

The Métis Nation of Canada (MNOC), since January 21<sup>st</sup>, 2009, has advocated for the recognition of all Indigenous people in Canada.

# Métis Newsletter

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## LETTER FROM THE FOUNDER



Greetings Métis Brothers and Sisters. We are off to a good start for the summer. This Thursday, June 21 is National Indigenous Peoples Day. This is a day for all Canadians to recognize and celebrate the unique heritage, diverse cultures and outstanding contributions of First Nations, Inuit and Métis peoples.

The Canadian Constitution recognizes these three groups as Aboriginal peoples, also known as Indigenous peoples.

Although these 3 groups share many similarities, they each have their own distinct heritage, language, cultural practices and spiritual beliefs.

In cooperation with Indigenous organizations, the Government of Canada chose June 21, the summer solstice, for National Aboriginal Day, now known as National Indigenous Peoples Day. For generations, many Indigenous peoples and communities have celebrated their culture and heritage on or near this day due to the significance of the summer solstice as the longest day of the year.

We hope you too will take some time out to celebrate your heritage, to perhaps even learn more about it, and discuss it with your children and grandchildren. We are the bridge for the next generation. Let's make it something they will cherish and be proud of too.

We have included some background information for you to look over. It gets deep, so grab a coffee and put your feet up.... It's good stuff to know....

Best regards always,

*Bryce D. Fequet*

### MNOC Contact Details

Contact us through the website

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## What Led to the Creation of National Aboriginal Day?

National Aboriginal Day was announced in 1996 by then Governor General of Canada, Roméo LeBlanc, through the Proclamation Declaring June 21 of Each Year as National Aboriginal Day.

This was the result of consultations and statements of support for such a day made by various Indigenous groups:

- ◆ In 1982, the National Indian Brotherhood (now the Assembly of First Nations) called for the creation of National Aboriginal Solidarity Day
- ◆ In 1995, the Sacred Assembly, a national conference of Indigenous and non-Indigenous people chaired by Elijah Harper, called for a national holiday to celebrate the contributions of Indigenous Peoples.
- ◆ Also, in 1995, the Royal Commission on Aboriginal Peoples recommended the designation of a National First Peoples Day.

## And then they changed the name ...

On June 21, 2017, the Prime Minister issued a statement announcing the intention to rename this day National Indigenous Peoples Day.

## How does the Government of Canada support National Indigenous Peoples Day?

National Indigenous Peoples Day is part of the Celebrate Canada program, which also includes Saint-Jean-Baptiste Day (June 24), Canadian Multiculturalism Day (June 27) and Canada Day (July 1).

The Government of Canada supports National Indigenous Peoples Day. It provides resources, ideas for events and funding opportunities for community celebratory events.





## Who are the Indigenous People of Canada?

Indigenous peoples (also referred to as Aboriginal peoples) have been in Canada since time immemorial. They formed complex social, political, economic and cultural systems before Europeans came to North America.

There are three categories of Indigenous peoples in Canada: Inuit, Métis and First Nations.

- ◆ The Inuit primarily inhabit the northern regions of Canada. Their homeland, known as Inuit Nunangat, includes much of the land, water and ice contained in the Arctic region.
- ◆ Métis peoples are of mixed European and Indigenous ancestry, and live mostly in the Prairie provinces and Ontario, but also in other parts of the country.
- ◆ First nations peoples were the original inhabitants of the land that is now Canada, often occupying territories south of the Arctic.

The Indian Act – the principal statute through which the federal government manages a variety of issues concerning Indigenous affairs – further divides Indigenous peoples into two categories Status Indians and Non-Status Indians:

- ◆ Status Indians are individuals who are listed in the Indian Register and are issued identification cards (known as status cards) that contain information about their identity, band and registration number.
- ◆ Non-Status Indians are Indigenous peoples who are not registered with the federal government.

### Membership Rates and Renewals

The **MNOC National Registration**

**Application Form** is available on our website.

[www.metisnationofcanada.org](http://www.metisnationofcanada.org)

#### Membership Rates:

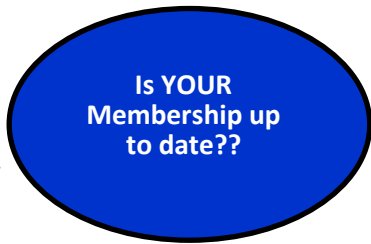
##### Adults:

3 years	\$65
5 years	\$100

##### Seniors and Youth under 18:

3 years	\$35
5 years	\$50

**Children 12 and under are free.**



## Truth and Reconciliation

The Truth and Reconciliation Commission unveiled a history that is not simply about misguided and profoundly abusive attempts to assimilate Indigenous peoples.

It also revealed a colonial legacy that continues to this day, making itself known in inequities and injustices in areas as far-ranging as education and child welfare, violence against women, and violation of treaty and nation-to-nation rights in the face of resource extraction on Indigenous lands.

The Truth and Reconciliation Commission has confirmed for Canada that the path towards reconciliation is also unquestionably the path towards justice.

In receiving the final Calls to Action of the Truth and Reconciliation Commission, and through resolution at General Council 42, the Church has committed itself to an agenda for reconciliation and justice.



## Coming up in next month's Newsletter...

More information on CIVA (Canadian Indigenous Verification Agency). Founded by Bryce Fequet, this Agency aims to put in place ONE registry system for ALL Indigenous people of Canada. DNA defines once and for all...



Canadian Indigenous Verification Agency Inc.

*Canadian Indigenous Verification Agency (CIVA) was founded to put in place one Registry System for all Indigenous People of Canada.*

Be there from the beginning.... Indigenous Nation of Canada currently in it's beginning stages, is on track to becoming a nationwide Foundation to help support and deliver quality services and programs to ALL Indigenous people.

INDIGENOUS NATION



CANADA

*The Indigenous Nation of Canada was founded to help all Indigenous People, First Nation, Inuit and Metis.*

[www.indigenousnation.ca](http://www.indigenousnation.ca)



## Constitution Act, 1982 Section 35

### What is Section 35 of the Constitution Act?

Section 35 is the part of the Constitution Act that recognizes and affirms Aboriginal rights. The Canadian government did not initially plan to include Aboriginal rights so extensively within the Constitution when the Act was being redrafted in the early 1980s. Early drafts and discussions during the patriation of the Canadian Constitution did not include any recognition of those existing rights and relationships, but through campaigns and demonstrations,

Aboriginal groups in Canada successfully fought to have their rights enshrined and protected.

It is important to understand that Section 35 recognizes Aboriginal rights; but did not create them— Aboriginal rights have existed before Section 35.

### Section 35 of the Constitution Act states:

- 1) The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.
- 2) In this Act, “Aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada.
- 3) For greater certainty, in subsection (1) “treaty rights” includes rights that now exist by way of land claims agreements or may be so acquired.
- 4) Notwithstanding any other provision of this Act, the Aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Section 35 of *The Constitution Act, 1982* recognizes and affirms existing Aboriginal rights, but does not define them. What Aboriginal rights include has been the topic of much debate and discussion, and they have been defined over time through

Supreme Court cases such as *R. v. Calder* and *R. v. Sparrow*.

Aboriginal rights have been interpreted to include a range of cultural, social, political, and economic rights including the right to land, as well as to fish, to hunt, to practice one’s own culture, and to establish treaties.<sup>1</sup>

Section 35 also recognizes that Aboriginal rights are “existing.” The Supreme Court of Canada has stated that this means that any Aboriginal rights that had been extinguished by treaty or other legal processes prior to 1982 no longer existed and therefore are not protected under the Constitution.<sup>2</sup> The significance of the term “existing” was further clarified in the case of *R. v. Sparrow*:

Section 35(1) applies to rights in existence when the *Constitution Act, 1982* came into effect; it does not revive extinguished rights. An existing Aboriginal right cannot be read so as to incorporate the specific manner in which it was regulated before 1982. The phrase “existing Aboriginal rights” must be interpreted flexibly so as to permit their evolution over time.

The *Constitution Act* recognizes Indian, Inuit and Métis as all Aboriginal with existing rights, and that recognition has been further defined for each group (as, for instance, for Métis in the decision). Aboriginal rights in general are based on the continued occupation of lands by Aboriginal peoples since before European settlement.

Section 35 falls outside of the Charter of Rights and Freedoms, and it begins Part II of the constitution. This allows Section 35 to be exempt from the “notwithstanding clause” that applies to the Charter. **In other words, the federal government cannot override Aboriginal rights.**

### The Fight For Section 35

Section 35 of *The Constitution Act, 1982* was not included in Prime Minister Pierre Trudeau’s initial proposal for patriation in 1980. Aboriginal Canadians had not been consulted about the new constitution, and there was initially very little reference to Aboriginal rights. Aboriginal groups across Canada became concerned that, with the transfer of constitutional powers from Britain to Canada,



## Constitution Act, 1982 Section 35 (continued)

established agreements affirming Aboriginal rights and title would no longer hold legal weight.

Aboriginal groups were also concerned that they would no longer be viewed as autonomous decision-makers on a federal level, and they saw the potential for the patriation to be yet another assimilationist policy, much like the 1969 White Paper, also proposed by the Trudeau government.

In response to the proposed patriation, many Aboriginal organizations and activists joined in demonstrations, fund-raisers, and campaigns to have their title and rights explicitly recognized in the Constitution. One of these demonstrations was the Constitution Express, an action that contemporary activist Arthur Manuel describes as the most effective direct action in Canadian history, as it ultimately changed the Constitution.

It took two years and the raising of concerns before an international audience, including the United Nations and the British Parliament, before the Canadian government finally agreed to include Aboriginal rights in the constitution.

Because of the strong fight for recognition by Canada's Aboriginal peoples, Section 35 was added to the Constitution in time to be formally patriated in 1982.

Section 35 initially consisted of clauses (1) and (2). Clauses (3) and (4) section was further developed in 1983-4 as a result of consultations with Aboriginal representatives during the First Ministers' Conference on Aboriginal Rights in March 1983. These clauses were added after lengthy campaigns by women's groups, who were unrepresented in the initial discussions and experienced systemic gender discrimination from such legislation as Bill C-31.

### Debates surrounding the value of Section 35

There has been much debate over the effectiveness of Section 35. For example, Stó:ló author Lee Maracle considers that Section 35 reinforces colonialism by recognizing Canadian law as supreme, instead of breaking away from it as would be expected under a true nation-to-nation relationship. Lawyer and judge Mary-Ellen Turpel also argues that by accepting the Constitution, a colonial form of rule based in Western (non-Indigenous) concepts and ideologies, such as individual rights and private property ownership, one is

acknowledging the colonial power as the overarching, supreme law in which "everything has to be adjusted to fit the terms of the dominant system."

Some argue that there appears to be a disparity between the concept of Aboriginal rights being upheld by Section 35, and the daily lives of Aboriginal peoples, where many have been arrested for exercising what they understand as their Aboriginal rights, such as hunting or fishing:

Although Section 35 guides court and government decisions that directly impact Indigenous Peoples, there remain a considerable number of Indigenous people who either are not directly aware of Section 35 or believe it is meaningless in their lives. There are far more Indigenous people who personally know brothers, sisters, aunts, dads, and uncles who have been stopped, questioned, charged, and convicted for exercising their Aboriginal Rights, than who know of the existence or content of Section 35. To many Indigenous peoples it has remained a powerful yet invisible force.

On the other hand, John Borrows of the Nawash First Nation and Law Foundation at the University of Victoria argues that the Constitution helps settle what was a troubled relationship between the Canadian government and Aboriginal Peoples, with the government initially able to infringe on Aboriginal rights without providing Aboriginal peoples with "the institutional means to resist the violation of their rights." Borrows in fact suggests that the case *Calder v the Attorney General of BC*, in which Frank Calder lost his case for Aboriginal title in 1973, may have turned out differently had Section 35 been in place at that time.

Borrows also feels that recognition of Aboriginal rights in Section 35 places the issue "squarely in the public eye"—crucial for the Canadian public's acceptance of pre-existing Aboriginal rights.

Given that legal cases have at times upheld Aboriginal rights (e.g., *Sparrow*) and at other times allowed infringement, the true impact of Section 35 remains to be seen.

By Erin Hanson

