

PRINCIPLE #23: **FAIR, TRANSPARENT, AND INDEPENDENT DECISION-MAKING** FAQs



Principle #23(d): Fair, Transparent, and Independent Decision-Making

In addition, the Constitution will provide for, among other things: ...

(c) processes, institutions, or self-government structures that support accountability to citizens, such as a citizens assembly, annual gatherings, etc. that provide an opportunity for the Métis Government (and its various self-government structures) to report on progress made and for citizens to directly provide policy guidance or direction to their elected representatives;

BACKGROUND / CONTEXT FOR THIS PRINCIPLE

Fair, transparent, and independent decision-making is a hallmark of good governance practices. The Métis tradition of direct, participatory, and democratic decision-making is one way of supporting a fair and transparent process. Every citizen is able to participate and every citizen gets a vote on important issues. That is both fair and transparent.

Other Indigenous governments also have included the importance of fair, transparent, and independent decision-making in their Constitutions. Often this is done by the Constitution outlining the principles that all government decisions must be free from bias or a conflict of interest, made in the best interests of the community, and without discrimination, etc. While the Constitution sets out the principles, most Indigenous governments choose to have the process for how this is done further outlined in laws, policies, or other documents.

EXAMPLES FROM OTHER INDIGENOUS GOVERNMENTS

The Tlicho Constitution outlines that the “Tlicho Government and its institutions shall exercise all powers and authority consistent with this Constitution and shall: (a) act with respect and fairness and without discrimination or abuse...” (s.5.2 (a)).

The [Tlicho Constitution](#)¹ also provides for transparent information sharing with citizens about the Tlicho Assembly meetings (e.g., their legislature or law-making body), including distribution of minutes and reports:

8.10 At least once per year the Tlicho Assembly shall publish the minutes of Tlicho Assembly meetings and reports on the activities, including financial matters, of the Tlicho Government and its institutions. These minutes and reports shall be made available to each Tlicho community, and on request to any Tlicho Citizen.

The Tlicho Constitution also includes the ability to challenge a Tlicho law or a decision or action by the Tlicho Government (the process for how to do this is further set out in a Tlicho law):

- 14.1 A person directly affected by a decision or action of Tlicho Government or its institutions may appeal that decision or action.
- 14.2 The Tlicho Assembly may enact one or more laws to provide for appeals of decisions or actions of Tlicho Government of its institutions.
- 14.3 In the absence of a Tlicho law providing for the appeal of a decision or action of Tlicho Government or its institution, such an appeal shall be to the Tlicho Government, body, or institution that authorized the decision or action complained of. In such an appeal, that body or institution shall review all aspects of the decision or action, and shall authorize the decision or the action it considers would have been proper at first instance. If the decision or action complained of was originally authorized by a body other than the Tlicho Assembly, a further and final appeal lies to the Tlicho Assembly.

The [Nisga'a Constitution](#)² follows a similar approach by including the broad principles and commitment in the Constitution that the Nisga'a Government will make laws about appeal and review of decisions and access to information by citizens:

- 13. Nisga'a Government must provide appropriate procedures for the appeal or review of administrative decisions of Nisga'a Public Institutions.
- 14. Nisga'a Lisims Government must make laws in respect of access to information held by Nisga'a Institutions.

¹A copy of the Tlicho Constitution is available at:
<https://tlicho.ca/sites/default/files/documents/government/tlichoconstitution.pdf>.

²A copy of the Nisga'a Constitution is available at:
<https://www.nisgaanation.ca/wp-content/uploads/2024/07/Constitution-of-the-Nisgaa-Nation-1998-10-01-1.pdf>.



The Nisga'a Constitution also includes the following broad principles for how it is meant to operate, including at the National and local (e.g., Village) levels:

60. The Nisga'a Nation expects the public service of the Nisga'a Nation and each Nisga'a Village to be administered in accordance with the following values and principles.
 - (a) a high standard of ethics;
 - (b) efficient and effective use of resources;
 - (c) impartial and equitable provision of services;
 - (d) responsiveness to public needs; and
 - (e) provision of timely, accessible, and accurate information.

The Nisga'a Constitution also has a chapter on dispute resolution that sets out various principles to guide how disputes are resolved as well as commitments for the different governance structures to work together:

48. Nisga'a seek to resolve disputes based on values expressed in the *Ayuuk* [the traditional laws and practices of the Nisga'a Nation], including:
 - (a) preserving the unity of the Nisga'a Nation;
 - (b) maintaining the dignity of and respect for each individual;
 - (c) acknowledging wrongdoing, and providing restitution for harm suffered;
 - (d) achieving healing and reconciliation;
 - (e) restoring harmony; and
 - (f) developing collective understanding of the *Ayuuk* [the traditional laws and practices of the Nisga'a Nation].
- 49(1) The Nisga'a Nation expects Nisga'a Lisims Government and the Nisga'a Village Governments to endeavour to resolve disputes between or among them by informal discussion and without the necessity of invoking formal means of dispute resolution.
- (2) *Wilp Si'ayuukhl Nisga'a* [Nisga'a legislature or law-making body] must make laws to provide for the consideration of disputes between or among Nisga'a Lisims Government and the Nisga'a Village Governments, which may include:
 - (a) the establishment of another dispute resolution body;
 - (b) referral to the Council of Elders;
 - (c) the establishment of a Nisga'a Court in accordance with the Nisga'a Treaty; or
 - (d) other appropriate means of dispute resolution.



The [Tla'amin Constitution](#)³ has a dispute resolution section, but also includes important elements of how their government will operate and uphold fairness, transparent, and bias-free decision making in other ways. For example, it includes the following "Governing Principles" and commitments to develop laws or policies on appeals, access to information, conflict of interest and other matters:

32. The Tla'amin Government, Tla'amin Public Institutions and their officials will:
- (a) be accountable to the Tla'amin Nation;
 - (b) adhere to this Constitution;
 - (c) promote the unity and well-being of the Tla'amin Nation;
 - (d) provide good, effective and accountable government;
 - (e) cooperate with one another in mutual trust and good faith, consult and inform one another, and coordinate their actions with one another;
 - (f) make decisions through a consistent, fair and transparent process;
 - (g) develop and maintain communications with the community;
 - (h) strike to be effective and professional in their communication and business relationships with other governments;
 - (i) commit to *pie yeh oht tiit shim* (always learning) by participating in leadership education initiatives;
 - (j) foster the development of a collective understanding of and respect for Tla'amin Law; and
 - (k) be required to take an oath of office.
34. In keeping with the fundamental values and governing principles of the Tla'amin Nation as set out in this Constitution, the following accountability and fairness measures will be put into practice and apply to the Tla'amin Government, Tla'amin Public Institutions and officials of the Tla'amin Government:
- (a) the Tla'amin Government will provide procedures for the review or appeal of administrative decisions of the Tla'amin Government and Tla'amin Public Institutions, which will set out which decisions are open for review or appeal;
 - (b) the Tla'amin Government will make laws in respect of access to timely and accurate information held by the Tla'amin Government and Tla'amin Public Institutions;
 - (c) the Tla'amin Government will make laws with respect to the protection of personal information and the handling, storage and distribution of information held by the Tla'amin Government and Tla'amin Public Institutions;
 - (d) the Tla'amin Government will establish and implement a code of conduct and conflict of interest policies that reflect the governing principles set out in this Constitution and establish penalties and remedies for conduct or behaviour that violates the code of conduct or conflict of interest policies; and
 - (e) the Tla'amin Government will establish a process for consultation with Tla'amin Citizens on issues that may impact on the collective interests and rights of Tla'amin Citizens, including capital transfer expenditures and land use planning.

³A copy of the Tla'amin Constitution is available at:

<https://www.tlaaminnation.com/wp-content/uploads/2017/08/Tlaamin-Constitution-April-5-2016-consolidation.pdf>.



The [Otipemisiwak Métis Government Constitution](#)⁴ includes a section titled “Judicial Branch” which is one of four branches of their Métis Government. It outlines that the Judicial Branch will be established through passing law that will provide further details on the process for how citizens can appeal decisions or actions of the Métis Government that affect them.

The Otipemisiwak Métis Government Constitution outlines the various areas that the Judicial Branch will be responsible for, including “the resolution of disputes and addressing the following matters: (a) citizenship . . . (b) election of leadership . . . (c) the validity, application, and interpretation of laws, regulations, policies, actions, or decisions of the Otipemisiwak Métis Government or its Institutions” and other matters (s. 17.1).

WHAT WE’RE DOING NOW / EXISTING MNO EXAMPLES

The MNO’s existing governance processes already includes many areas that support fair, transparent, and independent decision-making.

For example, the MNO Secretariat Bylaws include sections that deal with conflicts of interest, including that elected councilors must disclose any real or potential conflict of interest and withdraw from a discussion of that matter.

In addition, the MNO has adopted policies that deal with conflicts of interest, privacy matters, and accountability to citizens such as about posting minutes from open meetings of the Provisional Council of the Métis Nation of Ontario (“PCMNO”) online where MNO citizens can access them.

Recently, the MNO has also worked to develop and pass the MNO Code of Conduct which outlines standards of conduct for upholding good relationships based on Métis traditions and values. The MNO Code of Conduct also calls for the development of an Office of Ethics and Integrity that, once established, will be an independent body responsible for investigating and deciding cases where it is alleged the Code of Conduct has been breached.

DISCUSSION QUESTIONS

- Do you believe that upholding the principles of fairness, transparent, and independent decision-making should be included in the MNO Constitution?
 - Should these fundamental good governance principles be included for all governance structures and all MNO leadership? (e.g., the provincial, regional, and local governance structures and all elected leaders)
- Should the MNO Constitution include principles around how to resolve disputes? (e.g., collaborating together, trying to resolve dispute informally before using other adversarial processes, etc.)
 - How do these principles or steps relate to Métis values and traditions?
- What other processes or policies would support the Métis Government’s fair, transparent, and independent decision-making? (e.g., the Office of Ethics and Integrity, the MNO Code of Conflict and other policies, posting of PCMNO minutes, etc.)
- What processes would support regional or local governance structures being accountable to citizens in their areas?

⁴A copy of the Otipemisiwak Métis Government Constitution is available at:

https://albertametis.com/app/uploads/2023/09/Otipemisiwak_Metis_Government_Constitution.pdf.