

PRINCIPLES #8 & 9: **REMOVAL OF A COMMUNITY FROM THE CONSTITUTION** FAQs



Principles #8 & 9: Removal of a Community from the Constitution

8. In order to be included in the Constitution, a community must meet the criteria and requirements set out in Principle 4 to be a Métis Community in Ontario. If it is determined through a fair and transparent process that a community does not meet these criteria and requirements, the Constitution will include a process for removing that community.

9. In addition, where a community is removed following the process contemplated in Principle 8, the Constitution will provide for, among other things:

- (a) a process for citizens who ancestrally connect to the community that was removed to have their files reviewed to determine if they also ancestrally connect to a historic Métis Community in Ontario or a historic Métis community that is recognized as a part of the Métis Nation in western Canada and, where they meet the citizenship requirements and provide their consent, to be registered as citizens; and
- (b) a mechanism, including transparent criteria that would need to be met, for conversion of the local or regional self-government structures of the community that was removed to be converted to self-government structures of the future Métis Government

BACKGROUND / CONTEXT FOR THIS PRINCIPLE

During the late 1700s Métis communities emerged in the historic North-West, including in the Upper Great Lakes and along strategic waterways and historic fur trade routes in what is now northern Ontario. These distinct Métis communities all emerged in areas not yet subject to European control and have their own collective identities, stories, language, culture, and way of life. These Métis communities also all have their own histories of strategic alliances and collective action when their collectively-held rights, interests, or lands were threatened.

The MNO was established by these distinct rights-holding Métis communities in Ontario coming together, along with Métis citizens from other parts of the historic North-West who lived in Ontario, and creating the MNO as a Métis-specific government.

Over the last 30+ years the MNO has fought through the courts and in negotiations with the Crown for the recognition and respect of Métis rights and of the distinct history, values, culture, language and traditions of Métis communities in Ontario. The MNO, Métis communities in Ontario, and MNO citizens have had a number of successes in this ongoing struggle for recognition and respect of Métis rights. For example:

- The MNO supported Steve and Roddy Powley—two MNO citizens and Métis harvesters—in their fight against the Government of Ontario that took them all the way to the Supreme Court of Canada to ultimately prove that the Sault Ste. Marie Métis community have Métis harvesting rights protected by section 35 of Canada's *Constitution Act, 1982*. The Court in *R. v. Powley* set out the requirements for a Métis community to hold section 35 rights that became the framework used by the MNO and other Métis governments to prove other Métis rights-holding communities outside of Sault Ste. Marie;
- After decades of collaborative negotiations—involving historians, ethno-historians, genealogists, lawyers, and other experts, more than 25 historic reports and thousands of historic documents—the MNO reached common understandings with the Government of Ontario in 2017 about the existence of seven historic Métis communities that emerged in the Upper Great Lakes region or in northern Ontario, prior to effective Crown control in those regions;
- Building on the above court decisions, recognition, and agreements, the MNO successfully negotiated two Métis harvesting agreements with the Government of Ontario, in 2004 and 2018, through which the MNO now regulates the Métis harvest in Ontario and the Government of Ontario respects and accommodates Métis harvesting practices in the province; and
- Reaching two self-government agreements with the Government of Canada, in 2019 and 2023 respectively. The 2023 Self-Government Agreement includes the commitment that Canada reach a treaty with the MNO that will constitutionally protect the self-government rights of the Métis communities in Ontario for generations to come.

Importantly, all of the above successes are built on the fact that the MNO represents rights-holding Métis communities in Ontario that meet the requirements set out by the Supreme Court of Canada in *R. v. Powley*.

The MNO has, over the years, also undertaken extensive work to ensure that it's citizenship, registry, and government continues to only represent Métis rights-holders. For example:

- After the *Powley* decision in 2003, the MNO adopted a definition of Métis and objective citizen registration process that is consistent with the *Powley* requirements and ensures that the MNO only represents individuals who descend from historic Métis communities in Ontario or other parts of the historic North-West.
- The MNO has also undergone several independent reviews of its Registry and harvesting card processes, including an independent review of the MNO's harvester card system in 2018, which concluded that 100% of Harvesters Card files reviewed were verified as meeting the criteria set out in *Powley*.
- The MNO recently concluded a multi-year long Registry Review process to ensure it continues to only represent Métis rights-holders. This review resulting in MNO amending its governance documents to allow for the removal of citizens that did not meet the requirements for MNO citizenship that align with the *Powley* requirements for identifying Métis rights-holders.



Similar to how the Registry Review process was important to ensure the MNO continued to only represent Métis rights-holders, it will be important that the future MNO Constitution include a process that ensures the Constitution continues to only include rights-holding Métis communities.

This is important to ensure that the MNO, as a Métis Government, continues to only represent rights-holding Métis communities and citizens. It is also necessary to ensure that if a community does not meet these requirements (e.g., is not a community that can hold section 35 Métis rights), that conclusion does not negatively impact the other rights-holding Métis communities in Ontario.

For this reason, if through a fair and transparent process, such as a court proceeding or other adjudicative means, it is determined that a community included in the future MNO Constitution does not meet the criteria outlined in Principle #4 (that align with the Powley criteria), these Principles provide for a mechanism, similar to the Registry Review, that allows for that community to be removed from the Constitution.

In addition to being fair and transparent, MNO recognizes that the removal process will need to be designed in a way to protect against this process being used for political or oppressive purposes.

This process will also need to allow for MNO citizens who can ancestrally connect back to another Métis community in Ontario or in the historic North-West to continue to be citizens, if they so choose. Métis have extensive kinship, trade, and transportation networks that link Métis communities across the historic North-West. As such, Métis individuals often have ancestral connections to more than one historic Métis community.

Finally, this process will also need to allow for a discussion about what happens with any governance structures of that removed community, including whether those structures should be continued as a part of the Métis Government, or wound-down, where not needed. The community may have built governmental structures at the local (i.e., community councils) or regional levels, rather than simply disappearing may be able to be transferred to the future Métis Government, and where possible restructured, to continue to serve citizens in that area. Notably, “governance structures” are different than institutions or private corporations.

WHAT WE'RE DOING NOW / EXISTING MNO EXAMPLES

Many of the MNO's existing governance structure and processes already respect the importance of the MNO only representing right-holding Métis communities in Ontario and citizens who connect to those communities or other rights-holding Métis communities in the historic North-West. The Registry Review and independent reviews of the MNO Registry and MNO harvesters card processes are both examples.

In addition, the MNO committed in the 2023 Self-Government Agreement that:

- 14.06 The Métis Government is committed to ensuring that any processes, discussions, or negotiations related to a specific Métis Right, interest, or claim collectively held by any one or more of the Métis Communities Represented by the MNO will include the Governance Structures representing those Métis Communities.

DISCUSSION QUESTIONS

- What other important considerations should be included in the Constitution to ensure the MNO continues to only represent Métis rights-holders?
- Are there other ways that the future MNO Constitution can protect and uphold Métis section 35 rights?
- Are there other considerations that should be included in what a fair and transparent process looks like?

