



Lac Ste. Anne Métis Community Association

BRIEFING NOTE

TO: Honourable Members of the Standing Committee on Indigenous and Northern Affairs
FROM: Lac Ste. Anne Métis Community Association
DATE: October 23, 2023
RE: Restitution of Land to First Nations, Inuit, and Métis Communities Study

The Lac Ste. Anne Métis Community Association herein provides our opinion, comments, and recommendations for consideration by the Standing Committee on Indigenous and Northern Affairs regarding its study focused on *Restitution of Land to First Nations, Inuit, and Métis Communities*. We thank the Committee for the opportunity to provide these written submissions. It is an Indigenous right to be able to speak for ourselves collectively, also now acknowledged by Canada's United Nations Declaration Act¹. In this brief, we provide information regarding our organization and the distinctive Métis community we represent, the Lac Ste. Anne Métis, a Métis community in west-central and northwest Alberta. We also express what in our view are important considerations for Canada regarding the topic of land restitution to Indigenous peoples.

Today, as Lac Ste. Anne Métis, we live in the same locations as did our ancestors. Like them, we carry on our cultural practices in our traditional territory, notwithstanding that the Crown's assertion of sovereignty over our traditional territory, including through certain legislative acts in the latter 1800s, has and does continue to impact our ability to practice our cultural ways as we so desire.

Lac Ste. Anne Métis Community Association ("LSAMCA")

LSAMCA is the representative organization of the historic and contemporary Lac Ste. Anne Métis ("LSAM") community, a rights-bearing *Powley* Métis community which has section 35 *Constitution*

¹ Act, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 18.

Act, 1982 Métis Aboriginal rights. LSAMCA is the only legal entity representing the contemporary LSAM community in regards to our section 35 Métis Aboriginal rights and interests. We speak for ourselves, on behalf of our current several hundred members, and are not affiliated with any other Métis organization, entity, or government, in Alberta or elsewhere. LSAMCA is the second Métis organization in Alberta to establish a credible assertion of Métis harvesting rights² under the Alberta Government’s Métis Credible Assertion Process and Criteria.³ The Alberta government’s Métis Credible Assertion Process and Criteria is an rigorous, evidence-based process requiring compilation of extensive documentation to accomplish a successful credible assertion of Métis harvesting rights.⁴ The Alberta government’s Métis Credible Assertion Process and Criteria is based on current case law, including the Supreme Court of Canada’s *Powley* test.⁵

Lack of Federal recognition of Métis / Métis rights-holding collectives are Métis Communities

Métis peoples have been excluded from recognition in law and policy by Canada generally.⁶ Only a scant seven years ago, following generational histories of attempted erasure of Métis peoples, was Canada forced to acknowledge that it has constitutional legislative authority over Métis under section 91(24) *Constitution Act, 1867* as a result of the Supreme Court of Canada’s 2016 decision in *Daniels*⁷.

In its 2003 *Powley* decision, the Supreme Court of Canada defined the Métis rights-holding collective under section 35 of the *Constitution Act, 1982* to be a Métis community⁸. Thus, Canada must address restitution of land to the relevant Métis rights-holding collective level - Métis communities. As

² Government of Alberta website – Métis organization establishes credible assertion, Lac Ste. Anne Métis Community Association – website accessed on October 20, 2023 - <https://www.alberta.ca/release.cfm?xID=8471263626970-A2FD-DF8F-26B346D3257AF65D#jumplinks-1> (“2022 09 29 Alberta’s notification LSAMCA establishes credible assertion webpage”).

³ Government of Alberta - Métis Credible Assertion: Process and Criteria (2023) – website accessed on October 20, 2023 - <https://open.alberta.ca/dataset/e74ec17c-9cf6-4f2c-8dde-1cae21ae6b0c/resource/f9b9ff18-50fa-4fc0-80da-ae55fc3a8f74/download/ir-metis-credible-assertion-process-and-criteria-2023.pdf> (“Government of Alberta - Métis Credible Assertion: Process and Criteria”).

⁴ 2022 09 29 Alberta’s notification LSAMCA establishes credible assertion webpage under Quick Facts.

⁵ Government of Alberta - Métis Credible Assertion: Process and Criteria, page 1; *R v Powley*, [2003] 2 S.C.R. 207; 2003 SCC 43.

⁶ *Daniels v Canada (Indian Affairs and Northern Development)*, [2016] 1 S.C.R. 99; 2016 SCC 12.

⁷ *Daniels v Canada (Indian Affairs and Northern Development)*, [2016] 1 S.C.R. 99; 2016 SCC 12 at paras. 12-16 and 50.

⁸ *R v. Powley*, [2003] 2 S.C.R 207; 2003 SCC 43 at paras. 12, 13, 23, 24, 33 and 34.



such, this Committee’s study is appropriately named as it includes Métis communities in the title. The inclusion of Métis in section 35 of the *Constitution Act, 1982* is based on the Crown’s commitment to recognize Métis peoples and enhance their survival as distinctive Métis communities.⁹ Métis communities generally do not have a collectively-owned land base given Canada’s past approach to expansion of the settler colonial state; for example, implementation of Métis scrip (in our area, during the latter 1800s).

Our historical dispossession as a distinctive Métis community requires redress by Canada through restitution of land, as well as through amending Canada’s existing laws and policies, and making funding and rights recognition accessible to us as rights-holders. Funding and rights recognition practices operate hand-in-hand, in insidious ways, to uphold our historical dispossession. Canada’s continued neglect, non-response, and non-engagement with LSAMCA directly as concerns rights recognition is contrary to section 35 Métis rights common law and the *UNDRIP Act* and associated Declaration. Canada is failing abysmally at addressing land and rights-based issues directly with Métis communities as Métis rights-holding collectives, and instead, has largely chosen to structure its laws, policies, and funding (to the level that does exist) so as to deal directly with provincial Métis organizations¹⁰, and not with the proper Métis rights-holding collective level – Métis communities. This decision is not in keeping with the Honour of the Crown.

Need for Canada to recognize Métis communities

Canada must move forward to recognize the rights of Métis communities, the proper Métis rights-holding collective level, including as this concerns land rights and land restitution, so that Métis

⁹ *R v. Powley*, [2003] 2 S.C.R 207; 2003 SCC 43 at para. 13.

¹⁰ For example, see Government of Canada webpage: <https://www.rcaanc-cirnac.gc.ca/eng/1100100014413/1535468629182> – accessed on October 20, 2023, addressing Métis rights, Métis membership, referencing provincial Métis representative organizations. See also, for example, the draft Bill C-53, An Act respecting the recognition of certain Métis governments in Alberta, Ontario and Saskatchewan, to give effect to treaties with those governments, Schedule, which defines the Métis collectivity at a provincial level, with respect the Métis Nation within Alberta and the Métis Nation within Saskatchewan, which is contrary to Supreme Court of Canada’s decision in *Powley*.



communities can advance their vision of self-determination for the benefit of their communities. Canada must structure its laws, policies, and funding to enable Métis communities' participation directly, instead of how this is currently being structured which is to explicitly exclude the direct participation of Métis communities. Canada must direct in all of its laws the authority, approval, and consent of the proper Métis rights-holding collective, Métis communities.

Canada acknowledges that the United Nations Declaration of the Rights of Indigenous Peoples (“Declaration”), which the federal *United Nations Declaration of the Rights of Indigenous Peoples Act*¹¹ (“*UNDRIP Act*”) affirms as a universal international human rights instrument with application in Canadian law, is an authorizing interpretative source for Canadian law, and that the rights and principles affirmed in the Declaration constitute minimum standards.¹²

Following upon this, LSAMCA and the community it represents, the Lac Ste. Anne Métis, have a right to self-determination, including the inherent right of self-government, as set out in Articles 3, 4 and 5 of the Declaration,¹³ including the right to maintain and strengthen our distinctive legal institutions, of which LSAMCA is our chosen authorized representative legal entity. As set out in Article 18 of the Declaration,¹⁴ we have the right to participate in decision-making in matters which would affect our rights, including our land rights, through representatives chosen by us to maintain our own Indigenous decision-making institutions. As set out in Article 26 of the Declaration,¹⁵ we have the right to the lands, territories, and resources that we have traditionally owned, occupied, or used and there is a need for Canada to give legal recognition and protection to such lands, territories, and resources. As addressed in Article 8 of the Declaration, we have the right not to be subjected to forced assimilation or destruction of

¹¹ *United Nations Declaration of the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14 (“*UNDRIP Act*”)

¹² *UNDRIP Act*, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 43; For example, Canada’s Collaborative Modern Treaty Implementation Policy, section 3.7.

¹³ *UNDRIP Act*, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Articles 3, 4 and 5.

¹⁴ *UNDRIP Act*, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 18.

¹⁵ *UNDRIP Act*, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 26.



our culture¹⁶, which includes effective mechanisms for prevention and redress for: any action which has the aim or effect of dispossessing us of our lands, territories, or resources.¹⁷

Canada needs to recognize the Indigenous perspective, our perspective, to inform Canada as to who is the Métis rights-holder collective with respect to land rights and restitution of land, and to engage with us so as to enable the recognition of LSAMCA and the community we represent, Lac Ste. Anne Métis, as a rights-holding entity representing a rights-bearing Métis section 35 *Powley* community in accordance with the requirements of the Declaration. To the extent that the Government of Canada fails to address, recognize, or come to terms with us, including in order to address us as a section 35 *Powley* rights-holding Métis community – it is continuing its colonial forced assimilation policies and actively seeking to erase our identity as a distinctive Métis community with a legal right of self-determination, autonomy, and self-government. As stated by Canada itself, the rights and principles affirmed in the Declaration constitute minimum standards.¹⁸

We recommend to the Standing Committee, as it proceeds with its study on Restitution of Land to First Nations, Inuit and Metis Communities, that it be clear to Canada that any land rights recognition and/or land restitution to be addressed by the Crown, be done so only with the authority, approval, and consent sought directly from the legitimate and proper level of Métis rights and title-holder collectives for Métis peoples – with Métis communities such as our own.

We have more to share with the Honourable Members of this Committee regarding our community and its history, and are ready, willing and available to engage further on this and related topics. In the interim, more information regarding LSAMCA and the LSAM community can be found at our website:

<https://lsametis.com>

¹⁶ UNDRIP Act, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 8, section 1.

¹⁷ UNDRIP Act, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 8, section 2.

¹⁸ UNDRIP Act, Schedule United Nations Declaration on the Rights of Indigenous Peoples, Article 43.

