



Lac Ste. Anne Métis Community Association

BRIEF

TO: Honourable Members of the Standing Committee on Indigenous and Northern Affairs

FROM: Lac Ste. Anne Métis Community Association

DATE: November 17, 2023

RE: Review of Bill C-53: An Act Respecting the Recognition of Certain Métis Governments

1. INTRODUCTION and RECOMMENDATIONS

The Lac Ste. Anne Métis Community Association (“LSAMCA”) is the organization that represents the contemporary Lac Ste. Anne Métis Community, which is a rights-bearing *Powley* Métis Community in present day Alberta that holds and exercises Métis rights as recognized and affirmed by s. 35 of the *Constitution Act*, 1982.

LSAMCA is the only legal entity representing the historic and contemporary Lac Ste Anne Métis Community regarding the Lac Ste. Anne Métis Community’s section 35 Métis rights. In its *Powley* decision, the Supreme Court of Canada defined the proper rights-holding collective under s35 of *Constitution Act*, 1982 to be a Métis community.¹ LSAMCA is not represented by, nor affiliated with any of the other parties who have made submissions to the Committee on Bill C-53. We speak for ourselves. Lac Ste Anne Métis have always represented ourselves. We are distinct and separate from what has been purported to be “the Métis Nation within Alberta”.

¹ *R v. Powley*, [2003] 2 S.C.R. 207; 2003 SCC 43 at paras. 12, 13, 23, 24, 33 and 34.

A. Métis Nation Within Alberta is a Fiction of Convenience

Within Alberta, several distinct, rights bearing *Powley* Métis communities have existed since long before the establishment of provincial borders. As concerns Alberta, with Bill C-53 Canada is seeking to recognize a provincially based Métis advocacy group (the Métis Nation of Alberta, or “MNA”) as a Métis government. In doing so, Canada would wipe the rest of Alberta’s Métis peoples off the map, under the guise of “reconciliation”. If Bill C-53 passes it will permit the Executive Branch and its preferred Métis politicians to negotiate Treaties without any Parliamentary oversight or involvement of the rights bearing Métis peoples of Alberta. Ironically, Bill C-53, and the MNA Self Government and Implementation Agreement underlying the Bill, represent a distinctly colonial and paternalistic approach to rights recognition – which would serve to only further marginalize rather than recognize distinct Métis communities in Alberta.

In Alberta, the Métis Nation of Alberta (the “MNA”), incorporated in 1961, has sought to build upon Western historians’ long practice of ignoring the importance of Indigenous place-based histories and local traditions, in favour of creating an overall picture of a singular “Métis Nation in Alberta”. The MNA’s grand history narrative relies heavily upon a past centered in Red River. There is no doubting Red River Métis history, identity, and triumph, but to describe all Métis peoples in Alberta as part of a singular Métis Nation covering most of Western Canada, is akin to saying that all Cree people belong to one Nation, or all Mohawk people belong to one Nation. For certain, specific populations of “half-breeds”, a colloquial term used to refer to Métis peoples, emerged in specific places in Western Canada, including in what is present day Alberta. It is safe to say that all share a somewhat similar experience under settler colonial domination. However, the notion that there is one coherent, chronological, universal narrative to describe who Métis peoples

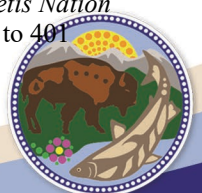


are in Canada, a singular Métis Nation stretching from eastern Ontario to northeastern BC to the Northwest Territories, to the northern United States, is nothing but preposterous.

The Lac Ste. Anne Métis Community has its own distinctive history, present and future. We have consistently challenged the MNA's propagation of the "one Nation" narrative as an unfounded, untested claim. Together with other Métis communities in Alberta, we have alerted Canada that the type of "empire" building the MNA seeks to do on the backs of Métis communities should be denied. The Alberta Courts have consistently rejected all attempts by the MNA to improperly assert their authority over all Métis communities in Alberta.² In the case of the Lac Ste. Anne Métis Community, our loyalty, and our identity, lie with our own organization, and with our Lac Ste. Anne Métis ancestors.

In considering the passage of Bill C-53, which supports and propagates a totalizing narrative constructed by the MNA, and to contemplate that without ever having spoken to our Métis community, Parliament is making a grave error. It is only a settler colonial mindset that would have a goal to check one box to account for all Métis peoples in Alberta, and to do so while the Federal Government has simultaneously refused all requests over the past year from LSAMCA to engage in rights recognition discussions. This stance suggests the Federal Government does not wish to hear or understand the important counter perspectives, indeed truths, that other Indigenous, including other Métis peoples, have to offer, and instead wishes to embrace only the MNA's own motives, a cause that has been funded largely by Canada through multi-million-dollar funding agreements since 2016. The position the Federal Government is taking with Bill C-53, which is to ignore our *Powley* Métis rights-bearing community and instead grant "rights" to a provincial society, is unjust

² *McCargar v. Metis Nation of Alberta Association* 2018 ABQB 553 at para 27-28, aff'd 2019 ABCA 172; *Metis Nation of Alberta Association v Alberta (Indigenous Relations)* 2020 ABQB 6 at para 224-272 and 303-313, and 399 to 401



and serves only to reproduce settler colonial relations of hierarchy, dispossession and exploitation in the present. The federal government has purposely chosen to ignore the effects of Bill C-53 in Alberta. As such, the Standing Committee must contend with these issues, and from our perspective, the only proper thing for the Honourable Members to do is to send the proposed legislation back to the drawing board.

B. Summary of Recommendations

This Standing Committee must grapple seriously with the issue of Métis representation in Alberta, which to date the Federal Government has ignored. We call upon the Standing Committee to:

- Reject Bill C-53 until the Self-government and Implementation Agreement between the MNA and Canada is amended to reflect and ensure the continued existence of rights bearing *Powley* Métis communities, as distinct from the MNA, in the Province of Alberta; and
- Reject Bill C-53 until a process is established for Federal recognition of rights bearing Métis communities and governments in Alberta, as distinct from the MNA.
- In the alternative, amend Bill C-53 to ensure the MNA only has authority over their own members, and that rights bearing Métis communities in Alberta, such as that represented by LSAMCA, shall only be governed by the MNA upon demonstration of our express consent in a manner consistent with Canada's obligations under the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") and the *United Nations Declaration on the Rights of Indigenous Peoples Act*, SC 2021, c. 14.



2. ABOUT THE LAC STE ANNE MÉTIS COMMUNITY

The contemporary Lac Ste. Anne Métis Community is descended from the Cree speaking Métis people of *manitow sakahikanihk*, Plains Cree for “god’s lake’, in English known as Lac Ste. Anne. The historic Lac Ste. Anne Community comprised a network of families who occupied the landscape in west central/northwest Alberta in the early to mid-1800’s, including at *manitow sakahikanihk* (in English, Lac Ste. Anne), approximately 75km west of the current City of Edmonton, in the Province of Alberta.

All Métis individuals who comprise the contemporary Lac Ste. Anne Métis Community are ancestrally connected to the historic Lac Ste. Anne Métis Community ancestors, which comprised a vibrant historic Métis community, prior to the date of effective European control.

The members of the contemporary Lac Ste. Anne Métis Community are the descendants of the historic Lac Ste. Anne Métis Community and have chosen to use the legal structure of a federal not-for-profit corporation as a representative entity, LSAMCA, to represent their Métis Aboriginal rights and interests, including their inherent right to self-determination and self-government. The contemporary members of the Lac Ste Anne Métis Community, as represented by LSAMCA, all meet the criteria set out in *Powley*. Thus, LSAMCA represents a historic and contemporary Métis rights bearing community, a *Powley* Métis rights-holding collective and an Aboriginal people within the meaning of s. 35 of the *Constitution Act*, 1982. On September 12, 2022, the Province of Alberta officially recognized LSAMCA as having met the criteria set out in *R v. Powley*, and as the appropriate representative of a Métis community capable of asserting constitutionally protected Métis rights on behalf of its members. As a result, Alberta is now bound to consult with LSAMCA when contemplating decisions that may impact the Lac Ste. Anne Métis Community’s rights. The Alberta government’s credible assertion process is in-depth and evidence-based and requires compilation of



extensive documentation and records to accomplish a successful credible assertion of Métis harvesting rights, which includes meeting the *Powley* test.³

Canada does not have a similar process to recognize distinct, rights bearing *Powley* Métis communities. For over a year, LSAMCA has been writing to Crown-Indigenous Relations and Northern Affairs Canada, including to the Honourable Minister, to request engagement in a process that would enable us to achieve government-wide recognition at a Federal level. We have also directly raised these issues with Canada through submissions to the United Nations Declaration Act Implementation Secretariat within the Department of Justice.

3. CONCERNS WITH BILL C-53

A. Putting Bill C-53 Into Context

To understand the Lac Ste Anne Métis Community’s concerns with Bill C-53, the Committee must understand the context of Métis rights in Alberta.

- Métis rights are held at a community level, though some rights are exercised by individuals.
- Courts have rejected wide sweeping claims attempting to establish the existence of “the Métis Nation”, and rather Métis rights bearing communities have been established as the Métis rights-holder collective⁴.
- With Bill C-53, Canada has not used a transparent (or even a discernable) process to determine which organization represents rights bearing Métis communities in Alberta. The MNA, upon receiving inordinate amounts of funding from Canada since 2016, has registered many

³ Government of Alberta website – Métis organization establishes credible assertion, Lac Ste. Anne Métis

Community Association under Quick Facts– website accessed on Nov 14, 2023 -

<https://www.alberta.ca/release.cfm?xID=8471263626970-A2FD-DF8F-26B346D3257AF65D#jumplinks-1>

⁴ *Powley* at paras. 12, 13, 23, 24, 33 and 34.



thousands of Métis people in southern Alberta, notwithstanding that the Alberta Court of Appeal has found there to be no historic rights bearing Métis community or communities in Southern Alberta.⁵

- Canada does not have an established policy or process to recognize Métis rights bearing communities in Alberta who have not granted the MNA consent to represent them. Given the complete lack of transparency in its decision-making processes, Canada’s reasons for recognizing the MNA as the exclusive representative of Métis people within Alberta can only be interpreted as *political expediency*—rather than as rationally premised upon the law, historical reality, or the desires of Métis communities in Alberta.
- The MNA refuses to acknowledge the existence of any rights bearing Métis communities in Alberta which are distinct from the MNA. Each time the Government of Alberta has recognized a Métis community as being a rights bearing community for the purposes of Provincial Crown consultation, the MNA has sued the Province of Alberta and the respective Métis community, trying to overturn the Province of Alberta’s recognition decision.⁶

B. Self-Government Agreement and Bill C-53 Trample the Rights of Distinct Métis Communities

On February 23, 2023, without any public discussion or consultation with other Métis communities, Canada and the MNA entered into the *Métis Nation Within Alberta Self-Government Recognition and Implementation Agreement between Canada and the Métis Nation of Alberta* (the “MNA Self-Government Agreement”). The MNA Self-Government Agreement illegitimately grants the MNA

⁵ *R v. Hirsekorn* 2013 ABCA 242 at paras 57 to 64 and paras 105 to 107

⁶ *Metis Nation of Alberta Association v Alberta (Indigenous Relations)* 2020 ABQB 6; *Metis Nation of Alberta Association v. Alberta (Indigenous Relations)* and *Fort McKay Metis Community Association (ABKB file 2003 16834)*; *Metis Nation of Alberta Association v. Alberta (Indigenous Relations)* and *Lac Ste Anne Metis Community Association (ABKB file 2303 05138)*



the authority to exclusively represent and speak on behalf of all Métis communities in the Province of Alberta. Section 6.04 of the MNA Self-Government Agreement states:

6.04 The Métis Government is the democratic representative of the Métis Nation within Alberta with the responsibility for providing responsible and accountable self-government for its Citizens and Métis Communities in Alberta.

The definition of “Métis Community” is broad, and clearly is intended to include all Métis Communities in Alberta, including the Lac Ste Anne Métis Community:

“**Métis Community**” means a group of Métis with a distinctive collective identity, living together in the same geographic area, and sharing a common way of life that emerged before the time when Europeans effectively established political and legal control in a particular region;

As a result of this all-encompassing definition, and the text of s. 6.04 and s. 6.06, the MNA is being granted **exclusive** self-government rights over all Métis Communities in Alberta—regardless of whether we consent to be represented by the MNA. This is undemocratic and not in keeping with the spirit and intent of reconciliation or the *United Nations Declaration on the Rights of Indigenous Peoples*.⁷

In its testimony and written brief, the MNA states that the MNA Self-Government Agreement, and by extension Bill C-53, only applies to individuals who register as Citizens of the MNA⁸—but this is not true.

Canada and the MNA have arbitrarily decided on a definition of the “Métis Nation within Alberta” which is not limited to individuals who register as Citizens. Rather, the definition expressly authorizes the MNA to represent individuals who are “entitled to become Citizens”. The MNA

⁷ Articles 3, 4, 9 and 19

⁸ MNA Brief filed with the Committee October 23, 2023, page 7



Brief refers to section 8.05 as a limit on its jurisdiction over Métis people who are not registered as MNA Citizens, but section 8.05 only recognizes that individuals may choose to be a member, citizen or participant in another Indigenous government. Unless the MNA, through its public statements and policy, recognizes the right of Alberta Métis communities to exist as distinct from the MNA, and unless under section 8.07 Canada recognizes those other Indigenous governments at a Federal level, section 8.05 has no meaning and no practical application. The MNA's Brief also asserts Bill C-53 cannot impact the rights of other Indigenous communities because of section 15.02—the “no effects” clause. But the protection afforded by this clause depends upon Canada and the MNA acknowledging there are rights bearing Métis communities, situated within Alberta, who are distinct from the Métis Nation. The MNA makes no such admission and Canada has no process for identifying distinct Métis communities.

The MNA Self-Government Agreement commits Canada to negotiating a treaty with the MNA which will be protected by Section 35 of the *Constitution Act, 1982* (the “Treaty”). We do not know the contents of the Treaty, but the MNA Self-Government Agreement requires the Treaty to be consistent with the purpose of that agreement (section 12.01(b)). In other words, we expect Canada's error in recognizing the MNA as the **exclusive** government of all Métis peoples within Alberta would be extended and constitutionalized in the proposed Treaty.

In our respectful submission, the MNA Self-Government Agreement, as incorporated into Bill C-53, lays a sinister path to the erasure of all distinctive Métis communities in Alberta. If, on the other hand, the MNA believes in what it has submitted to the Standing Committee, then they should agree to amending both the MNA Self Government Agreement and Bill C-53 to clarify there is to be no impact on the other distinct Métis communities of Alberta. Similarly, the Federal



Government should have no concerns with amending Bill C-53 to provide the much needed clarification.

We have heard representatives of the MNA, MNO and MNS acknowledge to the Committee that if the Treaty were to impact the rights of other Indigenous peoples, that Canada would have a duty to consult with those peoples. This bare recognition of the law should not comfort the Standing Committee. Unless and until Canada has a process for recognizing rights bearing *Powley* Métis communities in Alberta, distinct from the MNA, we have no reason to expect Canada would engage in consultation with us. More likely, the Federal Government would continue to engage in wilful blindness to our existence and conclude it has no duty to consult *because* it has not already recognized us as a rights bearing Métis community and due to that it has no process for doing so.

4. CONCLUSION

Canada's reconciliation with the Métis peoples of Canada is long overdue. Reconciliation demands a process which is fulsome, and which enables historic truths and modern realities to be addressed. In Alberta, Bill C-53 does not create a legislative "cradle" for a Métis treaty. It creates a "grave" for distinctive Métis communities to be swept in and covered up for bureaucratic ease and political expediency.

The facts before this Committee should give it pause. Here, we have the Government picking winners and losers amongst the Métis peoples of this Country. The real-world consequences of Bill C-53 on the rights of Métis peoples, including on the Lac Ste. Anne Métis Community, should not be ignored or swept under the rug: we are real people – our rights and our future are at stake.

