McKay, a Métis historian and researcher of Canadian and Aboriginal History, and Reg Meade, a Northern hunter and trapper who is also the Mayor of Wabowden Manitoba and President of the Northern Affairs Community Council (Government of Manitoba News Release, 2005, p. 1).

The MMF and its political staff had much to say about the creation of the Powley Implementation Committee and the people who were appointed to carry out its mandate. Darrel Deslauriers, former Chair of Natural Resources for the MMF stated that “The Manitoba Government’s Powley Implementation Committee recommendations do not carry any weight concerning the constitutional nature of Métis rights...Not to disrespect the individual members of the Committee, but it is a creature of the government, and they never did have the legal or moral jurisdiction to decide which Métis have rights and which do not” (MMF News Release, 2005, p. 1). President of the MMF, David Chartrand expressed many of the same sentiments as Darrel Deslauriers. President Chartrand stated that:

The Powley Implementation Committee appointed by the Province of Manitoba was personally disrespectful to the Métis Government. Clearly we are here and we have one of the most democratic systems in this country of Aboriginal people and for the government to ignore the existence of the Métis, and instead sit down and consult with us and discuss with us what to do, to make recommendations and how to work together on this. I think this was the intent on their part to put together some Aboriginal, First Nation and Métis names and put them together as a commission and go across the Province to do consultations, come back with recommendations where they created sort of a band-aid harvesting arrangement where certain families can hunt and certain families could not (Personal Communication, 2008).

President Chartrand made it very clear that the appointment of the Powley Implementation Committee was a backdoor approach to developing Metis harvesting policy in Manitoba. Chartrand's greatest concern regarding the creation of the committee revolved largely around the Province of Manitoba's total disregard to have the MMF involved in the process in any way, shape or form and stated the following:

Again, this just goes to show that the Province does not respect that the Métis government exists and that is the first issue about rights itself, that the nation doesn't exist and that goes hand in hand with their actions and position. I hope it is a lesson learned by government-that is not the approach you use. If you are going to respect that the Métis nation and the Métis government exists, your first order of business would be to sit down with our government and we could together create the Powley Commission which would have been done cooperatively and at the end maybe all of us would have come to a better conclusion (Personal Communication, 2008).

The Manitoba Government's Powley Implementation Committee Report which was released on October 7, 2005 was criticized for these and other reasons.

Some of the overarching recommendations made by the PIC include: the implementation of an existing Métis Nation Co-Management Agreement, developing a framework for reconciliation and the implementation of a plan that takes into consideration Manitoba's unique history, developing a registry database for all Métis Nation members, requiring appropriate provincial and Manitoba Métis Federation representation in implementing these recommendations, identifying recognized hunting areas to be negotiated by both parties rather than solely by traditional harvesting areas, maintaining that conservation is at the forefront of determining harvesting rights, securing

equal priority to harvesting resources for both commercial Métis fishers and harvesters, ensuring that Métis harvesters have access to the appropriate training, and establishing monitoring systems to regulate harvesting activities (PIC Final Report, 2005, p .3).

The MMF responded to the Report by articulating their concerns with the lack of negotiations and consultations with the MMF on establishing the Powley Implementation Committee after the Province had expressed their intentions to do so. Jean Teillet, Métis lawyer and great-grandniece of Louis Riel, has been instrumental in the fight to protect Métis harvesting rights in Canada as the prime defender of Métis rights in Canada. As the legal council for Powley and now for Goodon, Teillet has shared with me in an interview, her knowledge and expertise on harvesting rights. With respect to the PIC's work and final report, Teillet states that:

The MMF has maintained that it disagrees with the committee's conclusions and with the process by which it was established. It is to be expected that, in light of the inadequacies of the process they would be disappointed with the committee's findings. In light of the Manitoba government's intransigence on these issues, there does not seem to be a more appropriate way the MMF could have responded (Personal Communication, 2008).

The government of Manitoba defended these criticisms by stating that the committee was chosen based on the fact that the members were professional and qualified people who have experience and knowledge in the areas involved in this committee's mandate (Government of Manitoba News Release, 2005, p. 1).

The MMF believes that the government of Manitoba had predetermined the direction that they would be taking with this issue, and thus, the fact that the members of the committee were criticized for the work they had compiled is expected. There does not appear to be much room for criticism by the PIC on the issue of harvesting rights because the government of Manitoba gave it strict mandate that did not allow for much diversion. The MMF concedes that the government of Manitoba commissioned people to fulfill the mandate of the PIC who were not members of the Métis community or the MMF for that matter and did not consult with the MMF which impedes the Manitoba Métis Federation's right to self-government. The MMF further argues that the outcome of the recommendations would not be in favor of the Métis interests. Jean Teillet argues that:

The effect of appointing such a committee without input from the MMF is unhelpful. At this point in time, it should be clear to all officials that the development of policies and reports "on" Aboriginal peoples, without the appropriate consultation and participation of Aboriginal peoples will lead to inadequate policies and reports that will ultimately serve only to confuse and derail the possibility of resolution (Personal Communication, 2008).

President Chartrand further commented on the Powley Implementation Committee's final report and stated that "the Powley Implementation Committee's final report was a waste of money because the recommendations made carried no weight and, as a result, the government did not implement any policy regarding the recommendations made" (Personal Communication, 2008). The recommendations of the PIC had a direct impact on the government's decision not to recognize Métis harvester cards and furthermore

a Métis harvesting policy has not been developed or implemented in Manitoba.

Jean Teillet discussed with me in detail what the government of Manitoba needs to do to move forward to resolve the issue surrounding harvesting rights with the MMF and argues that:

The Province needs to sit down in good faith negotiations with the MMF towards the development of a harvesting agreement that will facilitate Métis food harvesting in Manitoba. The Province's position to date shows no desire to find a solution that is in line with its constitutional obligations to the Métis. The MMF has always, to my knowledge, held itself out as available to negotiate. However, negotiations require a good faith partner. In the absence of that, the MMF was forced to litigate (Personal Communication, 2008).

The MMF, in the absence of negotiations, continues to pursue litigation on the issue of harvesting rights. Although the Supreme Court of Canada's Powley decision ruled in favor of the recognition of harvesting rights and although it continues to carry weight and hope for the Métis in their fight for the recognition of Métis harvesting rights in Manitoba and across the Métis Nation, there are several harvesting cases currently being put forth before the courts.

3.9 Other Relevant Métis Case Law: Blais and Goodon

There are two other court cases (amongst the many that are currently before the courts) that have had and continue to have significant implications for the recognition of harvesting rights in Manitoba. The first of these court cases is R. v Blais. Ernie Blais was convicted of hunting deer out of season on unoccupied Crown land in Manitoba by a trial judge. Mr. Blais appealed his case to the Manitoba Court of Queen's Bench, then to the Manitoba Court

of Appeal and then to the Supreme Court of Canada but was unsuccessful in each appeal. Mr. Blais argued that he had an Aboriginal right to hunt and that this right was protected under the provision of paragraph 13 of the Natural Resources Transfer Act (also known as NRTA). The Natural Resources Transfer Act of 1930 transferred jurisdiction over natural resources from the federal government to the provincial governments.

The provision under Paragraph 13 of the NRTA protects the right of “Indians to hunt, trap and fish for food” (Teillet, 2006, p. 82) and thus, Mr. Blais argued that because his right was protected under this provision, that the Provincial Wildlife Act of Manitoba did not apply to him. Secondly, Mr. Blais claimed that because he was Métis that his right to harvest was protected under s.35 of the Constitution Act, 1982. Mr. Blais lost his case at trial on both of these claims. However, on appeal to the Supreme Court of Canada, Mr. Blais based his argument on the NRTA defence, arguing that he was ‘Indian’ for the purposes of the NRTA. The only issue the SCC considered was whether Métis are considered “Indian” for the purposes of paragraph 13 of the Manitoba NRTA and thus, did not consider Métis harvesting rights under the protection of s. 35 of the Constitution Act, 1982. On September 19, 2003, the Supreme Court of Canada ruled that the Métis are not included under the term “Indian” for the purposes of NRTA and thus, Blais was denied the appeal.

The second case that will have implications for Métis harvesting rights in Manitoba is *R. v Goodon*. Will Goodon was charged with shooting

a duck without a Provincial hunting license in the Turtle Mountain area of Manitoba, all of which is contrary to the regulations of the Manitoba Wildlife Act. The trial began in May 2006. Will Goodon (the defendant) argued before the courts that he has a Métis right to hunt as a member of the Manitoba Métis community as well as a member of the Turtle Mountain Métis community (Teillet, 2006, p. 41). The Province of Manitoba argues that there is no historic Métis community in Turtle Mountain and that even if there was that Métis harvesting rights as a whole were extinguished by either the Manitoba Act of 1870 or the Dominion Lands Act of 1872 (Teillet, 2006, p. 41). The final arguments (hearings) for the Goodon case were held in November 2007 and a final decision by the Manitoba Court of Appeal is still pending. Goodon's case is significant for the direction that the Province of Manitoba will take regarding Métis harvesting policy in several ways.

Firstly, Goodon claimed that he has a Métis right to harvest that is protected under s. 35 of the Constitution Act, 1982. Although Blais made claim to the protection of his Métis harvesting rights at trial, he did not make this claim before the Supreme Court of Canada and thus, they did not consider s. 35 in their judgment. As discussed above, Blais was not successful as the Courts rejected his claims based on the provision of paragraph 13 of the NRTA. The Powley decision on the other hand, focused on s. 35 rights and the Powley's were successful in their case based on the argument that their Métis right to harvest was constitutionally protected. Due to the fact that Goodon made claims under s.35 of the Constitution Act, 1982, it is likely that

his case will be successful. Jean Teillet believes that the outcome will be positive for the Métis Nation because the case itself allowed the MMF to gather an overwhelming amount of evidence and information from the community and it allowed the community to come together to do so (Personal Communication, 2008). If Goodon is successful, the Province will not be able to use the argument that the Métis are not considered to be 'Indian' for the purposes of NRTA. As President Chartrand explains:

Rights stem from Nationhood. The issue in regards to the position taken by the Province regarding NRTA well you know its ironic that they try and use that and they have attempted to use that as one of their basic reasons why they can't allow Métis rights to prevail in Manitoba. Well firstly, the argument is not about whether the Métis have the right or not, the argument about the NRTA issue that was relayed in court was whether the Métis were considered "Indian" under the phrase used in the 1930 NRTA. So you look at the argument, you look at the entire legal concept was clearly on that principle first. Once you establish that, that yes that term was inclusive of all peoples, of nations of Aboriginal peoples within that frame, that than those rights will prevail. Well the Supreme Court ruled, they made it very clear, that at the time there was clearly an understanding between Métis and First Nations so if there was any intent by the authors of the constitution at that time, they would have probably made reference to them if they did. So the court ruled that they do not consider the Métis to be inclusive of the word Indian or following under that umbrella in the 1930's. However, they also made specific note, as sort of shooting a cannon with a bow, a message to everyone that if Mr. Blais would have put his case on Sec. 35, then maybe the outcome would have been completely different. We have seen that with what happened in Powley under Section 35, and they were successful. I think that the Supreme Court has made a very conscious decision to make it very clear that Métis people have rights, and harvesting is inclusive under those rights. We will be successful. Goodon has nothing to do with NRTA, is has to do with Section 35 of the Constitution (Personal Communication, 2008).

Secondly, and as President Chartrand articulated, the Premier of Manitoba, the Hon. Gary Doer, has agreed to re-open negotiations on Métis harvesting

policy once a decision has been made on Goodon (Personal Communication, 2008).

The direction that the Courts will take in Goodon will carry significant weight and influence with respect to whether or not the Province of Manitoba will decide to recognize Métis harvesting rights in Manitoba and thus, develop a Métis harvesting policy. As Jean Teillet explains:

We began the Goodon case believing that it would be a “test” case that would determine the principles for how Métis communities in Manitoba would be identified. We also thought that it would answer definitively the issue of “extinguishment”. However, we have since learned that the Manitoba government intends to pursue several other “test cases” in other parts of Manitoba. This is very disturbing and disappointing as it means that the Manitoba government has already decided (prior to the judgment in Goodon being released) that the case will not determine the principles for a Métis community. Rather they have already decided that Goodon will only determine whether there is a Métis community in a specific area. This is not what is commonly understood as a “test case” (Personal Communication, 2008).

Although Goodon’s case rests on section 35 rights, and the outcome of Powley, which was also based on section 35 rights, was a positive one, the MMF argues that there are strong indications that “this will not be the last time Métis harvesters defend their rights in the court” (MMF News Release, 2007, p. 1). As Jean Teillet explains:

The MMF needs to await the decision of the court in Goodon. Then it must determine next steps. It will be unfortunate if the Manitoba government forces further litigation on harvesting, but if that is the government decision, MMF seems set to continue with its litigation. In the end it is only the courts that have been the friends of the Métis. This is deeply disturbing in Manitoba, which the rest of the country sees as the home of the Métis. It is most unfortunate that we must litigate repeatedly in Manitoba, but the MMF has determined to take on this battle. Indeed there is likely no other way to settle this issue (Personal Communication, 2008).

There are approximately 24 harvesting cases that are awaiting trial in Manitoba. Thus, the judgment made in Goodon could either work in favor of, or work against the recognition of Métis harvesting rights. Aside from the awaited judgment on the Goodon case, the continued advocacy efforts by the MMF will have a significant impact on whether the recognition and implementation of Métis harvesting right will be reached. Reaching this goal, is, as the literature on good governance suggests, a direct reflection on the MMF's ability to provide good governance to the Métis Nation in achieving its "desired results". The following section on "good governance" explores literature on good governance, what it means and entails.

Chapter 4: Governance and Performance Measurement

4.1 Defining “Good Governance”

The Institute on Governance (IOG) states that “good governance is about achieving desired results (whatever that particular government and its citizens see fit) and about achieving them in the right way; that is in a way that is consistent with the normative values of democracy and social justice” (IOG, 2001, p. 7). The IOG further states that “governance is about power, relationships and accountability: who has influence, who decides, and how decision-makers are held accountable” (1996b: p. 6). The IOG has put together their principles of good governance together with those of the United Nations Development Programme’s principles to include (electoral) legitimacy and voice through participation and consensus orientation; direction through strategic vision; performance through responsiveness and effectiveness and efficiency; accountability and transparency through performance measures; and fairness through equity and rule of law (2004. p. 16).

All of these principles together, define and explain the criteria for good governance but, as the IOG explains, this criterion is not meant to be prescriptive. These principles are not ‘absolute’ and they require “balance and judgment in their application” (Graham et al, 2004, p. 16) due to the changing nature of society and its effect on the ability to govern. The societal context in which these principles are applied is an “important factor in how this balance is determined and how these principles play out in practice” (Graham

et al, 2004, p. 16). Lastly, as the IOG argues, governance principles are about “ends and means-about the results of power as well as how it is exercised....and about issues relating to both process and performance” (Graham et al, 2004, p. 16). This criterion is essentially a guide to be used in achieving good governance. These principles, as set out by the IOG and the United Nations, are universal principles and “represent an ideal that no society has fully attained or realized” (Graham et el, 2004, p. 5). These principles can be used to govern citizens at the community, national and global level, and in ‘steering’ governments through the democratic process in light of the several challenges they face (Graham et al, 2004, p. 5).

The IOG also highlights the UNDP’s argument in that “democracy and human development are a journey and not a destination” (Graham et al, 2004, p. 5) and that there is much controversy “in how to best stage this journey” (Graham et al, 2004, p. 5). In other words, there is much debate with regards to the best approach to governance and that governments must take into consideration the “values, cultural norms, and desired social and economic outcomes” of its citizenry (Graham et al, 2004, p. 6) when developing a governance framework. Above and beyond the principles of good governments, the IOG explains that good governance is also about:

***Vision:** planning for the future; **destination;** setting goals and providing a general road map; **resources;** securing the resources necessary to achieve the goals or reach the destination; **monitoring:** periodically ensuring that the organizational vehicle is well-maintained and progressing, within legal limits, towards its destination; and lastly **accountability:** ensuring efficient use of resources, reporting progress and detour to stakeholders (Gill, 2001, p. 7-8).*

These elements of good governance underscore the essence of performance measurement and more specifically, a result-based measures approach that determines whether good governance is being achieved and how it is being achieved. Governance is essentially about the decision-making process and a government's ability to make decisions effectively and in the best interests of the citizens it represents.

It is important to determine the cultural specificity and appropriateness of the indicators or tools of assessment used to measure results and success and it is also important to measure the inputs, outputs, and process measures in doing so. This is to ensure that they are the most appropriate indicators in that they are consistent with the values, perspectives on governance in the cultural context they are being used, while highlighting the differences and commonalities that exist in administrative and governance processes. The section on performance measurement, as a component of good governance practices, will explore these issues as well as determine which measures the MMF uses as tools of assessment in establishing good governance practices and to further build on sustainable governance mechanisms. Before this can be done, it is important to explore good governance within an Aboriginal context and more specifically, from a Métis perspective in order to determine what principles of good governance are consistent with the values and perspectives of the Métis Nation in Manitoba, and how these principles are reflected in the way in which the MMF governs and in turn how performance is measured by the MMF.

4.2 Good Governance in an Aboriginal Context

The Royal Commission on Aboriginal Peoples identified nine aspects of Aboriginal traditions of governance that were drawn from the various testimonies in the Commission's hearings, and the briefs and the studies that were conducted throughout the commission's work. These aspects include: the centrality of the land, individual autonomy and responsibility, the rule of law, the role of women, the role of Elders, the role of the family and clan, leadership, consensus in decision making, and the restoration of traditional institutions (1996, Vol.2, Chapter 3, Part 1, p. 2). Although RCAP argues that there is no "uniform Aboriginal outlook" on these issues, these key aspects were identified as significant aspects that are at the heart of Indigenous approaches to government. RCAP also explains that there are three ingredients for effective governance. These ingredients include legitimacy, power and resources (1996, Vol.2, Chapter 3, Part 1, p. 1). Legitimacy refers to the establishment and recognition of authority, power refers to the recognition of laws and in exercising of authority and resources refers to tools used to carry out governance (RCAP, 1996, Vol.2, Chapter 3, Part 1, p. 2).

Alfred outlines eight characteristics of strong indigenous communities which include: "wholeness and diversity, shared culture, communication, respect and trust, group maintenance, participatory and consensus-based government, youth empowerment and strong links to the outside world" (1999, p. 82). It is evident that these characteristics, as well as those aspects

outlined by the RCAP, are consistent with the principles of ‘good governance’ outlined by the IOG and the UNDP. The difference, however, lies in the focus and importance on culture and traditions and the value system at the heart of culture and tradition that characterizes Indigenous governments. Alfred argues that we as a society must:

Honor the fact that Indigenous peoples have survived: the framework of their value systems remain intact and vital. Indigenous governance systems embody distinctive political values, radically different from these of the mainstream... We have a responsibility to recover, understand, and preserve these values, not only because they represent a unique contribution to the history of ideas, but because renewal of respect for traditional values is the only lasting solution to the political, economic, and social problems that beset our people. To bring those roots to new fruition, we must reinvigorate these principles embedded in the ancient teachings, and use them to address our contemporary problems (1999, p. 5).

The IOG also argues that values play a tremendous and important role in determining the purpose and vision of the organization, and or government, and the way in which it operates (IOG, 2001, p. 7). Both the IOG and Alfred acknowledge that these must be consistent with the traditional and cultural values of the community and as Alfred states, “good indigenous governance ensures that government is rooted in tradition” (Alfred, 1999, p. 23).

Alfred further explains that Non-Indigenous political structures, values, and styles of leadership have led to coercive and compromised forms of government that contradict basic indigenous values and are the main reason for the social and political problems that persist in Indigenous communities (1999, p. 23). Thus, Alfred hopes that contemporary governance systems will “embody the underlying cultural values of the communities” (1999, p. 3). His greatest fear is that “they (contemporary

Indigenous governments) will simply replicate non-indigenous systems-intensifying the oppression (because it is self-inflicted and localized) and perpetuating the value dichotomy at the root our problems” (1999, p. 3).

Alfred discusses in great length what Indigenous governments must look like and includes demanding respect for and embodying traditional Indigenous belief systems, it must be rooted in traditional value systems which include core values such as equality and respect which are reflected in the practices of consensus decision-making and in dispute resolution mechanisms (1999, p. 24). Indigenous governance must result from the interaction of leadership and the autonomous power of individuals who make up Indigenous societies. A crucial feature of the indigenous concept of governance surrounds the notion of the respect and autonomy of the individual (1999, p. 25). Alfred states that “this respect precludes the notion of ‘sovereignty’- the idea that there can be a permanent transference of power or authority from the individual to an abstraction of the collective called ‘government’ (1999, p. 25).

Alfred notes that according to Indigenous tradition, government is really the collective power of the individual members who make up the nation, or the “pooling together” of individual self-powers for the best interests of the collective good. Thus, there is no explicit separation between the state and society in Indigenous governments (1999, p. 25). As Alfred argues, Indigenous governments must be centered on the achievement of consensus and the creation of collective power that is bound by six principles;

“the active participation of individuals, the balance of many layers of equal power, the diffusion of power, situational circumstances, non-coercion and respectful diversity” (1999, p. 26-27).

The Institute on Governance states that, “applying good governance principles in practice must take into account the historical, cultural and political factors a specific society...faces” (Madden, Graham & Wilson, 2005, p. 1) and these factors must essentially guide the governance process. It is important to reinforce the commonalities that exist surrounding the definition of good governance as well as its application between Aboriginal and non-Aboriginal governments. At the same time, it is also imperative that the differences are identified as they define and characterize the essence of Aboriginal governance and the need for self-government.

The principles and criteria of good governance set out by the IOG and the UNDP are imperative in explaining what good governance entails and, more specifically, in assessing what good governance means to the MMF, whether the MMF incorporates these principles in their governance structure and if these principles are reflected in the MMF’s governance practices and if this correlates with what the Métis Nations understands these principles to mean. This next section explores Métis perspectives on governance through the voices of the Métis political leadership, senior administration and members of the MMF who participated in the interview process for this research.

4.3 Exploring Métis Perspectives on Governance

In the 2005 report entitled *Exploring Options for Métis Governance in the 21st Century*, the Institute on Governance in cooperation with JTM Consulting Inc., discussed the concepts of governance and good governance within a Métis framework. The objective of this particular study was to “review existing Métis Nation governance structures in Canada and explore options for their future development in order to stimulate thinking among Métis people and across governments” (2005, p.1). This study sets out some important questions in thinking about the way in which Métis governments function and the way they will function in the future but the major focus of this study is on governance issues (Madden et al, 2005, p. 5). Many of these questions stemmed from, and are a result of, major changes and developments presented in the unanimous Supreme Court judgment in *R. v. Powley*. The *Powley* decision has not only set precedence for Métis harvesting rights in Canada, which is also vital aspect of my thesis research, but also “points to the need for some serious thinking and discussion around the future direction of Métis Nation governance-what it might look like, what might be the principal options to consider and how it might evolve” (Graham et al, 2004, p. v). All of these issues constitute as challenges facing Métis governance in Canada.

The questions posed in the report, revolve largely around the issue and concepts of governance, advancements in Métis self-government, the evolution of Métis citizenry, as well as the implementation of harvesting

rights, as a major issue facing the Métis Nation across Canada (IOG et al, 2005, p. 1). Although there are many commonalities amongst Métis communities across western Canada, each respective regional Métis government functions according to its distinct governance paradigm and thus remains unique.

These explanations are a starting point in thinking about what good governance means and what governments must do to achieve it. The MMF, as the Métis Nation of Manitoba's representative government makes decisions on issues that affect their day- to- day lives and works to promote the social, cultural, economic and political interests of the Métis Nation. In doing so, the MMF has built relationships with the people it represents based on good faith and trust that the MMF will take direction on, and deliver on, the interests and concerns of the Métis Nation in the areas mentioned above. Furthermore, the MMF is held accountable by the Métis Nation based on the decisions the MMF makes in representing the Métis Nation, through the election process, and in all layers of the MMF's political representation. As the literature suggests, providing accountability and transparency are a definite requirement of good governance and must be achieved in order for its democratic function of being a representative government to be fulfilled.

The Manitoba Métis Federation has its own unique and distinct governance structure as well as its own set of governance challenges that are shaped by these very factors. My research deals with Métis harvesting rights specifically, it will explore the MMF's governance challenges surrounding

harvesting rights while leaving space for other governance issues to be addressed. Many of the issues addressed by the interviewees are beyond the scope of this research and thus will not be discussed thoroughly. However, these issues warrant attention as they deal with governance issues and challenges that the MMF will continue to face moving forward.

Harvesting rights is not only a legal issue, it is also a political one, and heavily influences the MMF's governance process and practices. The Manitoba Métis Federation's ultimate goal concerning harvesting rights is to have harvesting rights formally recognized by the Province of Manitoba, in developing a harvesting policy that allows Métis harvesters to harvest legally without being charged by Conservation Manitoba. This would put an end to countless numbers of Métis harvesters being charged for breaking provincial legislation which is governed by the Wildlife Act of Manitoba. In developing such a policy, the MMF would achieve their desired results with harvesting rights, as the policy that would be negotiated between the MMF and the Province of Manitoba would have to be consistent with the values, concerns and legal rights of the Métis Nation in Manitoba. Thus, it is imperative to assess how the MMF goes about achieving their desired goal, how they govern on this particular issue and whether the way in which they govern accounts for 'good governance'. As this research is a self-review or self-assessment of Métis governance in Manitoba, I have provided a platform and space for Métis perspectives on issues surrounding governance and harvesting rights to be articulated. The interviewees which include Mr. Al

Benoit, Senior Policy Advisor of the MMF, Mr. David Chartrand, President of the MMF, Ms. Stephanie Eyolfson, Associate Executive Director of the MMF, Mr. Will Goodon, President of the Cherry Creek Local of the MMF, Ms. Leah LaPlante, Vice-President Brandon Region of the MMF, share their perspectives and personal experiences on governance issues, harvesting rights and the MMF's political work. Each of the interviewees, have made a significant contribution to the MMF's governance process, and have a specific insight into the issue harvesting rights in particular.

In discussing the issue of governance, and what good governance means with each of the interviewees, accountability was a common theme that was noted to be an essential element in the MMF's governance process and in providing 'good governance' to the Métis Nation in Manitoba. Each of the interviewees was asked to define 'good governance' and to provide some context and examples of how the MMF provides good governance to the Métis Nation in Manitoba. President of the Manitoba Métis Federation, Mr. David Chartrand, as the leader of the Métis Nation in Manitoba, defined good governance to mean the following:

Good governance means accountability and direct authority and powers vested in grass roots people and their interactions, participation and giving guidance to their government-that is what fairly good governance is- and to be accountable and at the same time democratic in principle and to maintain that no matter what-at all costs-that is good governance (Personal Communication, 2008).

Al Benoit, Senior Policy Advisor to the President of the Manitoba Métis Federation added to President Chartrand's definition of good governance by explaining how the MMF provides accountability and thus good governance:

The MMF has a number of levels of how to ensure good governance. Not only do we have elections for local executive who then can bring issues forward to the regions, we also have regional assemblies every year, we have the annual general assembly and we also have an election every four years. That is more democratic accountability than you will probably find anywhere else in Canada (Personal Communication, 2008).

President Chartrand discussed in depth the MMF's governance structure as well as the accountability mechanisms that the MMF has in place:

We are the only Aboriginal peoples in Canada that is elected by the ballot box by our people. It should also be referenced that we pay for our own election, because it means so much to us. And the elections are quite expensive, ranging from \$150,000 and these funds we need to raise on our own. Many institutions have people that state that we represent the voice of the Aboriginal people—they constitute the meetings in some assembly hall and they elect a leader with maybe 50 people, a hundred people, if they are lucky. Its ludicrous, it's not democratic and it takes away the very principles that Métis Nation is created on, and that's why we are so strong. In order to have accountability and transparency, the locals are intertwined. We have 130 locals in the Province of Manitoba, and those locals are elected by their communities. Those locals then create their own executives that are then interacting with their regional offices. We have seven regional offices, and we have the provincial office here in Winnipeg. We have to share information, with regards to expenditures any of the decisions we make with the locals, regions and to members at the provincial assemblies. So we have a checks and balances system all the way up. It's a really lengthy process in its entirety, but at the end of the day it is truly accountable (Personal Communication, 2008).

Al Benoit further discussed the MMF's accountability measures and the importance of the annual general assemblies and explained that:

At the Annual General Assemblies for instance, questions from the floor can be asked on any topic that the MMF has been involved with throughout the year. As well, resolutions can come from the floor to give direction throughout the year. And then every year you can go back and say okay "last years resolutions, were they followed by the elected representatives? And were those resolutions from the floor?" So that is accountability, not just in the elections, but also with the annual general assembly and also through the resolution process.

With respect to transparency, questions can be asked and answers need to be given (Personal Communication, 2008).

As both Al Benoit and President Chartrand explain, and as discussed previously, the MMF holds elections for every representative position in their governance structure from the local level to the board of directors. The election process is democratic in nature and along with the assemblies', is an essential component of providing good governance for the MMF. Fulfilling this democratic function ensures that the MMF is accountable to the Métis Nation. The election process as well as assemblies play a pivotal role in providing accountability and are an essential component of good governance.

It is important to assess how the principle of accountability is reflected in the MMF's governance practices and, in particular, around the issue of harvesting rights. In speaking to Leah LaPlante, Vice-President of the MMF's Brandon Region, and Will Goodon, Chair of the Cherry Creek Local, about governance and what governance meant to them as individuals, it was interesting to hear their responses as they automatically led to the issue of harvesting rights and the leadership taken by the MMF on this particular policy issue. Leah LaPlante explained that:

In a nutshell to me, good governance is leaders that listen to the people. And I think we saw that in hunting and harvester rights in particular, where there were lots of community consultations done, and the MMF based their harvester cards and all of their laws on what they heard out there in the community. And any time the government is responsive to peoples needs then I think that's good governance (Personal Communication, 2007).

Will Goodon argues that "good governance works when people buy into a vision or the ideas, or reflects the vision of the people (Personal

Communication, 2007). Ms. LaPlante went on to discuss what good governance means to her and articulated the importance of having strong leadership as part of that. She stated that:

We have a very strong President who is very opinionated and he knows where he wants to go and sometimes he has brought issues to the Board and to the people, and taken a sort of different direction and he is very strong and doesn't back off when he says something. I think that is part of his good leadership because sometimes you just have to take a stand and take all the flack that comes with that, and he does that, and in most cases time has proven that he took the right approach. So I think that too is part of good governance. Not a leader that is wishy washy, that jumps all over the place depending on if 6 Elders are telling him something and six more changes his mind. He doesn't do that. I think that when you are trying to form a Nation and form governance in the broader picture, I think you need that strength in a leader because it gives people something to follow. They learn to trust their leader, after they see him go through that process a few times and I think that is part of the strength of the MMF actually (Personal Communication, 2007).

Both Ms. LaPlante and Mr. Goodon, throughout the interview process, identified the political leadership and the direction that it has taken on harvesting rights, among other things, as an absolute strength of the MMF. The dedication and commitment of the MMF to fight the Province of Manitoba on the issue of harvesting rights is directly reflected in what they articulated to me throughout our conversations.

The discussion around governance quickly led to the concept of self-government and how this plays a significant role in the direction that the MMF has taken, the challenges they have faced and continue to face moving forward, as a result. Mr. Goodon discussed his involvement with some of the commissions initiated by the MMF with respect to harvesting rights and other larger issues of self-government facing the Métis Nation in Manitoba. One of

the Commissions was the Commission of the Laws of the Hunt and the other dealt with Self-Government. Both commissions involved direct work in the form of extensive consultations with the Métis communities across Manitoba. Mr. Goodon provided some context and outlined some of the challenges that the MMF faces as a result of what community members expressed during these consultations:

I want to fill in some context because this is something that I have done some thinking about and I see that you will be speaking to members of Commission of the Laws of the Hunt and I was involved with that as a staff person. It was really important because I got to travel all over Manitoba and listen to Métis people talk about hunting, fishing, trapping and harvesting. But last year I was also involved in another commission that was talking about self-governance and there was some, in my humble opinion, some misunderstandings or confusion might be a better word, but I think there was some misunderstanding as well about what the word Nationhood means and what self-government means.

If you ask any Métis person what self-government means, a lot of people wouldn't really know how to verbalize it. I have a really hard time and I, you know, worked for the MMF for 8 years and I went on these commissions and did all of this work so self-government is a difficult concept to discuss. At that time and that last commission on self-government we talked about nationhood and self-government. There were some people who had motives that might not have been on the same track as others and they characterize nationhood and government as being a distinct territory, land mass, with government that was parallel and reflected exactly what parliament looks like in Ottawa or the legislative building looks like in Winnipeg, where we had to set up our own legislative building, where we had to set up our own tax structure, where we had to have our land mass that was separate and distinct in Canada, which is I suppose are some dreams for some people but is in my opinion is not realistic.

Self-government to me means that Métis people have control over the affairs that deal with Métis issues. Self-government and government and what the MMF is right now is I believe reflects what the Métis people in Manitoba want and need as a government structure (Personal Communication, 2007).

Mr. Goodon raised several interesting points in his observations of the Commissions he had been apart of. There are some major challenges that are embedded in the issues that Mr. Goodon raised, that reach far beyond the internal challenges of the MMF.

Firstly, the confusion or misunderstandings surrounding what self-government means is likely a result of the complexity of the term itself. The definition of self-government and what it entails is not agreed upon by all groups of Aboriginal peoples. Moreover, due to the complexity of self-government there is also external hesitation from mainstream government and society towards Aboriginal self-government, and particularly around what it means and what it involves. In turn, this has a direct impact on what self-government should look like for Aboriginal governments who have sought to take control over the issues that affect their people. As it is, Aboriginal governments have, for the most part, taken over the responsibility of delivering particular services for their citizens or membership, and this varies among Aboriginal governments, and more specifically, how this takes place and what the delivery of these services involves. Aboriginal governments, like the MMF, were initially established as organizations who lobbied mainstream government for change with respect to the way in which issues facing Aboriginal peoples were dealt with by governments. Over the years, the extent to which these organizations function has changed dramatically, as Aboriginal organizations have increasingly evolved and have taken far greater responsibility for the issues that affect their people; harvesting rights being a

great example. Now these organizations, such as the MMF are formally recognized and respected as governments, although there remain several challenges in fulfilling its responsibilities as a government with respect to negotiating with municipal, provincial and federal governments.

David Chartrand described the extent to which the MMF will go until their goal for harvesting rights is fulfilled, which speaks very much to the degree in which self-government is an important part of the MMF's success as the Métis representative government in Manitoba:

All of our rights are maintained to be equally available to all of our citizens and we must stand steadfast to protect that. So we believe that this matter that we are fighting right now with the Provincial government-the Federal government has adhered that clearly the rights are there and the Supreme Court has already ruled on this matter- it seems absolutely ludicrous that we have to now have to fight with the Provincial government again on the different constitutionality of powers that exist between them. We have the laws of the land that are supposed to be there to protect us, but here we are we have to be in the courts now to go back to start to start over at first base and it's absolutely absurd. So we find ourselves in a situation where I think the government is strategically choosing to fight this battle, not because of the moose or the deer or the duck. It's about their fear that if they share governance with us, they share the rights that are truly ours in that respect, they consult with us and recognize that they fear that they have to do this in all natural resources, mining and forestry and the list goes on. I think there is a big fear from the Province that they have to share powers and that scares them. So instead of doing the right thing in negotiating, they are forcing us into the courts, where they believe that if they charge enough of our people that they can actually maybe bankrupt us one day.

They (The Province) have the financial bank account with no end to it, they exist with our tax dollars and the Métis have paid tax dollars, and we our fighting an endless bank account and it's costing us hundreds and hundreds of thousands of dollars. The Goodon case itself is just one case and there are 24 more cases before the courts. I think the government is going to have to sooner or later come to terms with that. We did polls in Manitoba, and we hired firms to

review a poll in Manitoba asking Manitobans what their position would be on recognizing Métis rights. It was quite clear that a majority of the citizens support that the Métis have harvesting rights.

In a poll done by all Manitobans, they recognize that the Métis have the right to harvest, yet we have a Provincial government who still ignores all of these Supreme Court rulings, other jurisdictional rulings in different Provinces, Saskatchewan cases have predominately won-all of the harvesting cases. So we find ourselves in a first case on this statute to find that it's a strategic move on behalf of the province to prevent us from having rights. And the sharing of power is not in their perceivable future or something they want to support right now. It's not about just harvesting; this pie is bigger than just harvesting-it's about the future of commercial rights, the future of other aspects of things that will –we will never back away from our position and the Métis government is getting stronger and stronger and stronger and will continue to do so.

Jean Teillet explained to me her thoughts on the litigation process regarding harvesting rights and the extent to which the MMF continues to take action on the issue. She argues that:

Good governance requires that the MMF respond to and take the lead in protecting Métis interests. The MMF has taken the only available avenues open to it. Litigation is not a negative course of action. Litigation is a part of governance and can be considered good governance. Also, for the Métis across the Métis Nation, litigation has been a necessary and helpful form of action (Personal Communication, 2008).

As the lead lawyer on harvesting rights, Jean Teillet clearly articulated that litigation is an important component in governance process, and that it is at times a necessary form of action in the course of self-government when dealing with issues such as harvesting rights or any other Aboriginal rights.

Each of the interviewees expressed the need for the MMF to respond to the needs, concerns and interests of the Métis Nation in Manitoba in providing good governance and as part of the self-governance process. Al

Benoit explains that this is imperative to self-government in exercising

Aboriginal rights, as:

Aboriginal rights are not only about exercising the right but it's also the right for the community to determine how that right is to be exercised. And the Métis- how the historical traditions have been that there are rules, written and unwritten rules on how to govern the interactions between the natural resources and the people themselves and between or amongst the people. So the Manitoba Métis Federation had both prior to the Powley decision as well as following the Powley decision, we had lots of consultation meetings throughout the Province at the local level. I believe to date we have had over 80 consultation meetings, there have been a number of conferences with Elders and we keep receiving the same message- one that there needs to be rules or laws and there needs to be a way of giving back so we have put together a Conservation Trust Fund- we have got to give back to nature, there needs be management and there needs to be away to identify those people out there harvesting, making sure that the Métis people are the ones harvesting and not others.

So as the Métis government, we are fulfilling what the people have told us in those consultation meetings. If they told us to do something else, we would be doing something else but that is what they have told us to do. So as a government system, we are exercising the Métis people's right to determine how they will exercise their right to harvest. And as President Chartrand said, we will work with the government and build partnerships and with others but not at the loss of compromising Métis rights and not at the loss of going in a direction that is contrary to the direction the people told us we had to go. In that case we will continue to fulfill our program on our own if necessary and that is what is good about self-government. Self-government is you are governing your self, you are administering your self, you don't have another entity telling you how it is supposed to be done, so that is what we are doing. And that's how in my mind how Métis rights and harvesting connects to self-government (Personal Communication, 2008).

There are, evidently, many challenges that come along with self-government.

However, the MMF's evolution from an organization to a formal government speaks to the way in which the MMF has handled and continues to handle issues such as harvesting rights.

Mr. Goodon explains this evolution and what it means for the MMF:

I believe the MMF is the government of the Métis people of Manitoba. Now, the MMF has evolved, the Métis government in Manitoba has evolved. You know, we can go back to Louis Riel or even further back to have examples of Métis governments here in Manitoba or this part of the country. The MMF has evolved since 1967. It is evolving on almost a yearly basis as we develop new governing structures and capabilities within our organization. In 20 years, the MMF might look different, it probably will look different than it does today and that is what is great about the MMF, is the citizen involvement, and the leadership involvement in the future in what the government of Métis people should look like. It might not even be called the MMF, it might be called something else in 20 years or 40 years and that would be fine as well as long as it continues on the track. I do believe that the MMF reflects the values and the principles of the Métis people here in Manitoba. I wanted to put a little context because this is something I have really thought about and it reflects it now. There were some people who wanted a land mass and a structure, taxation, responsibilities and the whole kit and caboodle. There is nothing to say that you can't work to some reflection of that in the future and that would reflect what the Métis people wanted then, and like I said we are evolving now, and it might end up looking to striving towards an ideal. But at this point in time, it is my firm belief and I will argue this with anybody, that the MMF is the Métis government in Manitoba and does reflect the values of the Métis (Personal Communication, 2007).

Ms. Laplante discussed some of the hesitation and confusion that she has seen from non-Aboriginal peoples regarding the issue of self-government and what self-government means for her and stated that:

As one of those leaders, I have always had a problem with the word self-government. I much prefer when I speak, to call it self-governance because there is a difference in that. And there are people in the Métis world that go around talking about land mass, and you know, having their own government and all of those things. Quite often it happens in jest, you know you have people who are not Métis at meetings and different town meetings who will stand up and comment on these issues, because of these misunderstandings and fears that they will have their lands taken from them. I have already made two presentations on what Métis land claims and First Nations land claims are all about, and we have had Reeves and other representatives and council members call us to make these presentations so that these people are getting a better understanding

of where the Métis are coming from, and I think that is a sign of good governance as well (Personal Communication, 2007).

Ms. LaPlante also raised some very good points with respect to the challenges that the MMF faces and will face moving forward, not only with respect to dealing with all levels of government but with respect to society as a whole.

She explains:

I see that as a part of the Métis government's role is to educate the rest of Manitoba about where we are really coming from and get that support because to me that's the only because I can tell you if 75 per cent of Manitobans were on side with us to have harvester cards, Gary Doer wouldn't be stuck where he is stuck right now. He would be out there-"okay let's cut a deal, and let's get this taken care of". So I think in the beginning, in the 60s and 70s and I mean we have had good leaders all the way through, but in the 60s and 70s it was a fledging organization and really a lot of the leaders in the communities were thinking about garage sales and selling tickets on something to make money, you know it was such a young movement and education and information is the key. And I think now out in our communities they are not worrying about garage sales or anything else. They are very hip politically and they know where we are going, but educating the rest of Manitoba is just as much a responsibility of the Métis government as anything else so, self-governance-as soon as you start telling a crowd of people that it doesn't mean that you are going to have a legislature and all of those things you can sort of see them take a deep sigh. Then they are really caught up, you know okay what are they going to say now? (Personal Communication, 2007).

Ms. LaPlante took the discussion of self-government a little further and discussed some of the work that she is currently involved in, that for her defines what self-government is and how the MMF, as the Métis government in Manitoba, has come to define it and carry out the responsibilities involved.

She states that:

The Louis Riel Institute that I chair was legislated by the Province of Manitoba. They've never given us any money to develop it and thus, we are in the midst of trying to do that now. Now to me that's self-governance. We are developing that institute that is there to educate,

and protect the culture and history of the Métis people. That's what self-governance is-building that ourselves-not a non-Aboriginal coming in or a non-Métis and saying okay we are going to build this institute for you and this is what it will do.

That is a simple explanation of self-governance. All it means is that we do have input in things that affect our lives directly, so it's a big issue, but we as government of Métis people have to spend a lot of time out there talking about this and one of the things that I think the MMF is eventually going to have to look at is the fact that when you are elected as a Vice-President or a Board of Directors or the President, you are supposed to be a political person and the government has piece-mealed us to death with little projects, and given us money for different things, and so we have become very good at providing services (Personal Communication, 2007).

Ms. LaPlante explained that although there are definite benefits to self-government in the bigger picture, in that the issues affecting the Métis Nation are dealt with by the Métis government, there are also many challenges that come along with self-government which involve not only working with limited funding, but also large work-loads and limited staff. In discussing her responsibilities Ms. LaPlante explains:

The elected politicians are also responsible for overseeing all of those services and you can really get bogged down in that-I as a good example. In this region, when you become Vice-President you automatically become administrator of this whole building which has a \$1 million dollar bingo attached to it, we have a day care centre. It's a full time job just looking after this place. But that's one of the perks you get when you become Vice-President. So then you do your Vice-Presidential duties, and I think I have five portfolios at the Provincial level now, I am Chair of Louis Riel Institute and trying to build that, that could be a full time job, and Standing to All which is a new program we have for core area schools-I am the Chair of that and I am also on the provincial management board as an ex-officio to oversee education and training, and I have provincial education which means that I deal with all issues with school divisions and teachers and all committees for the Aboriginal Education Directorate.

I also have tripartite education, and I sit on the Board of the Louis Riel Capital Corporation and because I like to be a good, all around citizen, and build our network in the community, I sit on the Art Gallery of southwestern Manitoba. So on any given day or any given time, you can bet I am fulfilling one of those obligations instead of being out there doing what I originally it was intended to do. So we really have to take a look at the workloads, and what the elected leaders are doing because it is phenomenal. You'll get people out in the community saying, "aww you guys are in Ottawa all the time, like you know you guys have a good life". Okay, really follow me for a month and see what a good life it is.

So, there is an overload and the possibility of burn outs, and it happens frequently in the elected government of the Métis people which I think is quite different than the Provincial governments and Federal governments. They deal with one thing and one thing only; that's their constituencies and perhaps one portfolio and they have staff galore. I do not have a staff person for most of those portfolios that I hold, so it's a big load, but I think the fact that most of us have been here for eleven years speaks volumes to about the commitment. I don't think there is a government in the world that is as committed to their constituents as the Métis government in Manitoba (Personal Communication, 2007).

It is evident that the MMF has evolved on several fronts and that there are several challenges that the MMF continues to face moving forward. These issues deal with more than just harvesting rights, and thus reach far beyond the scope of this research. However, they warrant attention as they are fundamental governance issues that need to be addressed as they deal specifically with self-government, internal governance and administration, government-to government negotiations and relationships, funding and education on the issues facing the Métis Nation.

These issues were also addressed and elaborated on in the IOG's report entitled Exploring options for Métis Governance in the 21st Century.

Although these issues do not come as a surprise, these same challenges were discussed in the interview for my research and will be discussed more

thoroughly in the section on Assessing Métis Governance in the chapters ahead as they remain important issues that the MMF and the Métis Nation will continue to face and explore moving forward.

4.4 Performance Measurement

A major component of this research is the analysis of performance measurement, also known as a results-based measures approach and determining whether the MMF uses results-based performance measures to assess and evaluate their governance practices, identifying the ways in which the MMF goes about doing so and, whether the mechanisms the MMF have in place are culturally appropriate and reflect the values of its citizens. The Institute on Governance argues that “good governance is about achieving desired results (whatever that government and its citizens see fit) and about achieving them in the right way; that is consistent with the normative values of democracy and social justice” (2001, p.7).

It is these values that shape indicators of success within a performance measurement system. Good governance and the purpose or intent of a performance measurement system share common characteristics which seek to ensure that progress is made and, that governments and or organizations are being efficient and effective as well as accountable in the process. Examining the relationship between good governance and performance measurement is useful in assessing and evaluating the MMF’s ability to govern and the progress the MMF has made on the policy issue of harvesting rights. More specifically, the progress the MMF has made towards reaching

their overall goal of having a harvesting rights policy recognized and implemented by the Provincial government of Manitoba.

Performance measurement is an effective management tool and is an important element in public management and modern day administration. Performance measurement allows for the communication of priorities, the ability to assess progress and organizational capacity to align the efforts of an organization or government with its strategic goals. It also motivates employees or civil servants to perform better, it clarifies expectations, and it assesses the achievements of the organization on whether the organization is achieving its intended goals and objectives. Furthermore, performance measurement allows the ability to learn how to accomplish and reach goals and objectives more effectively and leads to important insights in doing so (Kennedy School of Government, 2001, p. 2-6). Focusing on results, accountability, transparency, improved quality of services, efficiency and effectiveness, are all important elements in providing 'good governance' and thus are important elements of a sound performance measurement system.

In recent years, there has been increased pressure for governments at all levels to do better in delivering services and demonstrating their accomplishments (Treasury Board of Canada Secretariat, 1995, p. 1). Furthermore, there has been a high volume of demand by the public for "tangible results at affordable costs" (TBS, 1995, p. 1). The result of this increased pressure is a process which has been coined 'performance

measurement', although there are several reasons for the establishment of performance measurement.

Thomas argues that performance measurement as a process or system provides "objective, reliable and scientifically valid evidence about what works and what doesn't in the public sector" (2004, p. 10). Thomas further argues that there is a need for balance between quantitative and qualitative evidence regarding how performance measurement is actually 'measured' (2004, p. 13). Thomas defines performance measurement as "the regular generation, collection, analysis, reporting and utilization of a range of data related to the operation of public organizations and public programs, including data on inputs, outputs and outcomes" (2004, p.1). As Kim Speers explains, performance measurement can be a highly subjective task "depending on the stated expectations, the established targets and goals, external variables, the quality of leadership, and a variety of other reasons depending on the assessor's values and biases" (2004, p. 2).

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Performance measurement has become an attractive and key tool in public management, and “the common goal is to improve the performance of government and to enhance its value to society” (Thomas, 2004, p. 1).

Generally speaking, the increased attention that has been placed on performance measurement is a result of many of the things, including the mismanagement of public funds, but its purpose is to “guide decision-making and to achieve improved performance” by governments (Thomas, 2004, p. 1).

The IOG argues that values also play a tremendous and important role in determining the purpose and vision of the organization, and or government, and the way in which it operates and how it measures (Gill, 2001, p. 7).

Values are also important in shaping the indicators or tools of assessment used to measure or evaluate performance or success. As Pealow explains:

A defined set of values will set the stage for establishing the organization’s direction. The number and type of values are best established by key stakeholders. An organization’s values usually relate to social or public responsibility and standards of service to members. Values should be developed collaboratively with and communicated to all stakeholders. Organizations try to engage staff and volunteers who are able to demonstrate the desired behaviour to support the values (2002, p. 19).

Performance measurement has become a critical component of governments’ ability to achieve good governance and in measuring their actions and

progress, especially in the face of increased public scrutiny, and it is constantly evolving. It is evolving because there continues to be discrepancy in what performance measurement actually means by definition, and because it depends on the type and level of activity that the public sector is involved in. As Thomas explains:

Most public programs have more than one goal and the goal statements tend to be vague, changeable, and controversial and, at times, conflicting. Under these conditions, performance is multifaceted and subjective phenomenon. There are usually numerous stakeholders-that is, individuals and organizations who can affect or are affected by public programs-and therefore there can be widely divergent perspectives on what constitutes performance (2004, p. 10).

That said, there is not a concrete understanding of what performance measurement is and what it entails because “there is no single, “one best” approach to performance measurement. A government must develop an approach which fits with its constitutional/institutional arrangements, its political and administrative traditions, its size and organizational capabilities, its current environment and issues and, not least important, what it can afford” (Thomas, 2004, p. 12). Furthermore, and as TBS outlines, there are three broad areas and uses for performance measurement information which include management, planning and resources; accountability and citizen engagement; and policy development (TBS, 1998, p. 2).

For this reason, Thomas argues that performance measurement is inherently a political issue and thus, needs to be explained and discussed in a political context. He states that “Performance measurement systems are not strictly objective and neutral in their operation and their effects. They have an

impact on the distribution of authority and influence within organizations, as well as the types of evidence deemed legitimate to guide decision-making” (Thomas, 2004, p. 3).

4.5 Defining Performance Measurement

Thomas argues that one of the challenges of performance measurement is in defining the term, due to its subjectivity (2004, p. 10). In its most basic sense, performance measurement is:

A tool that managers (not evaluators) use...performance measurement is straightforward: program objectives and corresponding outcomes are identified; measures are found to track outcomes, and data are gathered which permit managers to monitor program performance...performance measurement is really just an aspect of organizational management (McDavid & Hawthorn, 2006, p. 2).

Thomas explains that performance measurement has taken on several meanings, due to several aims and purposes and that much of the “literature” implies that “performance is an objective phenomenon, consisting of a set of attributes of a program and its measurable impact on society. It is as if “performance was “out there,” just waiting to be discovered and documented through a set of measures or indicators” (Thomas, 2004, p. 10). Thomas further asserts that because of this, performance measurement is really a “social construct” (2004, p. 10) and that “the interpretations and the measures of performance arises as much, if not more, out of an interactive process among individuals and institutions, as they do out of theories of programs, data generation and analysis” (2004, p. 10). These indicators must be chosen based on the process of interaction between individuals and institutions and, more importantly, must be attributed to the purpose for which this interaction

exists and, furthermore, the relationship that is intended to be maintained and the values that shape and bind this relationship.

4.6 Input, Output and Outcome Measures

Inputs, Outputs, Outcomes and Indicators are importantly related concepts of a performance measurement system, as each is an essential component in the systems ability to measure performance. The Institute on Governance in their work entitled Means...Ends...Indicators: Performance Measurement in the Public Sector, discusses these concepts and their role and value in shaping performance measurement (Schacter, 1999, p. 1). The IOG explains that “a complete performance measurement system tracks both the “instruments” (public policy programs) themselves and provides evidence of their impact (or lack of it) on society (1999, p.1). The IOG report further explains that because of this, “Public sector organizations therefore must not only develop indicators that measure resources used (inputs) and activities completed (outputs), but also need indicators that provide information on the state of the world outside of the organization (outcomes)” (Schacter, 1999, p. 1).

The IOG puts forth four types of performance measurement as a result of the need for outcomes based indicators which include input measures, output measures, efficiency measures and outcome measures and are defined as the following:

***Input measures:** indicate the resources allocated to programs and organizations. They may be measured in terms of items such as funding, person-days, equipment and supplies;*

Output measures: indicate the implementation of government programs and activities, e.g. services provided, research completed, kilometers of roads paved, number of schools constructed, conferences held, publications produced, external organizations supported, etc. Although they do not directly indicate achievement of the broader social goals, they provide a basis for judging whether the organization in question is contributing to desired social changes;

Efficiency Measures: are based on the two preceding measures. They track the efficiency with which inputs are transformed into outputs. They may be expressed in terms of dollar costs or units of labor per unit of output- e.g. cost per hospital bed, cost per kilometer of paved road, cost per university graduate, etc.; and

Outcome measures: indicate the state of society in areas where the government is trying to bring about change. They focus on the desired results of government actions (e.g. a healthier population, a safer urban environment, etc.). Unlike measures of inputs, outputs and efficiency, outcome measures refer to the world outside the government organization. A focus on outcomes is a constant reminder of why a program is being delivered (Schacter, 1999, p. 1-2).

The difference between measuring outputs and outcomes can be drastic and may give different perspectives on the particular program or service being analyzed. As the IOG indicates, performance measurement serves to “tailor the behavior to standards by which performance measurement is evaluated. It can instill a sense of direction and purpose if the performance measurement system is well designed” (Schacter, 1999, p. 3).

Performance measurement is a useful tool for governments’ and organizations’ to use in providing effective management and administration, for effective planning and efficient use of resources, to strengthen and build on future policy development in guiding the decision-making process and in providing accountability on its activities to stakeholders. Implementing results-based measures is important in evaluating whether good governance is

being achieved because it is a mechanism which strengthens the administrative process by providing accountability. However, because a performance measurement system is shaped by a government or organization's goals (both long-term and short-term), and on the outcomes or end results of those goals, performance measurement speaks to the values and vision of the organization or government, to the direction that the government or organization will take and thus, the government or organization's success in reaching their overall goals.

One of the objectives of this research is to determine the ways in which the MMF is providing good governance to its citizens on the issue of harvesting rights. As has been articulated throughout this research, the Manitoba Métis Federation's overall goal with respects to harvesting rights is to have harvesting rights formally recognized by the Province of Manitoba and a harvesting policy implemented. Thus, this research seeks to address harvesting rights in the larger context of governance, in identifying the type of performance measurement system the MMF has in place, in addressing the way in which the values of the Métis community are brought forth in the MMF's governance practices and the way in which these values reflect upon the Métis community the MMF represents. An important question to answer in this process then is whether Métis values constitute measurable performance indicators. Above and beyond this, assessing whether the MMF has "achieved its desired results" with respect to reaching its overall goal to have Métis harvesting rights formally recognized by the government of

Manitoba, the direction that the MMF has taken on the issue, what the MMF has done to date towards reaching this goal (inputs and outputs), what must be done in the future and determining if the MMF's governance practices fall in line with (is consistent with) what the literature reviewed in this research suggests are principles of good governance.

The direction taken by the MMF on harvesting rights was largely determined by the grass roots Métis community across the Province of Manitoba. The MMF created a vision on harvesting rights based on concerns addressed by the Métis Nation in Manitoba and then pursued that vision based on the values of the community (stakeholders) and what the community was telling the MMF needed to be done. Thus, the Métis community set the direction on the issue of harvesting rights that would be taken by the political leadership and the MMF provided the necessary resources needed to achieve or reach the goal of having harvesting rights recognized by the Province of Manitoba. Although the issue has not been resolved it is important to recap and identify the actions that the MMF has taken in reaching this goal or the process involved, the resources they have provided in doing so or inputs, the result of these actions or outputs, and because the goal has not been met to date, how far the MMF has come in reaching this goal and the progress made (both short-term and long-term outcomes).

Inputs deal directly with the resources allocated to programs or initiatives in pursuit of a government's or organization's objective(s)

(Schacter, 1999, p.1) but also deal with external factors that influence the activity, program or initiative that is in progress. The MMF, has allocated several resources and has pursued many different activities and initiatives (inputs) towards to fulfilling the objective of having harvesting rights formally recognized by the Province of Manitoba, and thus implementing and protecting Métis harvesting rights in Manitoba. In 2000, the MMF began formal negotiation process between with the Province of Manitoba. Following the negotiation process a Co-Management Framework Agreement was established in 2001 with Conservation Manitoba to recognize Métis harvesting rights. The Commission on the Métis Laws of the Hunt was then created which included 19 workshops and consultations, and several local and regional meetings with the Métis Nation in Manitoba. 500 surveys were also conducted on topics related to natural resources with the MMF membership, a Memorandum of Understanding was negotiated with the Province of Manitoba in 2000 which outlined the principles of the negotiations on harvesting rights, as well as the development of a Métis harvesting initiative and harvesting guide.

Output measures deal specifically with the implementation of government programs, activities and include government initiatives (Schacter, 1999, p.1). As a result of the work done by the MMF in dealing with the issue of harvesting rights, which included negotiations with the Province of Manitoba, the Métis Co-Management Framework Agreement was established in 2001, which led to a Memorandum of Understanding that

was signed in 2002 with the Province of Manitoba. In 2002, the Report on the Commission on the Métis Laws of the Hunt was released which is based on the consultations and workshops that were conducted with the Métis Nation in Manitoba.

The MMF also developed a document entitled Know Your Rights: Guide to MMF Harvesting Rights in 2003 which was also based on the consultation with the Métis Nation. In 2004, the MMF established and released the Interim Métis Laws of the Harvest and established a Harvester Card System whereby which the identification and registration of Métis harvesters was initiated along with the formal distribution of official harvesting cards and harvesting tags. Furthermore, a Conservation Trust Fund was established to raise funds for conservation initiatives and a Métis harvesting initiative was implemented in the form of Métis Harvesters Guide in 2005 to implement and protect Métis harvesting rights. The Commission on the Métis Laws of the Hunt translated into the development of an official Métis Laws of the Hunt, which after an extensive review process with the Métis Nation (in the form of consultation and surveys), was revised into a second edition.

As, Al Benoit and Stephanie Eyolfson (the Associate Executive Director of the MMF) explained to me in an interview, the extensive review process involved the evaluation of existing policy on harvesting rights, an assessment of the MMF's current position on harvesting rights, included public opinion poll statistics, and profiled the rights established based on the

Powley decision. The consultations with the Métis Nation also allowed for unaddressed issues to be raised and dealt with, the communication of rights, as well as providing key consideration for future development (Personal Communication, 2008).

The Harvester Card system is also currently undergoing extensive review in order to strengthen the process and to measure the MMF's success with respect to the efficiency and effectiveness of the process in place. Stephanie Eyolfson stated that the harvesting management tags used to tag the animals that are harvested (and thus, used to identify the Métis harvester) is a key measurable in evaluating the harvesting system (Personal Communication, 2008). As part of the harvester system review process, the renewal of Métis harvester cards, and the renewal of stickers issued are used to account for the number of Métis harvesters and their harvesting activities. It was noted that the application process is extensive and its purpose is to ensure that Métis harvesting cards are being issued only to responsible harvesters who must follow MMF harvesting policy. Furthermore, the application process involves meeting strict requirements in order for harvester cards to be issued (Personal Communication, 2008).

Above and beyond the renewal process, harvesting surveys are issued to all Métis harvesters to gather harvesting information which also aids in strengthening the overall harvesting management system. Al Benoit noted that the surveys are revised accordingly to track the appropriate and necessary information regarding all Métis harvesting activity in Manitoba. This

initiative strengthens the profile of Métis harvesters, as well as allows the MMF to rethink the management of the harvester card process and thus the self-government process with the input of the Métis Nation. For the MMF this review process is a key indicator of their success in the overall management of Métis harvesting in Manitoba, all of which is managed by the MMF's Department of Natural Resources (Personal Communication, 2008).

Input and output measures are essential in tracking desired outcomes or results of a particular program, service or policy issue since outcome measures focus on 'desired results' and the change that is brought about by the input and output measures (Schacter, 1999, p.1). Although the MMF has demonstrated a great degree of progress in reaching their overall objective of having harvesting rights formally recognized and implemented by the Province of Manitoba as indicated by the output measures that have been achieved, they have not been successful in reaching their overall goal to date. Thus, outcome measures allow for the analysis of the change that has been brought about by the work done towards reaching the short-term goals and whether the progress made is consistent or in line with reaching the intended overall or long-term goal(s). It is evident that the MMF has been successful in terms of the direction it has taken on the issue of harvesting rights and in articulating the importance of implementing and protecting Métis harvesting rights in Manitoba. The MMF has also been negotiating a harvesting policy with the Province of Manitoba since 2000 and has secured a

commitment by the Hon. Stan Struthers, Minister of Conservation and the Hon. Gary Doer, the Premier of Manitoba both verbally and in writing.

In the case of harvesting rights there are several external factors that need to be taken into consideration when measuring the progress made by the MMF. Firstly, the issue surrounding the implementation of harvesting rights is complicated and deals with much more than implementing an internal policy by the MMF. Intergovernmental relationships and negotiations with the Province is a major component, as both the MMF and the Province of Manitoba have political interests at stake and policies to consider. Although the Province of Manitoba committed to negotiating a harvesting policy with the MMF, the Province implemented the Powley Implementation Committee without consulting with and including the Métis Nation and the MMF in the committee's mandate and thus there was no resolution.

Secondly, harvesting rights, although it is very much a political issue, is also a legal issue. The section on Powley, Blais and Goodon discussed the legal issues surrounding harvesting rights in Canada and in Manitoba extensively, and delved into the external factors that have inhibited harvesting rights being implemented, although it is clear that Métis harvesting rights are protected under section 35 of the Constitution Act, 1982, as per the Supreme Court ruling in Powley. Although this right has been affirmed by the Supreme Court of Canada, respective provinces dealing with Métis harvesting rights have not implemented harvesting policies as they continue to raise constitutional and jurisdictional issues related to Aboriginal rights

(protected under federal jurisdiction) and harvesting rights (as part of natural resources under provincial jurisdiction). Thus, harvesting rights have been relayed back to the courts as ‘test cases’ to prove Métis rights to harvest (although it has already been affirmed by the SCC) in each respective province and in specific regions within each province, further stalling the policy process. In other words, although there has been significant progress made in dealing with the issue of harvesting rights, there are several challenges the MMF continues to face due to external factors in accomplishing their goal of implementing a harvesting policy.

Efficiency measures deal with tracking the ‘efficiency’ of the input measures as they ‘transform’ into output measures. Tracking the efficiency of a policy or initiative usually deals with financial capabilities or restrictions, and is beyond the scope of this research. However, it was noted that the MMF is facing financial challenges with respect to harvesting rights because of the legal situations they are facing. These ‘test cases’ are financially draining, and the MMF does not have the financial resources that the federal or provincial governments have to continue fighting to protect harvesting rights through litigation in the courts.

In terms of monitoring the progress made on harvesting rights, and ‘ensuring efficient use of resources’ as well as reporting the progress made to stakeholders (the Métis Nation), it was articulated in the interviews with President Chartrand, Leah LaPlante and Al Benoit that the MMF monitors their progress and provides accountability on harvesting rights (among the

other issues they are dealing with) through a checks and balances system that works from the local level, through the regions, all the way up through to the Board of Directors, to ensure good governance. As Al Benoit explains, the MMF has a number of mechanisms in place to ensure good governance, which includes: the election process; the local, regional and provincial and annual general assemblies; the resolution process; and the consultations and town hall meetings with the Métis Nation. These mechanisms provide accountability and transparency to the Métis Nation in Manitoba (Personal Communication, 2008). President Chartrand further states that:

Good governance means accountability and direct authority and powers vested in grass roots people and their interactions, participation and giving guidance to their government-that is what good governance is-and to be accountable, and at the same time democratic in principle, and to maintain that no matter what, at all costs, that is good governance (Personal Communication, 2008).

This section dedicated to performance measurement has explored the concept of performance measurement, and the many indicators used in performance measurement. In order to determine whether the MMF is providing good governance to the Métis Nation in Manitoba on the issue of harvesting rights, it is essential to identify the indicators or tools of assessment and the mechanisms used by the MMF, to explore and assess whether the community's values and perspectives are consistent with the MMF's governance structure and governance practices.

Chapter 5: Conclusion

5.1 Re-cap of Objectives

This proposed research has involved several components and includes: the historical evolution of the Métis Nation (including a brief political and legal overview); an analysis of Métis harvesting rights, an examination of the political action taken by the Manitoba Métis Federation on the issue of harvesting rights in Manitoba; an assessment of Métis governance in order to understand why the issue of harvesting rights remains a very important political and governance issue for the Métis Nation in Manitoba, as well as a thorough analysis of performance measurement to assess the MMF's governance practices on the issue of harvesting rights to put the above elements into context.

To re-cap, the objectives of this research were to: examine the MMF's governance structure to identify how the MMF's governance structure and governance practices reflect the values and principles of the Métis Nation in Manitoba; define what "good governance" means to the Métis community in Manitoba; identify how the MMF takes political action within local communities, as a requirement of good governance; and to begin to identify the ways in which the MMF provides accountability and transparency (principles of good governance), and whether the MMF uses results-based measures (performance measurement) to assess and evaluate its ability to govern and how it governs.

The objectives, as noted above, have been discussed throughout the chapters of this research. As previously noted, accountability, the MMF's governance structure was examined in order to identify the governance process the MMF has in place, the way in which it functions, as well as the layers of accountability that are embedded in its governance structure. Throughout the research process, including the interviews, it became evident that the MMF's governance structure functions in accordance with democratic principles that are reflected in the way in which its political representatives are elected (through the election process), in the MMF's Constitution which outlines the MMF's obligations and responsibilities to govern, as well as the MMF's decision-making process through local, regional and province-wide assemblies, where resolutions are passed and decisions are made with the input and direction of the people.

As democracy is characterized by accountability, the MMF's governance structure and practices rely heavily on accountability, to the Métis Nation in Manitoba as well as the Métis Nations duty to hold the MMF accountable for its actions. In this way, accountability is a two-way process which holds decision-makers and stakeholders accountable to one another. Good governance was defined by the interviewees (political staff and administration) as providing accountability to stakeholders, in vesting authority and powers to stakeholders (grassroots people) and in ensuring that they participate and give guidance to their political representatives and their government as a whole. This means ensuring that the appropriate mechanisms

are in place to allow stakeholders to participate fully in the decision-making process, through local and regional executives, through annual general assemblies, through consultation processes and town hall meetings, in creating resolutions that would be voted on by respective executives and local communities to become formal policy the MMF implements, and through the election process, all of which accounts for political action in local communities. Good governance was also defined as providing a vision that reflects the ideas and values of the people and in providing strong leadership and direction that is consistent with the vision of the people or stakeholders.

The MMF uses the mechanism of good governance, including local, regional and provincial assemblies, as well as the election process to evaluate their governance practices and the actions they take on behalf of the Métis Nation in Manitoba. Furthermore, performance reporting mechanisms are in place, whereby which decisions that are made and policies that are implemented work their way up the hierarchy (local, regional and provincial levels) and up to the Board of Directors which oversees the MMF's political and financial decisions. The Board of Directors is made up of elected representatives and thus, is also held accountable by the members of the MMF for the decisions they make.

5.2 Assessing Métis Governance

Having looked at the MMF's governance structure, it is evident that there are accountability and transparency measures at every level and layer within the MMF's governance structure. This not only provides the MMF, its

political representatives and staff with the Métis Nation's perspectives and recommendations on the direction that they feel is most appropriate and needed on the issue of harvesting rights (and of course other issues that are imperative to the Métis Nation in Manitoba) but also instills the Métis Nation in Manitoba with confidence that their political representatives are taking their perspectives seriously and are guiding the process in their best interests. Having put the MMF's activities on harvesting rights into context using indicators of performance measurement, it is important to gain the perspectives of the interviewees in self-assessing Métis governance in Manitoba.

The IOG argues that governments must take into consideration the "values, cultural norms, and desired social and economic outcomes" of its citizenry (Graham et al, 2004, p. 6) and that "applying good governance principles in practice must take into account the historical, cultural and political factors a specific society...faces" (Madden et al, 2005, p. 1). Defining what good governance means to the Métis community in Manitoba was the first step in assessing Métis governance and in comparing and contrasting principles of good governance, and what the MMF defines and characterizes as their principles of good governance to be. The second step involves distinguishing how the Métis Nation's grassroots perspectives and concerns addressed at the institutional level by the MMF political leadership and they way in which the MMF takes direction on and governs according to the issues that are important to the Métis Nation. Exploring and defining

concepts of governance and good governance has allowed for fundamental governance issues to be addressed and articulated. The next step is to assess Métis governance accordingly.

Analyzing Métis governance structures allows for the examination of strengths and weaknesses of governance practices as well as the opportunity to build on best practices. As per the definition and principles of good governance, the perspectives of the interviewees remain an important aspect in exploring these concepts and in defining how these concepts are translated from theory to practice in terms of how they are played out by the MMF. The perspectives of the interviewees, although they are not critical like the point of view of an outsider, provide insight in the day- to- day administration and governance of the MMF.

Mr. Goodon is currently the Chair of the Cherry Creek Métis Local Council, and thus is actively involved within his local community as well as with the governance structure of the MMF. Mr. Goodon is also involved in a court case known as the Goodon Case, which as discussed earlier, deals with Métis Harvesting rights in Manitoba specifically. Since Goodon is the defendant in the case, he therefore, brings specific knowledge and a particular focus to the table in this respect. This added a dynamic to the issue of harvesting rights that is being assessed in this research because Mr. Goodon not only contributed his knowledge and background on harvesting rights and governance, with respect to his involvement with the governance structure of the MMF, but also from the standpoint of a community member who is

dealing directly with the courts in articulating his rights to harvesting, which is of course integral to this research.

In discussing the collaboration between the MMF and the Province of Manitoba in coming to an agreement to recognize Métis harvesting rights in Manitoba, Will Goodon stated the following:

I think that the MMF has done everything that they possibly could to try and make this situation as absolute. As we talked about before, harvesting is part and parcel of being Métis. Even before Powley went to the Supreme Court and the Supreme Court made a decision, President Chartrand was meeting with the Minister at that time, Oscar Lathlin, and they came up with a Memorandum of Understanding that we would work together and develop a Métis harvester system. It was very proactive and it was President Chartrand who moved that agenda forward, it wasn't the Minister. The Minister I guess somehow kept this under the radar from the rest of Gary Doer's government but the Minister went along with what President Chartrand wanted and we pretty much got everything we wanted in the MOU, and that was even before Powley and President Chartrand had talked to the Minister and the government for months before that, saying "look Powley's coming down, let's do something now. If we did something now you know what I might not have to do anything with you later because the Supreme Court's going to tell you that we can hunt". The other thing that President Chartrand did was do this Commission on the Laws of the Hunt (Personal Communication, 2007).

Mr. Goodon went on to discuss the commitment by the MMF, and in particular by President David Chartrand, in striving towards making the Province understand the importance of harvesting rights to the Métis Nation as it is an integral part of their way of life. The concerns of the government of Manitoba largely revolve around the issue of conservation, yet the Métis community made it quite clear that this is an important part of the harvest.

Conservation is key for both parties with respect to harvesting. The Province of Manitoba has made it quite clear that part of the hesitation to

proceed with implementing harvesting rights is due to issues surrounding conservation. What is striking is that there is not a greater effort on behalf of the government with the Métis Nation and the MMF in establishing an agreement based on the principles of the Co-Management Agreement that was negotiated between both parties. The MMF has worked with the Métis Nation to develop a harvesting guide and a formal Métis harvesting policy entitled the Métis Laws of the Hunt that are based on principles of conservation. The Métis Laws of the Hunt have undergone extensive review with the Métis Nation, alongside several consultations and, as a result, a second edition of the Métis Laws of the Hunt has been implemented. Furthermore, the MMF has established a conservation trust fund to implement conservation initiatives. Mr. Goodon elaborated on the importance of conservation and the concerns that the Métis Nation were raising with respect to harvesting:

You know, it was conceived of before, and the people were telling us "conservation is very important, you can't shoot 10 ten moose you know. You definitely can't sell any meat. You take what you need. If you want to give some to your uncle, or your aunty or your grandma then absolutely, that's apart of who we are and but you don't take 10 because you don't need 10. You don't even take 5 because you don't need 5 moose. So that was a very proactive part of what the MMF was doing. And then Powley came and still the MMF moved forward on providing and going back to what we were just talking about on governance and still it was responsible because conservation again, was still at the head of what the MMF was doing with the harvester cards (Personal Communication, 2007).

Above and beyond the issue of conservation is the politics behind the politics. As discussed earlier, Minister Lathlin, the former Minister of Conservation worked closely with President Chartrand to establish a memorandum of

understanding. However, this changed with the shuffle in the Provincial Cabinet and the new Minister Responsible for Conservation, Minister Struthers, has backtracked on the government of Manitoba's initial commitment towards negotiating a Métis harvesting rights and in supporting the development of an official policy for Métis harvesting rights in Manitoba.

Mr. Goodon noted this change and his concerns regarding the Province's stance on harvesting rights:

All along, in my opinion the Provincial government has been operating, not on the concept of good faith, in fact that is the furthest thing from what they come to describe it, it was a bad thing. Gary Doer stood up in front of our assembly and said "we will respect your rights". We got a letter from Stan Struthers saying "we will work with you on the harvester card system" and two weeks later, where are we? We are getting charged. And that's not just me, that's Métis people all over Manitoba were getting charged for fishing and for hunting all over Manitoba. So that tells you that they had no desire and no willingness to sit down and talk and in my opinion this whole concept is a making of the Provincial government. And where does the buck stop? It stops right at the Premier because he stood to up to us and bald face lied to us and did it a couple more times since then (Personal Communication, 2007).

As Will Goodon argues, with the shuffle in the provincial cabinet came a different approach to the way in which the provincial government would take on Métis harvesting rights. Since then, there has been no willingness from the provincial government to continue negotiations.

President Chartrand explained that there was a lot of good work being done and a good partnership was established in the initial stages of negotiations on harvesting rights with the Province of Manitoba. President Chartrand explains that:

Prior to the decision of Powley coming down there was good dialogue between our officials in our office and officials in the Provincial government. We did with the Minister at that time, the Minister of Natural Resources was a First Nations individual, Minister Lathlin, and we had a progressive meeting. At the end he supported and he clearly recognized the Métis Nations right to harvest. Just like in a position with First Nations, so we started a dialogue on how this partnership would itself evolve across the province and things were working out well. Then with Powley coming down, we thought it would be clearly much easier now that the Supreme Court of Canada backs up our position we are taking. The Minister was changed and a new Minister came in, Minister Struthers and everything went out the baby with the bathwater scenario, and instead of an olive branch we got sticks thrown at us and the war started. I think it was strategic on their part knowing that the Federation and the government itself would not have enough economic tools to back up its citizens. And it was just pure fear tactics, openly by the knowledge base of the minister allowing it to happen, because warnings were given to him about what was taking place, whether Natural Resource Officers were using scare tactics directly towards our citizens. So it was quite a sad case of events that this was allowed to happen. It has taken us back to the 1800's to land claims and the people were physically and forcefully chased away from their homes and their lands.

The irony of all of this is that the courts have heckled strongly to the politicians-do your job-this is what you are elected to do, negotiate these things, quit bringing it back to the courts and so the courts I think are pretty fed up with this also. It is absolutely ludicrous that we find ourselves back sitting in the court room. It is unfortunate that the positive relationship we were able to build, the staff did a great job in doing so and the government also played a very supportive role in that partnership, decided to change that in midstream and go into a counteractive position which now finds us in the courts and in an adversarial position which clearly will continue to weaken the future (Personal Communication, 2008).

President Chartrand further explains that although there was a change in sentiment by the Provincial government and thus, in the nature in which the province dealt with the MMF on the issue of harvesting rights, that there is a positive light at the end of the tunnel in terms of how harvesting rights will be dealt with moving forward. He explains:

The only positive thing I can state on that since that time is that the Minister of Natural Resources has been moved to the side, the Premier has taken the lead on this along with myself, and so we will be sitting down and negotiating this ourselves. We are waiting for the Goodon Case, there has already been a commitment made—following the Goodon case this government will sit down and hopefully will negotiate some kind of relationship and one of things I have made clear to the government is that I do not need their approval. And that is something I stand very clearly on. I do not need the approval of the Provincial government that our people can practice our rights and feed our families which is the basic essence of what our nation has done throughout its existence. Our rights are protected by the Constitution of this country and by the courts and the provincial government has no jurisdiction on that basis. We are doing this because of a partnership. Instead of fighting we believe in working with the Provincial government in a positive way. Obviously that will be their call and our people will not back away (Personal Communication, 2008).

As it stands, the conservation officers have full discretion when encountering Métis harvesters to seize their equipment and to fine harvesters who do not hold a provincial license (Wildlife Act of Manitoba, 2008, C.C.S.M. c. W130).

Individuals who are engaged in hunting activities are currently subject to the regulations and provisions of the Wildlife Act of Manitoba, which requires hunters to obtain a provincial hunting license (Wildlife Act of Manitoba, 2008, C.C.S.M. c. W130). Although the MMF developed the Métis Laws of the Harvest which outlines and reinforces the importance of conservation in harvesting, and protects and administers the traditional practices of harvesting, as well as a harvester card and tagging system that identifies and tracks Métis harvesters and their activities in Manitoba, neither are recognized by the Province of Manitoba. Thus, Métis harvesters that do not have a provincial harvesting license are continuously being charged by

Conservation officers. Currently, there are several harvesting cases, at various stages before the courts throughout the Province of Manitoba, and throughout Canada, including Will Goodon's case.

Mr. Goodon, like many other Métis harvesters, is determined to have his rights recognized by the province. Not only so that he and others can hunt without being charged, but so that their rights as a Nation are respected.

I go to hockey rinks and you know, the hockey dads ask me "so what's going on with your case" and I tell them and they say "that's a waste of a lot of money on one duck" and I say yeah, and all kinds of people, even Métis people say "oh that a waste of money to be spending on one duck". And you know what I would not put that on the MMF whatsoever. In my opinion, it is the Province who is forcing this, forcing us to spend more money that the MMF doesn't have, forcing Métis people into courts and now it looks like they are going to force more Métis people into court. Unfortunately we have to go to court all over again, even before this trial is done, they want to take to trial for other cases all over Manitoba. In my opinion it's the government who is abdicating their responsibility. They have lied to Manitobans; they have lied to Métis people and it's them who are costing tax payer's money.

It's not the MMF. The MMF is protecting their people. It's the Province of Manitoba, It's Gary Doer and Stan Struthers who are spending tax payer's money. That's what's going on and I always like to flip it around. It's not the MMF. The MMF is protecting their people. The government of Manitoba is attacking their people. Maybe this is going a little too far but I think you can go back and see a reflection of Batoche and you know the Riel resistance where the government is attacking the Métis people by force back then, and they are doing it through the courts now. So, again I don't know if that's too extreme of an example but it kind of makes sense to me that they are fighting us in a different way but starving us out in exactly the same way and are taking shots at us with all their advanced ammunition, and us still just like in Batoche, we're throwing-we're shooting nails and little pebbles out of our guns. You know that's all we've got but we are doing the best we can. You know we've got lawyers now and they are smarter than their lawyers. So we are just damn lucky we've got them at this point in the history of the Métis Nation because we are going to win. But it's

the government who is doing this all the wrong way (Personal Communication, 2007).

It is evident that the MMF and the Métis community are determined and committed to win this battle with the Province. Until there is formal recognition of Métis harvesting rights as articulated in the Powley decision, the MMF will continue pursuing litigation and negotiations with the Province of Manitoba.

The MMF and the Métis Nation are fighting this issue at a cost, one in which is over extending the MMF financially, but in no way is a choice for them because in reality it is the Province of Manitoba who is forcing them to face these circumstances. Although this is the cost the MMF has to pay, the issue is that important to their very existence as the government of the Métis Nation in Manitoba, and thus they will not back down from this fight. Mr. Goodon explains that:

That is why harvesting rights is important to me. You know, it's important on many different levels. Yeah it's important for me to be able to go out there and to go hunting with my dad and my uncle, and teach my kids how to hunt and fish like my dad taught me. On one level it's a part of who you are and how you grew up. You know this is what my dad taught me how to take care of the fish and follow the trails and that was some of my best memories of hanging out with my dad. To me it's almost symbolic of the fight that we are going to have in the future. That this is one of the ones that we gotta have a stand on and I believe that's why we are getting such resistance from governments. I believe it's symbolic for the government as well because they see this as a door. As soon as we kick that door open, and its been kicked open and slapped shut a couple times now because Powley kicked it open, but now we are having to kick it open all over here in Manitoba, and as soon as it does open, they know that we are going to be stepping in through that door. There are things on the other side of that door that the government doesn't want us to be apart of. There are other things that are beyond that the government is worried about that they're going to have to get us involved in. But if they can slam the door shut now, or at least just

keep it open just a crack and not let us in, then that's gonna be what they do. You know whether its an NDP government, a Conservative government or a Liberal government, its just that the government needs to keep us back because of what is coming down the road. But I think that it's too late, we have already kicked the door open and they can't close it anymore, and in order for us to continue to fight we have do what we are doing which is dealing with the courts. I know the MMF will fight for as long as it takes. If we have to fight for every acre in Manitoba, I suppose that is what we have to do. The other thing the government is trying to do is outspend us, so you know it's very important, it's all these different levels of importance. Whether it's sharing food, having a meal, remembering what it tasted like when I was a little kid (Personal Communication, 2007).

There are several elements of importance in harvesting rights to the Métis

Nation as Mr. Goodon articulated and as Jean Teillet explains:

Harvesting rights are important in and of themselves. But they are also symbols. I call it the "Hunt for Justice". By pursuing harvesting rights recognition in the courts, Métis have achieved recognition of their right to exist as an aboriginal people in Canada. That is no small objective and it is of huge importance (Personal Communication, 2008).

Ms. LaPlante also discussed the importance of harvesting rights to the

Métis Nation in saying that:

You know harvesting to the Métis people is as integral I think as Jesus hanging on a cross is to Catholics. It's almost the defining...if you had to take one defining characteristic of the Métis Nation it would be harvesting, which comes in all forms. And the reason I say that is, where I grew up, the defining thing about that community was that we never considered that we were encroaching on our governments territory or doing anything wrong and a few of them did get caught but still half of the fun for them was doing it. But I mean hunting to feed your family was just the same thing as breathing, washing your face in the morning, I mean it's a part of our life. We survived on harvesting the berries and the nuts, and all of those things that come with it.

Most of the men earned their living by either trapping or cutting fence posts. Out in a reserve which is now all gated up and you couldn't get in there if you wanted to. So, I think it would be a fair statement to say that it's only right that, harvesting rights is that big

log that we are using to knock that door down and because that is definitively what it means. It's good to have to answer these questions once and awhile because it sort of makes things come clear in our minds as well. Because really it is, harvesting is at the very core. Because I know in our community when I was growing up we never heard our community talking about health issues, we never heard them talk about education issues, and we never heard them talk about justice. They didn't talk about housing. The only issue ever discussed in our community was harvesting, hunting and still is today.

If we took you up to Turtle Mountain, if we took you out there in July, and took you to four different places without announcing that you were coming, on a Saturday night to a bonfire, I could guarantee you that the topic of discussion is not justice, its not health, its not education, it still is hunting. And the hunting stories that have come down through the generations and that are shared by the grandsons talking about their grandfathers and the whole bit, it is still as much apart of our community as it was 50 years ago, and I dare say 150 years ago. So harvesting rights should be right at the centre and that is where we should win our nationhood is based on our right to harvest in this country (Personal Communication, 2007).

LaPlante's comments above reflect on the extent to which harvesting is integral to Métis way of life, not only in a traditional sense but also in a contemporary sense. Harvesting remains at the heart of the Métis way of life and has been noted by all of the participants that harvesting is a defining characteristic or a 'symbol' of the Métis Nation. This 'hunt for justice,' as Teillet coins it, is at the core of this lengthy process involved in the Métis Nation's pursuit to have harvesting rights formally recognized, and a harvesting policy implemented by the provincial government of Manitoba and in the respective provinces, and, as LaPlante states, "harvesting rights should be right at the centre and that is where we should win our nationhood is based on our right to harvest in this country (Personal Communication, 2007).

The work of the Commission on the Métis Laws of the Hunt, the response to the Powley Implementation Committees report, and the commitment by the MMF to have the Government of Manitoba recognize the rights of the Métis Nation to harvest, proves the importance of the right to harvest for the Métis Nation. As it stands, the Province of Manitoba still has not formally recognized the Métis Nation's right to harvest and the MMF and members of the Métis Nation continue to litigate on this issue. This determination speaks to the importance of the recognition and protection of harvesting rights to the Métis Nation. Thus, the issue of Métis harvesting rights remains an important issue and ongoing challenge facing the Métis Nation and the MMF. It will be interesting to see what happens moving forward as the MMF continues to pursue this issue with the Province and the test cases move through the courts. Whether or not the Province of Manitoba makes a decision in favor of recognizing Métis harvesting rights will be largely determined by the ruling on the Goodon case and the other 'test cases' being put forth.

5.3 Conclusion; Key Considerations and Recommendations

Harvesting rights throughout the interview process was one defining characteristic of the Métis Nation, one that is at the very core of Métis way of life. To date, the MMF has demonstrated a profound commitment in fighting the Province and the courts to formally recognize the Métis right to harvest and will continue to do so until they have accomplished their goal of establishing a harvesting rights policy in Manitoba that is formally recognized

by the Province of Manitoba. It was made quite clear throughout the interview process that the Province of Manitoba's approach to formulating a harvesting process impedes the Manitoba Métis Federation's right to self-government, and has disrespected the very existence of the Métis Nation and the Manitoba Métis Federation as the Métis government in Manitoba, in doing so.

President Chartrand expressed his desire to work in partnership with the Province to negotiate a harvesting policy that truly reflects the Métis Nation of Manitoba's traditional laws of the hunt, and Métis conservation practices as part of that, not one that is dictated to the Métis Nation by the Province. However, the underlying issue with respect to the way in which the Province has dealt with harvesting rights in Manitoba is that they have neglected to work with the MMF since the Powley decision was handed down by the Supreme Court of Canada and this is disturbing to the MMF, not only because the MMF has done extensive work with the Métis Nation in Manitoba in creating harvesting policies, but also because the Province of Manitoba fails to recognize the Métis Nation's right to harvest.

For the MMF and for the Métis Nation in Manitoba, the very issue of harvesting rights and the way in which the MMF has dealt with the issue, has proven to be a pivotal aspect in defining what good governance means to the Métis Nation and how this translates at the institutional level with respect to how the MMF carries out their responsibilities on the issue. Part of this process includes, as Ms. LaPlante pointed out, educating the rest of Manitoba

on the importance of harvesting rights and what this means for self-governance, so that they (Manitobans) come to understand why the recognition of Métis harvesting rights is key for the Métis Nation moving forward and why it is important for the MMF as the Métis government in Manitoba to continue their battle on this very issue. Premier Gary Doer has made a commitment to re-enter negotiations to formulate a Métis harvesting policy in Manitoba once a decision has been made on the Goodon Case, as it is suspected that the Manitoba Court of Appeal's decision will carry weight with respect to the direction that the Province will take in developing a Métis harvesting policy in Manitoba. It will be very much up to the Courts to decide this direction and this will guide the process as like Supreme Court of Canada's decision on Powley.

To date there has been no word as to when a decision is expected to be made but the MMF will continue to hold the Province of Manitoba accountable until a harvesting policy is negotiated with the MMF and Métis harvesting rights are implemented and recognized by the Province of Manitoba. As Ms. LaPlante argues, "harvesting rights should be right at the centre, and that is where we should win our nationhood is based on our right to harvest in this country" (Personal Communication, 2007). The implementation of harvesting rights remains to be a significant part of the MMF's agenda moving forward, and is just one of the major challenges the MMF continues to face, in light of their path of self-governance.

It is evident that the MMF has evolved in many respects. Its evolution from a political lobby organization to being recognized as a formal governance structure was highlighted throughout this research as a significant point in the success of the Manitoba Métis Federation. The strength of the MMF's political capabilities, its strong leadership and governance structure, and how they correspond to the needs and aspirations of the Métis Nation in Manitoba, shines through the way in which they have dealt with and continue to deal with harvesting rights in Manitoba. This strength will continue to guide the MMF moving forward, in light of the several court cases dealing with harvesting rights and in their efforts to negotiate a harvesting policy with the Province of Manitoba.

With respect to harvesting rights, another strength that was identified was the MMF's ability to use litigation as a tool of good governance, which was noted by Jean Teillet. Mr. Goodon who himself is facing the courts with respect to his own personal harvesting case, identified having Métis lawyers (resources) who are challenging the courts and winning court cases as a strength that is part of the MMF. Apart from the lawyers, the determination of the political leadership to battle harvesting rights through the courts at a high cost is also a sign of the importance of the issue to the Métis Nation and, in turn, demonstrates the great length the MMF will go to protect the rights of its membership.

The extensive community consultations that have been done across the province of Manitoba with respect to the Métis Laws of the Hunt, and Self-

Government, and several other commissions that the MMF have implemented, have proven to be a successful practice that the MMF carries out. It allows for the political leadership to work closely with Métis Membership in discussing with them issues that are affecting the Métis people in these communities across Manitoba, as well as to gather input from the membership and feedback on these issues, such as harvesting rights. Extensive presentations have also been done with people outside of the Métis community with regards to harvesting rights and self-governance in keeping external stakeholders abreast of the issues facing the Métis in Manitoba. Part of this process includes, as Ms. LaPlante pointed out, educating the rest of Manitoba on the importance of harvesting rights and what this means for self-governance, so that Manitobans come to understand why the recognition of Métis harvesting rights is key for the Métis Nation moving forward, and why it is important for the MMF as the Métis government in Manitoba to continue their efforts on this very issue. A formal education strategy on harvesting rights and other issues facing the Métis Nation would play a vital role in strengthening the MMF's self-governance process moving forward.

Although several strengths were identified, it became evident that there are several challenges (some of which accounts for weaknesses) that the MMF continues to face moving forward, not only on the issue of harvesting rights but with respect to all governance issues facing the Métis Nation in Manitoba. Some of these challenges were outlined in the governance workshop. Participants noted that there is confusion surrounding the definition of self-

government and what this means and looks like for the Métis Nation, more specifically, with respect to what the roles and responsibilities of the MMF should be-internally within the Métis Nation and externally, with mainstream government and society. .

The political leadership, although it is committed to the Métis Nation and the issues affecting them, is bogged down in carrying several portfolios, providing and delivering programs and services, as well as their administrative duties. This has caused 'burn out' for many of the political representatives, and in turn, results in less time being spent by political representatives in, and engaging with, the local communities. This is a result of the lack of funds necessary to staff political offices in the way mainstream government does.

With respect to harvesting rights, there are several members of the Métis community who are currently facing the courts in light of hunting charges. This is a costly endeavor for the MMF; however, the Province continues to charge Métis harvesters despite the Supreme Court rendering the decision in *Powley*, that the Métis have an inherent right to harvest, which is protected under Section 35 of the Constitution Act, 1982. The most evident challenge is to have the government of Manitoba formally recognize Métis Harvesting rights, and put an end to Métis harvesters being charged by Conservation Manitoba. This of course will continue to involve pressuring the government of Manitoba and stressing the importance of harvesting rights for the Métis Nation, as well as educating the rest of Manitoba on the issue as well.

One of the key recommendations that can be made as result of this research surrounds performance measurement. It was identified throughout this research that the MMF does not have a formal performance measurement system in place to measure their progress on issues such as harvesting rights. However, in discussing performance measurement and indicators of success with the interviews, it became evident that although no formal system exists, that the MMF does have their own methods of measuring success which are very much in line with input, output and outcome measures, as discussed in previous sections of this research. Although it is an evolutionary process, performance measurement or results-based measures allows for progress to be tracked through set indicators which further strengthens the governance process, as long as these indicators speak to the values, vision and goals of the organization.

Al Benoit discussed some of the reviews that the MMF is currently undergoing with respect to self-government and the harvester card system. These reviews are necessary in ensuring that the MMF is using their resources efficiently, and is also a way to measure and evaluate the MMF's success based on the work that has been done and the progress that has been made. The harvester card membership system, as discussed earlier, is a key indicator used to measure results with respect to harvesting. Reviewing these systems is essential for the MMF to continue to strengthen the processes they have in place and to make adjustments and or additions where necessary, through a formal evaluation process.

A performance measurement system is optimal for progress or results to be measured, and throughout the process of service delivery or a specific policy issue. Performance measurement or results-based measures can also be used by the MMF as leverage when negotiating policy with the government and also in providing accountability to the Métis Nation. I therefore recommend that the MMF, develop a performance measurement or result-based measures system moving forward, that speaks to the organizations goals, values, and vision, as part of strengthening their self-governance process.

5.4 Reflections

This research has been an interesting pursuit, primarily because of how it has unfolded. Initially my intentions were to critically assess the MMF's governance structure and practices and include external perspectives in the process in order to determine whether the MMF is providing good governance to the Métis Nation in Manitoba on the issue of harvesting rights. However, as I began my research and outlined my methodology, as well as the interviews as part of the research, I soon came to the realization that the focus of my research was shifting in a very important way. It was always my intent from the beginning stages that this research would provide a space for the perspectives of the Métis Nation to be shared, heard and explored. As the interviewees shared with me their perspectives, knowledge and expertise, both in the area of governance and harvesting rights, I gained a deeper insight into what these concepts mean at a completely different level, one that is at

the heart of the interviewees and, I will argue, at the heart of the Métis Nation in Manitoba.

This realization came to me from the expression of the values, principles and the passion that is deeply entrenched in the culture and traditions of Métis people who participated in my research. Their love for their culture and traditions, and their determination to literally fight tooth and nail to have harvesting rights recognized and implemented, shines through the words, the experiences and the stories that were shared with me. This passion was apparent in the words they chose to speak, in their mannerisms, in their tone of voice, in their expressions and in their willingness to spend an entire afternoon talking about these very important issues. The interviewees welcomed the discussion of the issues raised throughout this research with open arms. They were excited to contribute their knowledge, experiences and perspectives with me. On more than one occasion the interviewees reflected on the questions being asked and concepts being explored and told me that they were glad to have the opportunity to think about and discuss these issues and concepts because they do not get to think about them in this same way in their day-to-day work and endeavors, even though these issues are at the very heart of their daily work.

This opportunity allowed the participants to be grounded in the information they shared with me and, in return, the information that I received was grounded in their experiences. Not only did they share with me their perspectives, they also shared with me the reason for their perspectives

through the stories of their upbringings, giving even more importance to the issues we explored for them as individuals. The interviews were very interesting and valuable to my overall thesis research. I have gained a tremendous amount of insight on harvesting rights and Métis governance in Manitoba among other things. The perspectives and experiences of the participants are invaluable, and their contributions to my knowledge on the issues discussed throughout the interview process have given me a great deal of information to work with in my thesis which will guide me in a good direction. The interviewees were very open to participating in my research and to meeting with me to discuss these very important issues. Ms. LaPlante commented to me in our initial contact via telephone, that she was pleased to see that graduate students were finally looking at Métis governance as a thesis topic. She relayed to me the importance of undertaking this kind of work and how it plays a salient role in educating others outside of the Métis community on the issues facing the Métis Nation and, of course, this is something she articulated in the governance workshop which was discussed above.

The participants commented in a positive way about the questions I asked and stated that they were very good and important questions. They enjoyed very much the opportunity to discuss with me their thoughts, opinions, and experiences and felt that it was important to share with me the work that they have done to date because they are both involved with the MMF and the Métis community in Manitoba, to a great extent. The participants demonstrated a great deal of dedication and commitment to the

Métis Nation in Manitoba in sharing with me just some of the work that they have undertaken as well as the work they are currently involved in, especially with harvesting rights.

As my research progressed, it was evident that the perspectives of the interviewees would guide the flow of my research and its direction, and would in essence become the framework for research in its entirety. Although I provided the topics and concepts for discussion, as well as the objectives of my research, the interviewees created the context and generated a road map for me to follow.

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Appendix 1

The Powley Test

The Powley test includes the following ten sections (Teillet, 2006, p. 33-36):

1: Characterization of the right: “referring to the right being claimed and its purpose. The right to hunt is not “species-specific”, with respect to harvesting rights. In other words it is a general right to hunt for food in the traditional hunting grounds of the Métis community in question” (R. v. Powley, 2003);

2: Verification of membership in the contemporary Métis community: there must be an “objectively verifiable process” to identify members of the community (Teillet, 2006, Pg.34) including “demographic evidence, proof of shared customs, traditions, and a collective identity is required to demonstrate the existence of a Métis community that can support a claim to site-specific aboriginal rights. We recognize that different groups of Métis have often lacked political structures and have experienced shifts in their members’ self-identification. However, the existence of an identifiable Métis community must be demonstrated with some degree of continuity and stability in order to support a site-specific aboriginal rights claim” (R. v. Powley, [2003];

3: Identification of the historic rights bearing community: “Aboriginal rights are communal rights: They must be grounded in the existence of a historic and present community, and they may only be exercised by virtue of an individual’s ancestrally based membership in the present community” (R. v. Powley, 2003);

4: Identification of the contemporary rights bearing community: The community must self-identify as a Métis community, and there must be proof that the contemporary Métis community is a continuation of the historic Métis community” (Teillet, 2006, p.34);

5: Identification of the relevant time: “As indicated above, the pre-contact aspect of the Van der Peet test requires adjustment in order to take account of the post-contact ethnogenesis of the Métis and the purpose of s. 35 in protecting the historically important customs and traditions of these distinctive peoples. While the fact of prior occupation grounds aboriginal rights claims for the Inuit and the Indians, the recognition of Métis rights in s. 35 is not reducible to the Métis’ Indian ancestry. The unique status of the Métis as an Aboriginal people with post-contact origins requires an

adaptation of the pre-contact approach to meet the distinctive historical circumstances surrounding the evolution of Métis communities” (R. v. Powley, 2003);

6: Was the practice integral to the claimant’s distinctive culture: *“The practice of subsistence hunting and fishing was a constant in the Métis community, even though the availability of particular species might have waxed and waned. The evidence indicates that subsistence hunting was an important aspect of Métis life and a defining feature of their special relationship to the land (Peterson, supra, at p. 41; Lytwyn Report, supra, at p. 6). A major part of subsistence was the practice at issue here, hunting for food” (R. v. Powley, 2003);*

7: Continuity between the historic practice and the contemporary right: *“Although s. 35 protects “existing” rights, it is more than a mere codification of the common law. Section 35 reflects a new promise: a constitutional commitment to protecting practices that were historically important features of particular aboriginal communities. A certain margin of flexibility might be required to ensure that aboriginal practices can evolve and develop over time” (R. v. Powley, 2003);*

8: Extinguishment: *“The doctrine of extinguishment applies equally to Métis and to First Nations claims” (R. v. Powley, 2003);*

9: Infringement: *“No rights are absolute and this is as true for Métis rights as for any other rights. This means that Métis rights can be limited (infringed) for various reasons. If the infringement is found to have happened, then the government may be able to justify (excuse) its actions. The courts said that the total failure to recognize any Métis right to hunt for food or any special access rights to natural resources was an infringement of the Métis Aboriginal right” (Teillet, 2006, p. 35); and*

10: Justification: *“Conservation, health and safety are all reasons that government can use to justify infringing an Aboriginal right. But they have to prove that there is a real threat” (Teillet, 2006, p. 35).*

Appendix 2



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APPROVAL CERTIFICATE

27 August 2007

TO: Caterina A. Ferlaino (Advisor W. Wuttunee)
Principal Investigator

FROM: Wayne Taylor, Chair
Joint-Faculty Research Ethics Board (JFREB)

Re: Protocol #J2007:092
"Assessing Metis Governance in Manitoba: A Look at Metis Harvesting Rights"

Please be advised that your above-referenced protocol has received human ethics approval by the **Joint-Faculty Research Ethics Board**, which is organized and operates according to the Tri-Council Policy Statement. This approval is valid for one year only.

Any significant changes of the protocol and/or informed consent form should be reported to the Human Ethics Secretariat in advance of implementation of such changes.

Please note:

- if you have funds pending human ethics approval, the auditor requires that you submit a copy of this Approval Certificate to Kathryn Bartmanovich, Research Grants & Contract Services (fax _____), including the Sponsor name, before your account can be opened.
- if you have received multi-year funding for this research, responsibility lies with you to apply for and obtain Renewal Approval at the expiry of the initial one-year approval; otherwise the account will be locked.

The Research Ethics Board requests a final report for your study (available at http://umanitoba.ca/research/ors/ethics/ors_ethics_human_REB_forms_guidelines.html) in order to be in compliance with Tri-Council Guidelines.

Bringing Research to Life

Appendix 3

Appendix III: Informed Consent

Research Project Title:

Researcher: Caterina A. Ferlaino

This consent form, a copy of which will be left with you for your records and reference, is only part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information.

This proposed research project seeks to prove that good governance at the Métis National level requires grass roots leadership within local communities and that good governance also requires a results-based measures approach to demonstrate accountability and transparency.

The purpose of this research is to determine whether or not the Manitoba Métis Federation (as the national Métis government in Manitoba) provides good governance to its membership on important issues that affect the day to day lives of the Métis community in Manitoba such as harvesting rights. This will involve determining what “good governance” means for the Métis community, how this is interpreted by the Métis political leadership, and how this is translated and plays out in addressing the concerns of the Métis community, both at the grass roots level and at the institutional level around the issue of harvesting rights, as a major and current issue facing the Métis community in Manitoba. This research will also define accountability and good governance to establish a context for the argument, again both at the grass roots and institutional level. This project seeks to be completed in March, 2008.

The interview process will involve a broad cross-section of stakeholder groups, including members of the Métis community in Manitoba (most of the interviews involving members of the Métis community will be conducted with members of the Turtle Mountain community as well as the Cherry Creek community), political leadership, and the commissioners of the Commission on the Métis Laws of the Hunt, members of the Powley Implementation Committee as well as some of the other key academics, historians and legal experts who have been involved with Métis harvesting rights (for a total of 5 interviews). Interviews will be framed accordingly with the respective themes of the proposed research. Information will be gathered using interviews.

In the interview process, I will ask you to share your personal experiences and knowledge as a member of the Métis community in Manitoba, or person involved and or interested in the harvesting rights issues. By participating in the interview process, you can help to give feedback on the Métis governance process in Manitoba, as well as suggestions and recommendations that may be used by the Métis government (the MMF) in improving

the way they govern and take political action within grass roots communities on important issues such as harvesting rights.

This interview will last about an hour. I may choose to take notes during the interview process. As well, and with your consent, I may also audio-record the interview. Any notes or audio-recordings that I make will be held securely solely by me, the principal investigator. Once the interview process, transcription, and thesis are finished, these records will be destroyed.

I will make every effort to protect your confidentiality. If you do not wish to be identifiable in any part of this thesis research, I will generalize any information that I gather from this interview, using pseudonyms for names and places. I will present the findings of this interview in a draft and final copy of my thesis, which will be submitted to the interviewees and my thesis committee for review. If at any point changes need to be made with respect to answers to questions through the interview process, please feel free to identify the changes and I will ensure that they are made accordingly. The final thesis will also include recommendations for short- and long-term actions to improve the governance process provided by the Manitoba Métis Federation and mechanisms by which accountability and transparency are made possible on the issue of harvesting rights to members of the Métis community in Manitoba.

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Participant's Signature _____ Date Feb 19 '08

Researcher and/or Delegate's Signature _____ Date Caterina, 19, 2008

Appendix III: Informed Consent

Research Project Title:

Researcher: Caterina A. Ferlaino

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Participant's Signature

Feb 19 2008

Date

Researcher and/or Delegate's Signature

Feb 19, 2008

Date

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Participant's Signature _____ Date June 10/08

Researcher and/or Delegate's Signature _____ Date June 10/08

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Participant's Signature

Nov 28/07
Date

Researcher and/or Delegate's Signature

Nov 28/07.
Date

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April 15, 2008

Participant's Signature

Date

April 15, 2008

Researcher and/or Delegate's Signature

Date

Appendix 4

Interview Questions

Questionnaire for Interviews with Métis Community

1. What does it mean to you to be Métis?
2. What does “good governance” mean to you?
3. In your opinion, does the MMF’s governance structure reflect the values and principles of the Métis community in Manitoba? If so, please explain how? If not, please explain why?
4. Are harvesting rights important to you? If so, please explain why? If not, please explain why?
5. In your opinion, is the MMF providing “good governance” on the harvesting issue? Is the MMF dealing with the harvesting issue appropriately and as best as possible given the current circumstances? If so, please explain how? If not, please explain what you believe the MMF could or should be doing to better serve the members of the Métis community in Manitoba.
6. What are your expectations of the MMF with respect to the political action they have taken, and are currently taking, on the issue of harvesting rights? In your opinion, is the action taken, sufficient enough to deal with the current issue, please explain? If not, please explain what you think the MMF could be or should be doing to take better action on the issue of harvesting rights.
7. What expectations, if any, does your community have of the MMF on the issue of harvesting rights? Please explain.

8. In what ways does your community hold the MMF accountable for its actions on the harvesting rights issue? Are there mechanisms currently in place that ensure that accountability and transparency measures are in place regarding this issue? If so, please explain what these current mechanisms are. If not, please explain what mechanism you believe should be in place to allow for accountability and transparency measures to be in place.
9. In your opinion, does the MMF have expectations of the Métis communities of Manitoba on such issues such as harvesting rights? If so, please explain what these expectations are, how the MMF deals with them, and if these expectations correlate into accountability measures. If not, please explain and give any suggestions as to whether or not you believe the MMF should have certain expectations of the Métis community in Manitoba, what those expectations should be, and how they should be carried out and if they can be translated into accountability measures.

Questionnaire for Interviews with Métis Political Leadership

1. What does “good governance” mean to the Manitoba Métis Federation?
2. In your opinion do you believe that the MMF and thus, Métis political leadership, is providing “good governance” on the issue of harvesting rights? If so how, please explain? If not, please explain?
3. What does accountability and transparency mean to the MMF? Are these mechanisms important to the MMF? If so, please explain? If not, please explain?

4. Does the MMF provide accountability and transparency measures in its governance process? If so, please explain how these mechanisms are provided? If not, please explain how you believe these mechanisms could and should be provided?
5. Is the harvesting rights issue important to the MMF? If so, please explain why? If not, please explain why?
6. In your opinion, is the MMF taking the most effective political action possible given the current circumstances on the issue of harvesting rights? If so, please explain how? If not, please explain why?
7. In your opinion, is the MMF providing good governance on the issue of harvesting rights? If so, please explain why? If not, please explain why?
8. How does the MMF decipher between good and bad governance practices? In other words, are there mechanisms in place, through the MMF's governance structure, to measure the level of effectiveness (in governance)?
9. Does the MMF's governance structure reflect the values and principles of the Métis community in Manitoba? If so, please explain how? If not, please explain why?
10. In your opinion, does the MMF have expectations of the Métis communities of Manitoba on such issues such as harvesting rights? If so, please explain what these expectations are, how the MMF deals with them, and if these expectations correlate into accountability measures. If not, please explain and give any suggestions as to whether or not you believe the MMF should have certain expectations of the Métis community in Manitoba, what those

expectations should be, and how they should be carried out and if they can be translated into accountability measures.

Questionnaire for Interviews with Academic, Legal Counsel and Historians with Involvement in Harvesting Rights in Manitoba

1. With your experience and involvement in the issue of harvesting rights, do you believe that the Manitoba Métis Federation is providing “good governance” on the issue of harvesting rights in Manitoba? If so how, please explain? If not, please explain?
2. In your opinion, does the MMF provide effective accountability and transparency measures in its governance process? If so, please explain how these mechanisms are provided? If not, please explain how you believe these mechanisms could and should be provided?
3. Through your involvement and experience, is the harvesting rights issue important to the MMF? If so, please explain why? If not, please explain why?
4. In your opinion, is the MMF taking the most effective political action possible given the current circumstances on the issue of harvesting rights? If so, please explain how? If not, please explain why?
5. In your opinion, is the MMF providing “good governance” on the issue of harvesting rights? If so, please explain why and can you explain what in your opinion “good governance” means to the MMF? If not, please explain why?
6. How does the MMF decipher between good and bad governance practices? In other words, are there mechanisms in place, through the MMF’s governance structure, to measure the level of effective governance?

7. In your opinion and through your experience with the issues of harvesting rights, does the MMF's governance structure reflect the values and principles of the Métis community in Manitoba? If so, please explain how? If not, please explain why?
8. In your opinion, does the MMF have expectations of the Métis communities of Manitoba on such issues such as harvesting rights? If so, please explain what these expectations are, how the MMF deals with them, and if these expectations correlate into accountability measures. If not, please explain and give any suggestions as to whether or not you believe the MMF should have certain expectations of the Métis community in Manitoba, what those expectations should be, and how they should be carried out and if they can be translated into accountability measures.

Appendix 5

Biography of Interviewees

Biography- Al Benoit (Manitoba Métis Federation, 2008)

Al Benoit is the Senior Policy Advisor for the Manitoba Métis Federation (MMF). The MMF is the democratically elected self-government representative of the Métis Nation's Manitoba Métis Community. Working in the Winnipeg Home Office as part of a team, Al is involved in the development and implementation of a variety of policies, programs, and services for the benefit of the Métis People. Applying an interdisciplinary background, that includes planning and management, he has supported MMF objectives that include the promotion and protection of Métis political, social, cultural, and economic rights and interests.

Biography- David Chartrand, President of Manitoba Métis Federation
(Manitoba Métis Federation, 2008)

Born and raised in the Métis community of Duck Bay, Manitoba and influenced profoundly by the traditional Métis values, David Chartrand believes that the *people* are the cornerstone of the Manitoba Métis Federation. As a young man, David hunted and fished to help his single mother raise their large family of eight and he is a firm believer in family values. David is the proud father of Sonya and Chris and Grandfather to Traydon, Isaiah and Martha. David's first language is Saulteaux.

Following a career start in both private and public sector management, David worked extensively in the field of Justice for over 10 years. David was first elected to the MMF Board in 1988 representing Winnipeg Region. He was re-elected four times to the Board position, and went on to his successful bid to the Office of the President in 1997. President Chartrand was re-elected in 2000, 2003 and most recently, in June of 2006. His dedication to the Métis people is evident through his extensive volunteerism to many community organizations, including various positions on MMF locals, Vice-President of the Indian and Métis Friendship Centre of Winnipeg, President of the Manitoba Association of Friendship Centres, Founding Director and President of Beat the Street (an organization dedicated to fighting illiteracy), Northern Justice Society (Simon Fraser University) and MMF portfolios, such as Children and Family, Justice and Housing. President Chartrand's leadership has brought a new level of recognition to the Métis people by

increasing the MMF profile, solidifying its financial accountability, creating a strong administration, and leading the MMF Land Claims back on track.

On the national stage, President Chartrand is actively engaged in the fight for Métis rights, as he seeks true recognition of Louis Riel and his vision plus he is actively pursuing the goal of building a strong relationship with the federal government. President Chartrand is also Vice President of the Métis National Council and holds many key portfolios nationally, such as Minister Responsible for Social Development, Finance and Administration and Health.

Biography-Will Goodon
(Manitoba Métis Federation, 2008)

Will Goodon was born and raised in the Turtle Mountains of the Southwest Region. After graduating with a Bachelor of Arts in British Columbia, Will pursued various entrepreneurial activities including a gas station and convenience store. Will served the MMF as the Special Assistant to the President for seven years. During this time, he received experience in government, media and public relations. Will also worked on Métis Rights issues at the United Nations in Geneva, Switzerland and the Organization of American States in Washington, DC. In 2000, he was accepted to attend Harvard Business School in the MBA program but an illness in the family postponed this academic event. In 2003, he chose to work at the family business in Boissevain, Manitoba in order to be closer to both family and the Métis culture. He is married to Kelly Saunders and they have two children – Hunter and Taylor. Will was recently elected as the Chairperson of the Cherry Creek Métis Local in the Southwest Region. Will enjoys hunting and can be seen with his father and uncle in the lakes of the Turtle Mountain searching the skies for incoming ducks.

Biography-Leah LaPlante
(Manitoba Métis Federation, 2008)

Leah was born and raised in a traditional Métis lifestyle in the Turtle Mountains. She married and moved to Alberta but came back to her home community to raise her children. She has four daughters and four granddaughters. She was widowed in 1995. She became actively involved with the MMF as a Chairperson in 1989 and in 1997 she became the Vice-President of the Southwest Region. She is starting her fourth term and is looking forward to the challenges and growth in the MMF.

Biography-Jean Teillet
(Teillet, 2006)

Jean Teillet is a partner in the law firm of Pape Salter Teillet. She is called to the Bar in Ontario, Manitoba, NWT and BC. She practices primarily in the field of Aboriginal rights law with a particular emphasis on Métis rights law. Jean has acted as counsel for Aboriginal groups in several Supreme Court of Canada Aboriginal rights cases. Most recently she was co-counsel in *Taku River Tlingit First Nation v BC*. She also acted as lead counsel for the Powleys at all levels of court in the landmark Métis harvesting rights case – *R. v. Powley*. She is involved in negotiations of modern land claims agreements for First Nations and has been active at negotiation tables with respect to Métis rights. Jean is currently on the Board of the National Aboriginal Achievement Foundation and is a member of the Canadian Judicial Council Chairperson’s Advisory Committee. She is a past vice-president and past treasurer of the Indigenous Bar Association of Canada. In 2002, in recognition of her work for the community, she was awarded the Law Society of Upper Canada’s first Lincoln Alexander Award. In 2005, she was awarded the Aboriginal Justice Award by the Aboriginal Law Students Association of the Faculty of Law, University of Alberta. Jean is a great grandniece of Louis Riel.