



NEWS RELEASE

Legal duty to consult Aboriginal peoples triggered over 100,000 times a year in Canada; clearer, consistent policies needed across the country

May 26, 2016
For Immediate Release

VANCOUVER— An inconsistent patchwork of federal and provincial duty to consult policies and guidelines currently exist across the country, finds a new study released today by the Fraser Institute, an independent, non-partisan Canadian policy think-tank.

The study, *The Duty to Consult with Aboriginal Peoples*, spotlights the origins and principles that obligates governments to consult Aboriginal peoples prior to making decisions that could affect Aboriginal or treaty rights — an obligation that is triggered over 100,000 times a year across the country.

In an effort to address the Crown's obligation, provinces have produced policies and guidelines to govern the consultation processes. These frameworks, however, vary significantly between jurisdictions.

"The duty to consult has been implemented by provincial governments in different ways across the country. This has resulted in a patchwork of policies that can be difficult to navigate for Aboriginal people and for project proponents who are trying to advance development projects that cross multiple provincial boundaries," said Ravina Bains, associate director of aboriginal policy studies at the Fraser Institute.

There are some principles that all jurisdictions share, such as the Crown taking responsibility for the duty to consult. There are other principles that differ dramatically.

The study lauds Alberta and Saskatchewan as the only provinces that have specific timelines to ensure the duty to consult is implemented in a timely way.

There are, however, provinces that lack clear and systematic duty to consult guidelines.

For example, British Columbia, Ontario, Quebec and Manitoba still have "draft" guidelines: Ontario's draft guidelines are now a decade old.

"It's concerning that these four provinces — which collectively have the majority of Aboriginal communities engaging in consultation processes in Canada— still have draft guidelines. This has the potential of creating uncertainty for both Aboriginal communities and project proponents," Bains said.

Why should Canadians be concerned about duty to consult policies?

The study notes that the duty to consult is triggered if there is a chance of an adverse impact on an Aboriginal community's rights and traditional territory. And, given all traditional territory and land claims, it's possible that every major development project in every part of the country could require consultation with Aboriginal communities.

"With the large number of development projects potentially affecting traditional territory, it is important that we have in place sound policies that can help guide government officials, Aboriginal people and project proponents through the consultation process to ensure that the Crown's duty to consult is being fulfilled," Bains said.

MEDIA CONTACTS:

- Ravina Bains, Associate Director, Centre for Aboriginal Policy Studies, Fraser Institute

For media interviews please contact:

Aanand Radia

Media Relations Specialist, Fraser Institute

(416) 363-6575 ext. 238

aanand.radia@fraserinstitute.org

@FraserInstitute

[Follow the Fraser Institute on Twitter](#) | [Become a fan on Facebook](#)



The Fraser Institute is an independent Canadian public policy research and educational organization with offices in Vancouver, Calgary, Toronto, and Montreal and ties to a global network of think-tanks in 87 countries. Its mission is to improve the quality of life for Canadians, their families and future generations by studying, measuring and broadly communicating the effects of government policies, entrepreneurship and choice on their well-being. To protect the Institute's independence, it does not accept grants from governments or contracts for research. Visit www.fraserinstitute.org

For more information:

Aanand Radia

Media Relations Specialist, Fraser Institute

(416) 363-6575 ext. 238

aanand.radia@fraserinstitute.org

@FraserInstitute