Specific Project Synopsis

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1. *Section 31 of the Manitoba Act: A Métis Land Settlement Agreement*
   My first project will argue that s. 31, while not a "treaty" in terms of section 88 of the *Indian Act*, is nevertheless a "land claim agreement" within the meaning s. 35 of the *Constitution Act, 1982*. By applying the *Sioui* criteria for the judicial recognition of a document as a treaty to the negotiations that led to the inclusion of s. 31 in the *Manitoba Act, 1870*, I will attempt to show that Métis land claims and their settlement can be seen as a land claim settlement under sectoin 35 of the *Constitution Act, 1982*.

2. *The "Cognizable Indigenous Interest" of the Métis in the District of Assiniboia prior to Effective Control*
   In *Manitoba Métis Federation v. Canada*, the Supreme Court of Canada denied the Métis had a "cognizable Aboriginal interest in land" in the original postage-stamp province of Manitoba. The Supreme Court of Canada's finding that the implementation of s. 31 of the *Manitoba Act, 1870*, was neither inconsistent with the honour of the Crown nor triggered a fiduciary duty depended entirely on its finding that the Métis did not have Indigenous title in the area that became the Province of Manitoba, which was slightly larger than the District of Assiniboia. My critiques take aim at several findings of the trial court judge in *MMF* concerning the Indigenous and Aboriginal title of the Métis, notably: 1) the cut-off date of "effective control" as of 1670 or 1763; 2) that Aboriginal title must be communal (*Delgammukw*); 3) that Métis land-holding was purely individual; 4) that Parliament cannot create "Indian title".

3. *The Implementation of s. 31 and the Fiduciary Obligations of the Crown*
   The two preceding questions lead to my ultimate objective, which is to reopen the issue of the fiduciary obligations of the Crown toward the Métis people in implementing s. 31 in Manitoba (and subsequently of issuing scrip in the North-West). If indeed s. 31 is a land claim agreement under s. 35 and if indeed the Métis had a "cognizable Aboriginal interest" in s. 31 lands which were subject to Crown discretion, then the fiduciary obligations of the Crown were arguably triggered. This project will first involve research on treaties in Canada and the U.S. that either included "half-breeds" or provided for "half-breed tracts" to find historical precedents of the particular way the federal government implemented s. 31 and that ultimately led to the dissolution of communities. Second, the effective implementation will be reconsidered through the lens of fiduciary obligations to argue there are outstanding "treaty" obligations of the Crown toward the Metis for reconciling Metis interests with the Crown's interests.

4. *Treaty Relations Between the Metis and Anishinaabe*

   The question of "half-breed tracts" or the inclusion of "half-breeds" in treaties in the United States raises the question of treaty relations between the Métis and other First Nations. It is well known that Metis were included in both. While Metis north of the medicine line managed to have their Indigenous title recognized in the *Manitoba Act, 1870* and the in *Dominion Lands Act*, 1879, such distinct legal status was denied the Metis living south of the medicine line. This forced the Metis to position themselves as "Indians" and to settle their land claims through treaties with First Nations relatives. Prior to being lumped together on the White Earth and Turtle Mountain reservations, the Metis and Ojibwe (Anishinaabe) had a long history as partners in the Iron Alliance, along with the Cree and Nakota (Assiniboine). I will look at how relations between the Metis and Ojibwe shaped these particular treaties and what this says about Metis conceptions of "treaty".