

Written Submissions – Restitution of Land to First Nations, Inuit and Métis Communities

Northwest Territory Métis Nation

Standing Committee on Indigenous and Northern Affairs – June 5, 2023

The Northwest Territory Métis Nation (“NWTMN”) wishes to thank the Committee for the opportunity to provide written submissions.

We would like to provide Committee a brief history of the NWTMN. As Indigenous Métis in our traditional territory, we have declared and affirmed that we are a distinct Métis Nation within Canada, with Aboriginal rights to lands, resources, and governance throughout our traditional territory, protected under section 35 of the *Constitution Act, 1982*. We have a have a right of self-determination. We hold these rights because we are aboriginal people of the Mackenzie and Athabasca River basins. That includes lands we have traditionally used and occupied in Wood Buffalo National Park and Thaidene Nënë National Park Reserve.

Our ancestors lived on these lands, which the Creator provided, and governed themselves according to our own laws and customs, from time before memory.

We are proud of our history within Canada. Our traditional way of life as Indigenous Métis existed prior to effective Government control within the Northwest Territories. Our NWTMN ancestors were significant players in the Fur Trade and the development of western and Northern Canada.

When an adhesion to Treaty 8 was signed in 1900 at Fort Resolution, our Métis ancestors were present. Despite this incontrovertible fact, the Government of Canada failed to honourably address the recognition of Métis Rights at the time. While the Treaty Indians did not receive

Reserve lands at the outset, Canada has provided Treaty Land entitlement to 3 First Nations in our Traditional Territory. As well, Treaty Indians have received funding for housing for decades, while we have only recently funding for housing in 2021. Given the difference in treatment of the Indigenous Métis as compared to Treaty Indians, it is a matter of fairness and equity that reconciliation and redress for historic wrongs must be addressed with the NWTMN through a negotiation process with Canada.

Contemporary NWTMN Governments

The NWTMN is comprised of Indigenous Métis members from:

- Fort Smith Métis Council,
- Hay River Métis Government Council, and
- Fort Resolution Métis Council.

Our members comprise a significant portion of the communities of Fort Smith, Hay River, Fort Resolution and Yellowknife.

The NWTMN were full participants in the Dene/Métis negotiations from the 1970s to 1990.

When the Dene and Métis leadership did not ratify the Final Agreement in 1990, some regions pursued regional land claim agreements. The Dene/Métis Agreement was a template for regional negotiations.

On August 26, 1996, the NWTMN, Canada and the Government of the Northwest Territories signed a Framework Agreement. This established a process for negotiations towards an Agreement-in-Principle and Final Agreement. The parties to the Framework Agreement signed an Agreement-in-Principle on July 31, 2015, and are negotiating a Final Agreement. On May 19,

2021, the negotiators signed the Self-Government Framework Agreement. These negotiations place the NWTMN in the unique position of being the first standalone Métis land, resources and self-government agreement in Canada – a modern-day treaty.

Examining the “Land Back” issue in the NWTMN Context

The NWTMN has chosen the path of good faith negotiations on lands, resources and self-government as a means to achieve what we understand to be at the core of the “land back” principle. We observe that while the “land back” principle has a historic context, it has gathered momentum recently in light of Article 28 of the *United Nations Declaration on the Rights of Indigenous Peoples*, which provides:

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

A second important Article is Article 26, which provides:

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or ... used ...

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, ...
3. States shall give legal recognition and protection to these lands, territories and resources...

The NWTMN were pleased that on May 30, 2018, Parliament passed, “Bill C-262 - *An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*”.

We note further that the mandate letter issued in December 2021 from the Prime Minister to the Minister of Justice and the Attorney General asks for the full implementation of the UN Declaration across Government. The NWTMN looks forward to Canada honouring the implementation of the Declaration in respect to Métis rights.

Finalizing the NWTMN Negotiation Process

We will continue to seek creative solutions to address the key outstanding issues for our negotiation process, and we can offer a few points, based on our experience, for the Committee’s consideration:

- Indigenous governments may choose different approaches to resolve fundamental questions of land, resources, and governance. Land back is one way of looking at the issues. The proposed land quantum is 25,000 sq/km for our Land Claim process, which is less than 10% of our Traditional Territory. We have advocated for interim and early land transfer to enable provide housing for our Indigenous Métis members and for

community development. While there are many surplus government parcels in our three communities, government continues to push-back on the early transfer of lands in the communities. We have been negotiating for over 27 years and these delays are frustrating and non-justifiable.

- The NWTMN, having chosen the path of good faith negotiations, is confident that our decision to negotiate can achieve what the land back issue seeks to achieve – a balance between the Crown’s actions in respect of our traditional territory, and the rights and title that Indigenous Métis will have recognized and affirmed in the modern treaty.
- Resolving the key outstanding issues for negotiations may require Canada to examine any impediments that stand in the way of concluding these critical processes and achieve reconciliation. For example, in our process, we have to deal with different Ministries to address land issues – ISC or Parks Canada. Although the Crown, as a matter of law, is indivisible, it does at times operate in silos.

In summary, the resolution of longstanding Métis rights, title and governance remains at the forefront of our approach to engaging with Canada and the Government of the Northwest Territories. The NWTMN has always preferred the path of good faith negotiations. While the path has not been easy, we are approaching a final agreement. In our view, the modern-day treaty we are seeking will achieve the principles that underpin the land back issue. A Métis government, with jurisdictions and authorities over its land and people will provide us with what we need to move forward on the path of reconciliation with Canada.

The NWTMN wishes to extend its appreciation to the Committee for the opportunity to make written submissions.