

# Week 11- Module 9

Indigenous Participation

Law, Ethics and Professional Practice -  
ENGI3500

WINTER 2025



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# Introduction

- Engineers must be sensitive to indigenous consultations during project work as it is a matter of respecting and recognizing the rights, interests, and traditional knowledge of indigenous communities, aligning with principles of ethical and responsible engineering practice.
- Indigenous consultations are essential to ensure that projects do not infringe upon indigenous land, cultural heritage, or resources, fostering collaborative decision-making and avoiding potential conflicts.

# Duty to Consult

## **Supreme Court Duty to Consult:**

- The Supreme Court of Canada, in the Haida and Taku River cases, established a duty for all governments to consult and accommodate the interests of Indigenous Peoples affected by proposed activities. This duty exists regardless of whether the Indigenous group has proven its claim to the relevant land or resources.

## **Environmental Impact Assessments and Indigenous Rights:**

- While environmental impact assessments typically involve consultation with affected parties, the Supreme Court ruling implies that the duty to Indigenous Peoples extends beyond standard consultation practices. The extent of consultation and accommodation depends on the circumstances of each case.

# Duty to Consult

## **Consultation and Accommodation Variability:**

- The degree and nature of consultation and accommodation vary based on circumstances. Recent Supreme Court decisions differentiate cases where Indigenous title has been proven and cases where it has not. When title is proven, consent must be obtained before development, highlighting the evolving nature of this legal area.

## **Governmental Obligation vs. Private Parties:**

- The duty to consult and accommodate or seek consent applies to government entities but not private parties. Nevertheless, consulting with impacted Indigenous groups is advisable for all parties to mitigate the risk of future legal action, even though private parties are not legally bound by this duty. Crown decision makers may guide private parties when procedural aspects of consultation are delegated in regulatory regimes.

# Duty to Consult

- Indigenous reserve land, being unpatented Crown land, cannot have builders' liens, mortgages, or other real property charges registered against it. Leases involving non-First Nation commercial interests may be registered only with federal government consent and are recorded in a separate federal registry in Ottawa.
- The First Nations Land Management Act establishes a framework agreement for First Nations Land Management, offering "modernized" rules for First Nations' control over their reserve lands. First Nations operating under their own Land Management Code have increased flexibility in approving land leases, development plans, and environmental protection laws, fostering positive developments for capital projects and economic endeavors on First Nation reserves. Outside this framework, collaboration with Indigenous Services Canada may involve lengthier approval processes.

# Reconciliation in an Engineering Context

## **Engineering Impact on Indigenous Communities:**

- Acknowledges the significant impact of engineering on Indigenous peoples and communities, addressing resource development, infrastructure, technological applications, and more.
- Emphasizes the need for incorporating Indigenous ways of being and knowing into engineering practices for positive outcomes, including economic independence, clean water, and sustainable development on Indigenous lands.

## **Indigenous Advisory Committee at Engineers Canada:**

- Engineers Canada collaborates with an Indigenous Advisory Committee comprised of Indigenous engineers from across the country.
- The committee provides guidance on reconciliation in engineering, influencing strategy, programs, and sponsorship decisions at Engineers Canada.

# Reconciliation in an Engineering Context

## Canadian Indigenous Advisory Council (CIAC):

- Engineers Canada supports the establishment of the Canadian Indigenous Advisory Council (CIAC) to the American Indian Science and Engineering Society (AISES), benefiting Canadian Indigenous students.
- CIAC offers guidance to AISES and contributes to decision-making, fostering a strong network of Indigenous STEM students and professionals through initiatives like the AISES in Canada National Gatherings.

## Support for Indigenous STEM Initiatives:

- Engineers Canada actively supports Indigenous STEM initiatives, promoting collaboration and networking opportunities for Indigenous students and professionals in science, technology, engineering, and math (STEM) fields (Engineers Canada, n.d.).

# Homework Before Next Class

- Complete assigned chapter readings in the Critical Path.
- Read the assigned article: Indigenous and Engineering - Desjarlais+Northern+Review, and work on the mini bonus assignment in Blackboard.



# THANK YOU.



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# References

Engineers Canada. (n.d.). *Reconciliation in Engineering*.  
<https://engineerscanada.ca/diversity/reconciliation-in-engineering>

Marston, Donald L. 2019. *Law for Professional Engineers: Canadian and Global Insights*. 5th ed. New York: McGraw-Hill Education.