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Legislative Summary

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 AND TO MAKE CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

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Legislative Summary of Bill C-53
(Preliminary version)

44-1-C53-E

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1 BACKGROUND

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 and to make consequential amendments to other Acts,[1] was introduced in the House of Commons by the Honourable Marc Miller, then Minister of Crown-Indigenous Relations, on 21 June 2023. It was referred for consideration to the Standing Committee on Indigenous and Northern Affairs (INAN) in the House of Commons that same day.

The bill's short title is the Recognition of Certain Métis Governments in Alberta, Ontario and Saskatchewan and Métis Self-Government Act. In their 20 September 2023 Charter Statement on Bill C-53, the Minister did not identify any potential effects on Charter rights and freedoms.[2]

The bill follows up on commitments made in Métis self-government recognition and implementation agreements that were signed with three Métis governments in February 2023.[3] Through these agreements, Canada recognized the Métis Nation of Alberta (MNA),[4] the Métis Nation of Ontario (MNO), and the Métis Nation of Saskatchewan (MNS) as the official Indigenous governments of the Métis communities they represent, and committed to negotiate self-government treaties with each of these Métis governments in the following two years.[5] The Government of Canada indicated, at that time, that, "[f]ederal implementation legislation will be introduced as soon as possible following the signing of today's Agreement and is a priority for the parties."[6]

The bill recognizes an inherent right to Métis self-government under section 35 of the *Constitution Act, 1982*.[7] It also recognizes that the Métis governments currently specified in column 1 of its Schedule, the MNA, the MNO and the MNS, are authorized to represent their respective collectivities and to act on behalf of their communities.

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The bill does not give effect to any specific treaty or self-government agreement. Instead, it provides a framework for the future implementation of treaties and supplementary self-government agreements between Canada and the Métis governments listed in the Schedule. It also includes an obligation for the Government of Canada to collaborate regarding regulations and policy developments related to any subsequent treaties or agreements eventually concluded under the bill.

INAN heard from 72 witnesses during its study of Bill C-53, which took place between October 2023 and February 2024.[8] INAN reported the bill back to the House with nine amendments on 8 February 2024.[9]

Bill C-53 died on the *Order Paper* following the prorogation of Parliament on 6 January 2025.

1.1 CONTEXT FOR THE RECOGNITION OF MÉTIS RIGHTS ACKNOWLEDGED BY BILL C-53

This legislative summary begins by providing background information on Métis rights and the bill's legal and constitutional underpinnings. Background information about treaties, Métis governments as well as supplementary self-government agreements, and the Métis Self-Government Recognition and Implementation Agreements signed in February 2023, will be provided. Finally, the background section also discusses recent developments since the tabling of Bill C-53.

1.1.1 Constitutional and Judicial Background

Bill C-53 aims to recognize the Métis governments listed in its Schedule (currently, the MNA, MNO and MNS) in a manner that considers and upholds Métis rights protected under section 35 of the *Constitution Act, 1982*, and in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP).[10] This section highlights key constitutional developments for Métis. Significant Supreme Court of Canada decisions that have developed Métis rights are outlined below.

In *Alberta (Aboriginal Affairs and Northern Development) v. Cunningham*[11] (*Cunningham*), former Chief Justice McLachlin observed that during the 19th century, "the law remained blind to the unique history of Métis and their unique needs."[12] Few attempts were made to address this legal gap prior to the repatriation of the Constitution in 1982.

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Cunningham provides useful context in understanding Crown–Métis dynamics prior to and immediately following Confederation,

> The Crown did not apply to the Métis its policy of treating with the [First Nations] and establishing reservations and other benefits in exchange for lands. In some regions, it adopted a scrip system that accorded allotments of land to individual Métis. However, Métis communities were not given a collective reservation or land base; they did not enjoy the protections of the *Indian Act* or any equivalent.[13]

Justice McLachlin observed that the lack of a land base negatively affected the ability of Métis "to strengthen their identity and culture or govern themselves."[14] She noted further:

> The history of the Métis is one of struggle for recognition of their unique identity as the mixed-race descendants of Europeans and [Indigenous peoples]. Caught between two larger identities and cultures, the Métis have struggled for more than two centuries for recognition of their own unique identity, culture and governance.[15]

Historically, there had been a lack of any legislative base to formally engage with Métis peoples, unlike First Nations who were, and remain in part, subject to the *Indian Act*.[16] The legal landscape shifted significantly in 1982, with the passage of the *Constitution Act, 1982*, which entrenched existing Aboriginal and treaty rights in section 35 and recognized three distinct Indigenous groups: First Nations, Inuit and Métis.

In the decades following their constitutional entrenchment, some scholars noted a "drawn out maturity which is particularly problematic" for Métis rights compared to those of other Indigenous groups, with the recognition of Métis rights long lingering "in the teething stage," even after 1982.[17]

The Supreme Court has issued multiple decisions that have shaped the recognition of Métis rights since they were constitutionalized. In *R. v. Powley*,[18] the Court developed a Métis-specific test to determine whether a protected Métis right exists under section 35 of the *Constitution Act, 1982*. Parts of the test involve the determination of whether there is evidence of an ancestral connection to a historic Métis community, identification of the contemporary rights bearing community and certification of the claimant's membership in the relevant contemporary community. Prior to *Powley*, the prevailing legal theory did not acknowledge that Métis were an Indigenous collective with existing Aboriginal rights: "*Powley* is important because it establishes the legal recognition that the Métis are indeed a rights-bearing collective."[19]

In the 2013 *Manitoba Metis Federation Inc. v. Canada* decision,[20] the Manitoba Métis Federation (MMF) essentially sought a declaration that the Crown had breached its fiduciary duty to Métis in Manitoba by improperly implementing sections of the *Manitoba Act, 1870*,[21] which were supposed to provide 1.4 million acres of land allotment to Métis children and recognize Métis ownership of land for distribution among the children of Métis heads of families residing in the province. The Supreme Court concluded that in failing to follow the land grant provision, the federal Crown failed to implement that Act in a manner consistent with the honour of the Crown, and had not taken diligent action to fulfill its constitutional obligation.[22] This decision confirmed that outstanding Métis land claims needed to be addressed, referring to "[t]he unfinished business of reconciliation of the Métis people with Canadian sovereignty [as] a matter of national and constitutional import."[23]

In its 2016 decision in the *Daniels v. Canada (Indian Affairs and Northern Development)* case,[24] the Supreme Court concluded that Métis and non-status Indians fall under the jurisdiction of the federal government over "Indians" under section 91(24) of the *Constitution Act, 1867*.[25] Whether particular individuals or communities are non-status Indians or Métis and therefore "Indians" under section 91(24) is a "fact-driven question to be decided on a case-by-case basis."[26] Particularly relevant to the context surrounding Bill C-53, the Supreme Court specified that the Crown has a fiduciary relationship with the Métis and that the Crown also has, stemming from previous case law,[27] "a context-specific duty to negotiate when Métis Aboriginal rights are engaged."[28] In this case, the Court declared that the federal government has constitutional authority to make laws affecting Métis because this declaration would have "enormous practical utility" and "would guarantee both certainty and accountability"[29] for Métis collectivities in negotiating with the federal government moving forward.

In June 2016, the Minister's Special Representative on Reconciliation with Métis was released, a report containing 17 recommendations.[30] One recommendation, prompted by the Supreme Court's decision in the *Manitoba Métis Federation Inc. v. Canada* case, stated that, "given the importance of reconciliation with Canada's Aboriginal peoples, Canada's engagement with Métis on a Section 35 Métis rights framework should be initiated as soon as reasonably possible."[31]

The Métis–Crown relationship indeed continued to evolve in the wake of these court decisions, with the emergence of, for example, framework agreements with Métis governments.[32]

More than 20 other pieces of other Indigenous self-government and treaty implementation legislation have been passed over the last 30 years.[33] Bill C-53 is the first piece of federal self-government legislation to focus exclusively on Métis.

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1.1.2 Treaties

Many agreements between Indigenous peoples, Canada, and in some cases provinces and territories, are formalized in treaties. Treaties laid the groundwork for the relationship between Indigenous peoples and Canada and, as the Truth and Reconciliation Commission of Canada highlights, "established the legal and constitutional foundation"[34] of the country. The treaty-making process is ongoing between Indigenous peoples, Canada, and in some cases, the provinces and territories.

Treaties are commonly divided into those signed before 1975 (pre-1975 treaties or historical treaties) and those signed after 1975 (modern treaties). The rights set out in both types of treaties are known as treaty rights and are recognized and affirmed in section 35 of the *Constitution Act, 1982*.

Although individuals of probable Métis identity may have been occasionally and haphazardly admitted into historic treaties, such as through joining nearby First Nations, some researchers and First Nations organizations have argued that Métis collectives in Canada did not enter into any historical land treaties.[35] In contrast, although Canada never ratified the agreement, the MNO and some research has argued that those who signed a memorandum of agreement adhering to Treaty 3 represented a "Metis community" that existed in northwestern Ontario in the late 19th century.[36]

Rather than signing treaties with Métis during the 19th and early 20th centuries, the Crown issued scrip, which refers to "a certificate indicating the right of the bearer to receive payment later in the form of cash, goods or land."[37] From 1876 to 1921, the Government of Canada issued two forms of scrip to Métis (land scrip or money scrip), intending to extinguish the Aboriginal title[38] of Métis.[39]

Scrip was also provided during the negotiation of some numbered treaties signed between 1871 and 1921. Métis could choose to take scrip or join a First Nations community and take treaty.[40] During the negotiation of Treaties 8, 10 and 11,[41] Métis scrip was granted at the same time as the treaty negotiations.[42] Some Métis chose to become members of First Nations and join these treaties, while others chose to take scrip. The same was true for First Nations, as some First Nations chose to take scrip rather than become band members.[43] Some Métis or First Nations changed their minds later and requested to withdraw from a treaty to take scrip.

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Many Métis who took scrip ultimately lost their land.[44] The *Indigenous Peoples Atlas of Canada* notes:

> The scrip system was flawed for many reasons, resulting in the systematic loss of Métis lands. The scrip commissions were advertised in newspapers and on posters. It is believed that the purpose of one of these advertisements was to alert speculators. There was also no protection against fraud – many had their names forged without their knowledge. As a general practice, land speculators bought scrip from Métis at very low prices and then sold it to the main chartered banks in Canada.[45]

While having been issued scrip does not equate to having entered into treaty, the Supreme Court in *Manitoba Metis Federation Inc. v. Canada (Attorney General)* addressed these historical wrongs, stating that "the delayed issuance of scrip redeemable for significantly less land than was provided to other recipients further demonstrates the persistent pattern of inattention inconsistent with the honour of the Crown."[46]

1.1.2.1 Modern Treaties

The Land Claims Agreements Coalition states that "modern treaties are generally signed where Indigenous title and rights have not been settled."[47] Modern treaties are agreements advancing "a broad set of objectives that support reconciliation with Indigenous peoples" under which "Canada is accountable for its obligations […], which must be implemented in a manner that upholds the honour of the Crown."[48] They may cover matters such as jurisdiction over lands and resources, rights to harvest plants, fish and animals, subsurface rights, resource revenue sharing, land and resource management and, more recently, self-government and harvesting rights in offshore areas.

The Supreme Court has stated on multiple occasions that modern treaties are vital to reconciliation between Indigenous peoples and the Crown and are a primary tool for the reconciliation of prior and unextinguished Aboriginal rights and asserted Canadian sovereignty.[49]

In 1995, the federal government adopted a policy on the inherent right of self-government.[50] The policy on self-government has led to constitutionally protected modern treaties (also known as comprehensive land claims) and self-government agreements. Self-government arrangements can form part of modern treaty negotiations or be negotiated separately in specific areas such as education. On 21 June 2023, the federal government announced that it "will withdraw the Comprehensive Land Claims and Inherent Right Policies and will issue a public

statement that clarifies Canada's rights recognition approach."[51] A June 2024 progress report indicates that work towards this commitment is still in the planning stages, although the Government of Canada has indicated that it "has moved away from both of these policies through its negotiation practices."[52]

In terms of effectively fulfilling the obligations and objectives set out in modern treaties, some Indigenous groups have expressed frustration with the federal government's tendency to approach modern treaty implementation with "narrow and technical understandings and interpretations of its Modern Treaty obligations" that in turn have "hindered effective implementation of agreements."[53] Canada released its "Collaborative Modern Treaty Implementation Policy" in 2023, which seeks to provide "new implementation tools to complement existing mechanisms and seeks to strengthen oversight and accountability by federal departments and agencies in carrying out Canada's modern treaty obligations."[54] The February 2023 self-government recognition and implementation agreements also contain additional detailed treaty implementation requirements.

1.1.2.1.1 Modern Treaties with Métis Nations

In the Northwest Territories, two modern treaties were signed by Métis and First Nation signatories.[55] Métis legal scholar Larry Chartrand has argued that "the existence of Métis specific modern treaties in the north may offer a strong precedent for the promotion of Métis treaties in other parts of Canada."[56]

The Manitoba Métis Federation followed an accelerated path to signing a modern treaty in the wake of its Supreme Court win. On 15 November 2016, the MMF signed a historic framework agreement with Canada that outlined a process for the negotiation of a modern-day treaty between Canada and the Manitoba Métis. This framework agreement aimed to "address the outstanding issues raised in the 2013 … Supreme Court of Canada decision."[57]

On 6 July 2021, the Government of Canada and the MMF signed the Manitoba Métis Self-Government Recognition and Implementation Agreement.[58] On 30 November 2024, Canada and the MMF signed the *Red River Métis Self-Government Recognition and Implementation Treaty*, although no legislation to give the treaty legal force and effect was tabled prior to the dissolution of the 44th Parliament on 23 March 2025.[59] This treaty contains provisions recognizing the jurisdiction of the MMF over matters related to internal governance and Red River Métis citizenship. The treaty also contemplates the negotiation of future Supplementary Self-Government Arrangements, which may touch on jurisdiction over issues including language, culture and heritage, education, and health services.[60]

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1.1.3 Overview of Métis Governments Identified in Bill C-53

According to the Métis National Council, "Métis citizens mandate their governments through province-wide ballot box elections held at regular intervals for regional and provincial leadership [and] participate in these Métis governance structures by way of elected Locals or Community Councils and provincial assemblies."[61] Of note, Métis in Alberta, Saskatchewan and Ontario may choose not to become citizens of the respective Métis governments identified in Bill C-53. In some cases, Métis in these provinces have established different organizations and governments.[62]

1.1.3.1 Métis Nation of Alberta

The MNA represents 60,000 Métis citizens in Alberta.[63]

In terms of the MNA's path towards inclusion as a government partner for Bill C-53, discussions between Canada and the MNA, focusing "specifically [on] advancing recognition and respect for the Métis right of self-government and self-determination"[64] have been ongoing since at least 2015.

In January 2017, a memorandum of understanding for exploratory discussions on advancing reconciliation was signed, which led to the parties being signatory to a framework agreement in November 2017 that established a formal negotiation process.[65]

In 2019, the parties signed a Métis government recognition and self-government agreement,[66] which constituted the "first time in Canada's history that the federal Crown acknowledged a [constitutional] Métis right of self-government,"[67] recognized that the MNA is mandated to represent its citizens and Métis communities comprised of its citizens in Alberta, and set out a process for how the MNA "would transition from relying on a corporate structure to being acknowledged as an Indigenous government recognized in federal law."[68] In November 2022, MNA citizens ratified a constitution to establish the Otipemisiwak Métis Government.

In February 2023, Canada and the MNA signed the *Métis Nation within Alberta Self-Government Recognition and Implementation Agreement*.[69]

1.1.3.2 Métis Nation of Ontario

The MNO was established in 1993 to create a Métis-specific governance structure in Ontario.[70] Currently, there are over 28,000 Métis individuals registered as MNO citizens.[71]

The MNO's events precipitating being included as a government partner for Bill C-53 mirror those of the MNA, including the signing of an MNO–Crown Consultation Agreement in 2015, a memorandum of understanding, a framework agreement,[72] the Northwestern Ontario Métis Community Agreement in 2017 and a Métis Government Recognition and Self-Government Agreement in 2019.[73]

In February 2023, Canada and the MNO also signed a *Métis Government Recognition and Self-Government Implementation Agreement*.[74]

One particularity to the MNO's February 2023 Agreement, in contrast to those of the other two Métis governments currently listed in the Schedule to Bill C-53, is that it makes mention of "historic Métis communities located throughout Ontario."[75] These additional historic Métis communities, beyond the community located in the "environs of Sault Ste. Marie," which was the subject of the Supreme Court's decision in *Powley*, were identified by the MNO, in collaboration with the Government of Ontario, in 2017, by applying the criteria outlined in the *Powley* decision.[76] However, there has been significant criticism of the MNO's identification of these additional historic communities by other Indigenous governments and organizations.[77]

1.1.3.3 Métis Nation–Saskatchewan

The MNS constitution was passed in 1993.[78] In 2021, 26,695 individuals self-identified as citizens of the MNS.[79]

On 20 July 2018, the MNS and the Government of Canada signed a *Framework Agreement for Advancing Reconciliation*.[80]

The MNS also first signed a negotiated self-government agreement with Canada in 2019.[81]

In February 2023, Canada and the MNS also signed an "updated Métis Nation–Saskatchewan Self-government Recognition and Implementation Agreement."[82]

1.1.4 Supplementary Self-Government Agreements

Negotiated self-government agreements provide Indigenous communities with control over their internal affairs. While each agreement is different, they may set out law-making authority in areas such as governance, health and economic development.[83] To date, Canada, Indigenous peoples, and in many cases, provinces or territories, have signed 27 modern treaties and 18 self-government arrangements.[84]

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1.1.5 The February 2023 Self-Government Recognition and Implementation Agreements

Each of the February 2023 self-government recognition and implementation agreements specify that they are not treaties, either as contemplated within the agreements themselves, or within the meaning of section 35 of the *Constitution Act, 1982*. The agreements do not specifically address harvesting or land-related matters or rights.

While the final treaties have not yet been negotiated, the February 2023 self-government recognition and implementation agreements with the MNA, MNO and MNS set out the steps that must be completed before a future treaty can be put into effect through the proposed legislation.

2 DESCRIPTION AND ANALYSIS

Bill C-53 contains a preamble and 26 clauses.

2.1 PREAMBLE

The preamble affirms the importance of reconciliation between the Government of Canada and Métis through government-to-government relationships. The Government of Canada recognizes the right of the three Métis governments in question to act on behalf of their respective Métis collectivities, which themselves possess an inherent right to self-government recognized and affirmed by section 35 of the *Constitution Act, 1982*.

The preamble recalls the self-government recognition and implementation agreements signed by the three Métis governments with the Government of Canada in February 2023, which contemplated the parties negotiating self-government treaties within a defined timeframe.

The Crown authorizes recognizes that three Métis governments in question are authorized to act on behalf of their respective Métis collectivities, which themselves possess an inherent right to self-government, a right recognized and affirmed by section 35 of the *Constitution Act, 1982*.

It indicates that the negotiation of these treaties is viewed by the parties as a means to advance the Government of Canada’s commitment to implementing UNDRIP.

Furthermore, it specifies that ratifying the subsequent treaties requires the coming into force of Bill C-53 to give effect to them.

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2.2 INTERPRETATION (CLAUSES 2 AND 3)

Clause 2 defines terms used in the bill. Notably, it provides clarity on the three Métis governments to which Bill C-53 would currently apply (as included in the Schedule): the MNO, the MNA and the MNS.

Each of the three February 2023 self-government recognition and implementation agreements contains its own set of definitions, section, which defines far more terms beyond the five elaborated upon in clause 2.

In the context of the bill, treaties are to be defined by sections 35 and 25 of the *Constitution Act, 1982* (clause 3). Section 35 provides distinct recognition and affirmation of existing Aboriginal and treaty rights. Treaties between Indigenous peoples and the Crown may be either historic or modern and consist of "specific continuing rights, benefits and obligations for the signatories that vary from treaty to treaty."[85] Section 25 guarantees that no rights protected under the Charter will be used to abrogate or derogate from rights belonging to Indigenous people (including land rights).

INAN reported the bill with amendments including the addition of clause 3.1 which stipulates that nothing in the Act is to be construed as abrogating or derogating from the rights of Indigenous peoples recognized and affirmed in section 35 of the *Constitution Act, 1982*.[86]

2.3 PURPOSES OF THE ACT (CLAUSE 4)

Clause 4 outlines the four main purposes of Bill C-53.

Bill C-53's stated purpose encompasses advancing government-to-government relationships as well as the uniqueness of different Métis collectivities' identities, cultures and governance structures.

Bill C-53 is intended to provide a framework for the implementation of treaties entered into by the Métis governments listed in the Schedule and the Government of Canada. This purpose presumably follows up on Canada's commitment to negotiate a self-government treaty with the MNO, the MNA and the MNS in the two years following the signing of the February 2023 self-government recognition and implementation agreements, as outlined in the "Negotiation and Content of the Treaty" portion of each agreement.[87]

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Another purpose of the bill is to contribute to the implementation of UNDRIP. The *United Nations Declaration on the Rights of Indigenous Peoples Act* came into force on 21 June 2021.[88] The Act requires Canada to put into place an action plan "to achieve the objectives in the Declaration," including those articles related to respect for the right of Indigenous peoples to self-determination (article 3) and self-government (article 4).

On 21 June 2023, the Government of Canada released The United Nations Declaration on the Rights of Indigenous Peoples Act Action Plan, developed in consultation with First Nations, Inuit and Métis.[89] The 2023 action plan includes an array of governmental commitments to more fully implement its UNDRIP commitments. Perhaps most central to Bill C-53's purpose are priority action items around self-government agreement and treaty negotiations with Métis collectivities, as well as a Crown commitment to "continue to collaborate to develop expedited options with a view to settling [MNO, MNA, MNS and MMF's] respective outstanding Métis claims."[90]

2.4 TREATIES (CLAUSES 4.1 TO 7)

Clauses 4.1 to 7 of Bill C-53 provide parameters for any treaty that may come into force between any of the Métis governments listed in the Schedule and the Government of Canada.

The February 2023 self-government recognition and implementation agreements between Canada and the MNA, MNO and MNS contain Métis government-specific provisions regarding the negotiation and content of each future treaty, as well as detailed treaty implementation requirements.

INAN reported the bill with amendments including the addition of clause 4.1 provides that within the first 10 sitting days after a Métis government listed in the Schedule and Canada enter into a treaty, the Minister of Crown-Indigenous Relations must table a copy of the treaty in both houses of Parliament. Once tabled, the treaty stands referred to the Senate and House of Commons committees that examine matters related to Indigenous peoples.[91]

Clause 5 provides that treaties with the Métis governments listed in the Schedule may be brought into force on a day fixed by the Governor in Council, which can be no earlier than 30 sitting days after the treaty has been tabled in Parliament (provision added by INAN), once the Governor in Council is satisfied that the conditions for the coming into force of a treaty by the Métis government and the Government of Canada have been met (clause 5(a)).

Legal force does not flow from the constitutional status of treaties under section 35, and as such, legislation is necessary to give effect to the provisions of a treaty in Canadian law. Once an eventual treaty listed in the bill's Schedule comes into force under clause 5(a), it will have the force of law (clause 6(1)).

Under the framework set out in the bill, no additional legislation will be needed to bring into force or give effect to future treaties or self-government agreements with listed Métis governments.[92] The Governor in Council can, by order and no earlier than 30 days after the treaty has been tabled in both houses of Parliament (provision added by INAN), fix the date of the coming into force of a future treaty between Canada and the MNA, the MNO, or the MNS, provided that the Governor in Council is satisfied that the requirements set out in treaty for its coming into force have been met.[93] Once a treaty is listed in column 3 of the Schedule (as amended from time to time) and has been brought into force by order of the Governor in Council, the treaty is approved, given effect and declared valid, and given the force of law.[94]

Witnesses before INAN suggested that the *Yukon First Nations Land Claims Settlement Act*, S.C. 1994, c. 34, provides a precedent for a framework approach. The *Yukon First Nations Land Claims Settlement Act* gave effect to four treaties with four First Nations and provided that future treaties with up to 11 other First Nations could be approved, given effect and declared valid, and brought into force through an order in council (sections 1, 5(1) and 21(1)). The 11 other First Nations are listed in the Schedule. Under the *Yukon First Nations Land Claims Settlement Act*, future treaties must incorporate "the provisions of the Umbrella Final Agreement," as well as "provisions specific to the first nation" (section 2). The provisions of the *Umbrella Final Agreement* (or the 1984 *Inuvialuit Final Agreement*, as the case may be) will prevail over provisions of a treaty that are specific to the First Nation to the extent of any conflict or inconsistency (sections 13(4) to 13(5)).[95] Under Bill C-53, once a treaty listed in the Schedule comes into force, it is binding on third parties, as well as Canada and the Métis government involved. Third parties may also rely on the treaty's provisions (clause 6(3)).

If there is a conflict between a treaty in force under the bill and another federal law or regulation, the provisions of the treaty will apply so far as there is any inconsistency (clause 7(1)). The same preference will be given to any provisions of Bill C-53 that conflict with any other federal legislative provision or regulation (clause 7(2)). Similar language exists in other recent modern treaty legislation.[96]

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2.5 MÉTIS GOVERNMENTS (CLAUSES 8 TO 10)

According to the Government of Canada, the goal of Bill C-53 is to conclude negotiations with each individual Métis government on their treaties, "resulting in three self-government Treaties in total […], which would be protected under section 35 of the *Constitution Act, 1982*."[97]

In clause 8(1) of Bill C-53, the Government of Canada recognizes Métis governments listed in column 1 of the Schedule as Indigenous governing bodies authorized to act on behalf of the Métis collectivity, including its citizens, set out in column 2 of the Schedule. The Schedule to the bill currently lists the MNA, which is authorized to act on behalf of the Métis Nation within Alberta, the MNO, which is authorized to act on behalf of Métis communities represented by the MNO, and the MNS, which is authorized to act on behalf of the Métis Nation within Saskatchewan. Clause 8(1) of the bill provides that these Métis collectivities hold the right to self-determination, including the inherent right of self-government recognized and affirmed by section 35 of the *Constitution Act, 1982*.

INAN reported the bill with amendments including the addition of clauses 8(2) and 8.1.[98] Clause 8(2) of Bill C-53, added by INAN, defines the term "Indigenous governing body" in the same way as *An Act respecting First Nations, Inuit and Métis children, youth and families*.[99] However, clause 8(2) of Bill C-53 adds further detail, clarifying that Métis governments are Indigenous governing bodies. Clause 8.1 provides that the bill does not abrogate or derogate from the right to self-government of a Métis community that has not authorized a Métis government in the Schedule to act on its behalf.

The self-government recognition and implementation agreements with the MNA, MNO and MNS contain provisions relating to the application of federal law and the Charter, which clarify that, except as otherwise provided for, these legal instruments still apply to the Métis government and its institutions.[100]

The self-government recognition and implementation agreements of the MNA, MNO and MNS each include a chapter entitled "Jurisdiction." While their content varies slightly, the jurisdiction chapter in each agreement is organized into subsections such as "Recognition of the Jurisdiction of the Métis Government," "Citizenship," "Selection of Representatives," "Structures, Operations, Procedures, Assets, and Financial Management," "Included Authority," "Delegation," "Application of Federal Law," and "Application of the Charter," grouping provisions by subject matter. The Métis government that is party to the treaty is also granted the authority to make laws in relation to the matters set out in the treaty and the authority to administer and enforce those laws (clause 9). According to clause 18,

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the *Statutory Instruments Act*[101] does not apply to a Métis government law. Of note, in March 2024, the Federal Court struck down chapter 6 (concerning recognition of the Métis Government and Nation in Alberta) and the definition of "Metis Nation Within Alberta" set out in section 1.01 of the 2023 Self-Governing Recognition and Implementation Agreement with the MNA. This chapter and section were remitted to the Minister of Crown-Indigenous Relations for reconsideration after the Federal Court ruled that the Government of Canada failed to comply with its constitutional duty to consult the Fort McKay Métis Nation Association and the Metis Settlements General Council.[102] For more information on this Federal Court ruling, see the Commentary section of this legislative summary.

Clause 10 specifies that the three Métis governments encompassed in this legislation are not federal boards, commissions or other tribunals under section 2(1) of the *Federal Courts Act*.[103] The federal courts have the power to review decisions, orders and other administrative actions of most federal boards, commissions and tribunals. The *Nisga'a Final Agreement Act*[104] contains a similar provision. In that case, the British Columbia legislation gives the British Columbia Supreme Court jurisdiction to review decisions under Nisga'a laws.

2.6 SUPPLEMENTARY SELF-GOVERNMENT AGREEMENTS (CLAUSES 10.1 TO 12)

Although they do not enumerate a specific process, the 2023 self-government recognition and implementation agreements provide that "the Treaty may include provisions … adapted as may be agreed to by the Parties, and will address provisions for the negotiation of Supplementary Self-Government Agreements."[105]

Under Bill C-53, future supplementary self-government agreements between Canada and the relevant Métis nations can be brought into force by an Order of the Governor in Council.

Clauses 10.1, 11 and 12, related to supplementary self-government agreements, closely mirror clauses 4.1, 5 and 6, which relate to treaties. The Métis governments listed in the Schedule may negotiate additional self-government agreements. Such supplemental agreements could take many forms and may encompass anything from new funding arrangements, to providing roadmaps for the Métis government in question to "better protect their culture and language, educate their students, manage their own lands and develop new business partnerships that create jobs and other benefits for their citizens."[106] As with a treaty entered into by a Métis government and Canada, INAN's amendments reported to the House of Commons include that once a supplementary self-government agreement is concluded, it must be tabled in each House of Parliament on the first 10 sitting days after the agreement is entered into. Once tabled, the supplementary self-government agreement is referred to the

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standing committees in the Senate and the House of Commons that examines matters related to Indigenous peoples.

If the Governor in Council is satisfied that the conditions for the coming into force of a supplemental self-government agreement have been met, it will fix the day on which the agreement comes into force but, as included in INAN's amendments, no earlier than 30 days after the agreement has been tabled in both houses of Parliament (clause 11).

Like a treaty, a supplementary self-government agreement, once declared valid, has the force of law (clause 12(1)). Accordingly, any person or body conferred powers, rights, privileges or benefits by a supplemental self-government agreement must perform any associated duties and will be subject to any liabilities under the supplemental self-government agreement (clause 12(2)). This same language exists in other recent Indigenous governance agreements with the Crown.[107]

A supplemental self-government agreement is binding on the parties as well as third parties (clause 12(3)).

2.7 TAXATION (CLAUSES 13 AND 14)

With regard to the implementation of a treaty, one of the requirements outlined in the self-government recognition and implementation agreements is that the parties sign "a tax treatment agreement, dealing with the tax treatment of the Métis Government, including its Governance Structures and Institutions and any other tax related matters agreed to by the Parties."[108] The Government of Canada has signed an array of other tax treatment agreements with other Indigenous governments, which are not usually considered treaties and are normally implemented through legislation.[109]

A tax treatment agreement between Canada and a Métis government listed in the Schedule does not form part of a treaty under the bill (clause 14). However, once such a tax treatment agreement is entered into, clause 13 provides that the agreement is approved, declared valid and has the force of law while it is in effect.

2.8 GENERAL (CLAUSES 15 TO 20)

Judicial notice is a legal rule wherein the court can recognize and accept as "fact" the existence of certain realities without the parties having to call evidence to establish these facts. Section 18 of the *Canada Evidence Act* states that, "Judicial notice shall be taken of all Acts of Parliament, public or private, without being specially pleaded."[110] Bill C-53 provides that judicial notice shall also be taken

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of a treaty, supplemental self-government agreement and tax treatment agreement (clause 15(1)), as well as a Métis government law duly included in a public register under the applicable treaty (clause 16(1)).

In law, notice is the communication of a fact, claim, demand, or proceeding, the requirements of which may be prescribed by a statute. In this case, should any issue arise regarding the interpretation, validity, or applicability of the Act, or any of its associated treaties, supplementary self-government agreements or Métis government laws, nothing will be decided upon until the party raising the issue serves notice on the parties outlined in clause 17(1). The content requirements of this notice are enumerated in clauses 17(2)(a) to 17(2)(d). In terms of timing, notice must be served to the required parties at least 30 days before the day on which the issue is to be argued unless a shorter period is authorized (clause 17(2)(e)). In terms of the ensuing proceedings, which do not necessarily require that an oral hearing be held (clause 17(4)), the recipient of the above notice shall have the same rights as any other party is entitled to (clause 17(3)).

Clause 19 enables the Governor in Council to make any orders and regulations that it deems necessary for the carrying out any of the provisions of this Act, a treaty, a supplementary self-government agreement, a tax treatment agreement or any other agreement related to the implementation of a treaty (clause 19(1)). The Governor in Council must also ensure that the Métis government in question has a meaningful opportunity to collaborate in policy development associated with the carrying out of a provision of an associated agreement (clause 19(2)).

The Governor in Council may, on the recommendation of the Minister of Crown-Indigenous Relations, amend the Schedule or remove any information therein, provided that the associated Métis government has consented to the change (clause 20).

2.9 TRANSITIONAL PROVISION (CLAUSE 21)

Any action taken by a Métis government prior to the day on which the treaty to which it is a party came into force is valid to the extent that said action would have been valid under the treaty (clause 21).

2.10 CONSEQUENTIAL AMENDMENTS (CLAUSES 22 TO 24)

The affected sections of the *Access to Information Act*[111] (section 13(3)) and the *Privacy Act*[112] (section 19(1)) provide that heads of a government institution must refuse to disclose requested information if it was obtained from an

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Aboriginal government in confidence. These amendments will add Métis governments party to a treaty listed in the bill's Schedule to the lists of "Aboriginal governments" in both Acts.

The affected sections of the *Privacy Act* (sections 8(2)(f) and 8(7)) allow disclosure of personal information under the control of a government institution for the purpose of administering or enforcing any law or carrying out a lawful investigation, under an arrangement or agreement between the Government of Canada and any of its institutions and any listed entity or institution of any entity. The definitions of "Métis government" and "treaty" in Bill C-53 would be incorporated by reference into the list of entities to which disclosure is permitted.

2.11 COORDINATING AMENDMENTS (CLAUSES 25 AND 26)

Clause 25 outlines an array of coordinating amendments to the *Access to Information Act* and the *Privacy Act*, should the *Yale First Nation Final Agreement Act*[113] amendments come into force before Bill C-53.

The coordinating amendments mean that the definition of "Aboriginal government" in the *Access to Information Act* and the *Privacy Act* will be amended to include a Métis government party to a treaty under the bill. The definitions of "Métis government" and "treaty" in Bill C-53 are incorporated by reference.

While the *Yale First Nation Final Agreement Act* received Royal Assent on 19 June 2013, its Consequential Amendments section, which includes amendments to the *Access to Information Act* (clause 20) and to the *Privacy Act* (clause 23), has not yet been brought into force.

The *Statutes Repeal Act*[114] governs the repeal of legislation that has not come into force within 10 years of receiving Royal Assent. In accordance with the *Statutes Repeal Act*'s 2023 Annual Report,[115] issued as required by clause 2 of that Act,[116] the sections of the *Yale First Nation Final Agreement Act* (clauses 20 and 23) relevant to Bill C-53 will be repealed on 31 December 2023 unless those provisions come "into force on or before that December 31 or during that year either House of Parliament adopts a resolution that the Act or provision not be repealed."[117]

Clause 26 provides that clause 3.1, the non-derogation clause in Bill C-53 shall be repealed if it is in force at the same time as clause 1 of Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts.[118] Clause 1 of Bill S-13 amends the *Interpretation Act*[119] by adding a new section 8.3 to provide that all Acts of Parliament and regulations are to be interpreted as maintaining the Aboriginal and treaty rights of Indigenous peoples recognized and affirmed by

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section 35 of the *Constitution Act, 1982*. On 27 November 2024, Bill S-13 received Royal Assent.[120]

3 COMMENTARY

Some First Nations governments and organizations, as well as other Métis governments, including the MMF, have indicated that they strongly disagree with Bill C-53, and have expressed concerns about the potential impacts of the resulting modern treaties on the rights of First Nations.[121] Some briefs submitted by Métis communities and organizations to INAN raised concerns about the effects of Bill C-53 on Métis who choose not to be part of the MNO, MNA or MNS.[122] However, other Métis individuals and organizations argued that Bill C-53 does not affect the rights of other Indigenous people, including Métis communities who are not part of the MNO, MNA or MNS.[123] During INAN's study of the bill, the Minister of Crown-Indigenous Relations, Gary Anandasangaree, and many Métis witnesses argued that future treaties between Canada and Métis governments would be solely focused on internal governance.[124] Further, the Minister of Crown-Indigenous Relations, some Métis individuals and organizations, and certain briefs expressed the view that Bill C-53 had no effect on other Indigenous peoples or section 35 rights holders, other than those individuals who have decided to become citizens of the MNO, MNA, and MNS.[125]

3.1 RECENT DEVELOPMENTS SINCE THE TABLING OF BILL C-53

In March 2023, the Metis Settlements General Council and the Fort McKay Métis Nation Association applied for judicial review of the 2023 Self-Government Recognition and Implementation Agreement between the MNA and Canada, arguing that they were not consulted before the Agreement was signed. In March 2024, the Federal Court ruled that Canada breached its duty to consult and struck down parts of the Agreement.[126] The MNA has since been negotiating with the Government of Canada to update its self-government agreement and develop a self-government treaty.[127]

Further, on 17 April 2024, the MNS passed a motion to withdraw its support from Bill C-53. The organization has decided to pursue an independent bilateral process with the Government of Canada. The MNS explained that the "'one-size-fits-all' approach [in the bill does] not recognize the unique circumstances of the MNS and exposed the legislation to legal and political pressures due to outstanding issues in Alberta and Ontario."[128] The MNS is negotiating with the Government of Canada towards a separate self-government treaty.[129]

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NOTES

1. 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 and to make consequential amendments to other Acts, 44th Parliament, 1st Session.
2. Government of Canada, *Charter Statement – Bill C-53:* An Act respecting the recognition of certain Métis governments, and to give effect to treaties with those governments and to make consequential amendments to other Acts, 20 September 2023.
3. Crown-Indigenous Relations and Northern Affairs Canada, *Government of Canada introduces self-government bill with Métis Nation partners*, News release, 21 June 2023.
4. This Legislative Summary uses the terminology in Bill C-53 to refer to the Métis Nation of Alberta. However, the organization currently refers to itself as the "Otipemisiwak Métis Government."
5. Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Ontario sign updated Métis self-government agreement*, News release, 24 February 2023; Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Alberta sign updated Métis self-government agreement*, Backgrounder; and Crown-Indigenous Relations and Northern Affairs Canada, *Self-government agreement between the Métis Nation–Saskatchewan and the Government of Canada*, Backgrounder.
6. Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Ontario sign updated Métis self-government agreement*, News release, 24 February 2023.
7. *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.), s. 35(1).
8. House of Commons, Standing Committee on Indigenous and Northern Affairs (INAN), *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 and to make consequential amendments to other Acts*.
9. INAN, *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 and to make consequential amendments to other Acts*, Twelfth report, 8 February 2024.
10. United Nations General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, 2007.
11. *Alberta (Aboriginal Affairs and Northern Development) v. Cunningham*, 2011 SCC 37 (CanLII).
12. Ibid., para. 7.
13. Ibid., para. 7.
14. Ibid., para. 66.
15. Ibid., para. 70.
16. *Indian Act*, R.S.C. 1985, c. I-5.
17. Robert K. Groves and Bradford W. Morse, "Constituting Aboriginal Collectivities: Avoiding New Peoples 'In Between'," *Saskatchewan Law Review*, Vol. 67, No. 1, 2004, p. 300.
18. *R. v. Powley*, 2003 SCC 43.
19. Jean Teillet, *Métis Law in Canada*, 2013, p. 38.
20. *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14.
21. *Manitoba Act, 1870*, S.C. 1870, c. 3 (reprinted in R.S.C. 1985, App. II, No. 8), ss. 31–32.
22. *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14.
23. Ibid., para. 140.
24. *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12.
25. Section 91(24) of the *Constitution Act, 1867* provides the Parliament of Canada with "exclusive Legislative Authority" in relation to the classes of subjects "Indians, and Lands reserved for the Indians."
26. *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12, para. 47.

27. Such as *R. v. Powley*, 2003 SCC 43; *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73; and *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44.

28. *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12, para. 56.

29. Ibid., para. 15.

30. Thomas Isaac, *A Matter of National and Constitutional Import: Report of the Minister's Special Representative on Reconciliation with Métis: Section 35 Métis Rights and the Manitoba Metis Federation Decision*, 14 June 2016.

31. Ibid., p. 34.

32. In Nathalie Kermoal and Chris Andersen (editors), *Daniels v. Canada: In and Beyond the Courts*, , 23 April 2021, p. 4, the authors argue that:

> The signing of recent framework agreements by Métis organizations in Western Canada … has opened the door for the Métis Nation to forge a new relationship with Canada based on a "nation-to-nation," "government-to-government" dialogue, a foundation and accommodation that heralds the end of the political and administrative isolation of the Métis Nation.

33. The first self-government legislation independent of a land claims agreement was the *Sechelt Indian Band Self-Government Act*, which passed in 1986. The name of that Act has since been amended, as the *shíshálh Nation Self-Government Act*, S.C. 1986, c. 27. The most recent example is the *Self-Government Treaty Recognizing the Whitecap Dakota Nation / Wapaha Ska Dakota Oyate Act*, S.C. 2023, c. 22.

34. Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*, 2015, p. 195.

35. Adam Gaudry and Karen Drake, "The Resilience of Métis Title: Rejecting Assumptions of Extinguishment for Métis Land Rights," in Yvonne Boyer and Larry Chartrand, eds., *Métis Rising*, Vol. 1,2019, p. 39.

> The MNO [Métis Nation of Ontario] has long argued that "In 1875, a distinctive group of 'Halfbreeds' who were known as the 'Halfbreeds of Rainy River and Rainy Lake' and are now part of the Northwestern Ontario Métis Community, became the only known exception to [the] federal policy approach to exclude Métis from treaties."
>
> The MNO asserts that "Under the Halfbreed Adhesion, Canada promised the 'Half-breeds of Rainy River and Rainy Lake' reserves of land and the benefits of Treaty #3 as if the Métis had been original signatories of that treaty."

See Métis Nation of Ontario, *Understanding the Halfbreed Adhesion to Treaty #3*, 9 September 2022.

Grand Council Treaty #3 has rejected the local Métis claim as a treaty participant and dispute the MNO's view that a distinct "Halfbreed adhesion" to Treaty 3 was entered into at all. Chief Brian Perrault of Couchiching First Nation, stated, "Treaty #3, including its 1875 Adhesion, was between the Anishinaabe and the Crown; this was always a Nation-to-Nation agreement witnessed by our Creator, the adhesion is our act of self-determination over our citizenship within the Anishinaabe Nation."

See Grand Council Treaty #3, *Grand Council Treaty #3 Rejects Métis Claim as Treaty Participant, Opposes Proposed MNO Self-Government Legislation*, News release, 19 June 2023.

36. Métis Nation of Ontario, *The Halfbreed Adhesion to Treaty No. 3*, 6 November 2023; Government of Canada, *Treaty Texts – Treaty No. 3*; Lawrence Barkwell, *Metis Adhesion to Treaty Three*; and Jean Teillet, *The North-West Is Our Mother: The Story of Louis Riel's People, the Métis Nation*, 2019, pp. 397–398.

37. Jean Teillet, *Métis Law in Canada*, 2013, pp. 3–11.

38. Aboriginal title is a type of Aboriginal right to the exclusive occupation of land, which is held in common by Indigenous peoples. The Supreme Court of Canada has recognized the existence of Aboriginal title that predates Crown sovereignty.

39. Jean Teillet, *Métis Law in Canada*, 2013, pp. 3–11.

40. Ibid., pp. 1–13.

41. Government of Canada, *The Numbered Treaties (1871–1921)*.

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42. Canadian Geographic, *Indigenous Peoples Atlas of Canada*, Scrip.

43. Jean Teillet, *The North-West Is Our Mother: The Story of Louis Riel's People, the Métis Nation*, 2019, p. 383.

44. Jack Woodward, "Federal Government's Exclusive Powers in Relation to Aboriginal Matters," *Native Law*, para. 3§9, 2017, paras. 10.760 and 1.2240.

45. Canadian Geographic, Indigenous Peoples Atlas of Canada, Scrip.

46. *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, para. 123.

47. Land Claims Agreements Coalition, *What is a Modern Treaty?*

48. Government of Canada, *Implementation of modern treaties and self-government agreements – July 2015–March 2018: Provincial Annual Report*, 2019.

49. *First Nation of Nacho Nyak Dun v. Yukon*, 2017 SCC 58, para. 10; and *Beckman v. Little Salmon/Carmacks First Nation*, 2010 SCC 53, para. 10.

50. Government of Canada, *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*.

51. Government of Canada, *The* United Nations Declaration on the Rights of Indigenous Peoples Act *Action Plan*, 2023, p. 29.

52. Department of Justice Canada, *Third annual progress report on implementation of the* United Nations Declaration on the Rights of Indigenous Peoples Act, June 2024, p. 62; and Government of Canada, *Negotiations in progress*.

53. Land Claims Agreements Coalition, *Honour, Spirit and Intent: A Model Canadian Policy on the Full Implementation of Modern Treaties Between Aboriginal Peoples and the Crown*, 21 November 2008, p. 7.

54. Government of Canada, *Modern treaties*.

55. Government of Canada, *Sahtu Dene and Metis Comprehensive Land Claim Agreement*, 1993; and Government of Canada, *Déline Final Self-Government Agreement*.

56. Larry N. Chartrand, *Métis Treaties in Canada: Past Realities and Present Promise*, Indigenous Law Centre, University of Saskatchewan, 2020, pp. 27–28, 29 and 31.

    For instance, the *Sahtu Dene and Métis Comprehensive Land Claim Agreement* was signed September 1993 and became effective June 1994.

    For more information, see Dakota Erutse, Yellowhead Institute, *George Cleary & The Sahtu Dene and Métis Land Claim Agreement*, 23 March 2021.

57. Government of Canada, *Canada and Manitoba Metis Federation Celebrate Key Milestone on Road to Reconciliation*, News release, 15 November 2016.

58. Government of Canada, *Manitoba Métis Self-Government Recognition and Implementation Agreement*, 6 July 2021.

59. Crown-Indigenous Relations and Northern Affairs Canada, *Manitoba Métis Federation and Canada sign first-of-its-kind Self-Government Treaty*, News release, 30 November 2024; and Manitoba Métis Federation and Government of Canada, *Red River Métis Self-Government Recognition and Implementation Treaty*.

60. Manitoba Métis Federation and Government of Canada, *Red River Métis Self-Government Recognition and Implementation Treaty*.

61. Métis National Council, *Governance*.

62. For example, the Metis Settlements General Council is the central governing body of eight Metis settlements in Alberta.

63. Métis Nation of Alberta, *Governance*.

64. Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Alberta sign updated Métis self-government agreement*, Backgrounder.

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65. Ibid.

66. Crown-Indigenous Relations and Northern Affairs Canada, *Historic self-government agreements signed with the Métis Nation of Alberta, the Métis Nation of Ontario and the Métis Nation–Saskatchewan*, News release, 27 June 2019.

67 Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Alberta sign updated Métis self-government agreement*, Backgrounder.

68. Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Alberta sign updated Métis self-government agreement*, Backgrounder.

69. Métis Nation of Alberta and Government of Canada, *Métis Nation Within Alberta Self-Government Recognition and Implementation Agreement*, 24 February 2023.

70. Métis Nation of Ontario, *About the MNO*.

71. Ibid.

72. Indigenous and Northern Affairs Canada, *Canada, Ontario and the Métis Nation of Ontario sign Framework Agreement for Advancing Reconciliation*, News release, 11 December 2017.

73. Crown-Indigenous Relations and Northern Affairs Canada, *Canada and Métis Nation of Ontario sign updated Métis self-government agreement*, Backgrounder.

74. Métis Nation of Ontario and Government of Canada, *Métis Self-Government Recognition and Implementation Agreement*, 24 February 2023.

75. Ibid., p. 45.

76. Métis Nation of Ontario, *Ontario and the MNO announce identification of historic Métis communities*, 22 August 2017.

77. For example, many First Nations governments and regional leaders have denied the existence of distinct Métis historic communities in Ontario. See for example Robinson Huron Waawiindamaagewin Chiefs, "Robinson Huron Waawiindamaagewin Chiefs Call Upon Canada to Immediately Cease All Action Relating to the Métis Government Recognition and Self-Government Implementation Agreement," *Anishinabek News*, 11 May 2023.

    The Chiefs of Ontario, representing over 130 First Nations in the province, recently made this statement:

    > MNO's recognition of these aforementioned communities relies on changing the identities of First Nations individuals into Métis, simply because they are mixed-race, and not because they identified with an existing Métis community. Mixed-race does not mean that someone is Métis.

    Métis organizations representing communities outside of Ontario have expressed agreement with these sentiments, with the Manitoba Métis Federation (MMF) supporting First Nations in the denial of historic Métis communities in Ontario. Will Goodon of the MMF is quoted as saying:

    > With the First Nations in Ontario having this really "come to Jesus" moment … I think it underlines what we've been saying for so many years that the Ontario Métis – outside of the little part (around Kenora, Ont.) – is very much not us. They are not part of the historic Métis nation.

    See Haley Lewis and Melissa Ridgen, "Métis Nation of Ontario accused of recasting First Nations' ancestors as Métis," *Global News*, 29 May 2023.

78. Métis Nation of Saskatchewan, *Voice of the People: Background document on governance*, 2019, p. 4.

79. Statistics Canada, *Membership in a Métis organization or Settlement: Findings from the 2021 Census of Population*, 21 September 2022.

80. Métis Nation–Saskatchewan and Government of Canada, *Framework Agreement for Advancing Reconciliation*, 20 July 2018.

81. Crown-Indigenous Relations and Northern Affairs Canada, *Self-government agreement between the Métis Nation–Saskatchewan and the Government of Canada*, Backgrounder.

82. Métis Nation–Saskatchewan and Government of Canada, *Métis Nation within Saskatchewan Self-Government Recognition and Implementation Agreement*, 24 February 2023.

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83. Government of Canada, *Self-government*.

84. Crown-Indigenous Relations and Northern Affairs Canada,, *Crown-Indigenous Relations and Northern Affairs Canada: 2023 to 2024 Departmental Results Report*.

85. Sara Fryer and Olivier Leblanc-Laurendeau, *Understanding Federal Jurisdiction and First Nations*, Publication no. 2019-51-E, Library of Parliament, 29 November 2019.

86. INAN, *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 and to make consequential amendments to other Acts*, Twelfth report, 8 February 2024.

87. See for example Métis Nation of Alberta and Government of Canada, *Métis Nation Within Alberta Self-Government Recognition and Implementation Agreement*, 24 February 2023, Chapter 12, p. 31.

88. *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14.

89. Government of Canada, *The* United Nations Declaration on the Rights of Indigenous Peoples Act *Action Plan*, 2023.

90. Ibid., p. 61.

91. INAN, *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 and to make consequential amendments to other Acts*, Twelfth report, 8 February 2024.

92. This approach differs from that taken in most legislation implementing treaties and self-government agreements with other Indigenous governments. See Government of Canada, *Final Agreements and Related Implementation Matters*. For a recent example, see Bill C-51, An Act to give effect to the self government treaty recognizing the Whitecap Dakota Nation / Wapaha Ska Dakota Oyate and to make consequential amendments to other Acts, 44th Parliament, 1st Session (S.C. 2023, c. 22).

93. 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 and to make consequential amendments to other Acts, 44th Parliament, 1st Session, cl. 5.

94. Ibid., cl. 6(1).

95. The *Umbrella Final Agreement* is a political document signed in 1993 between the Government of Canada, the Council for Yukon Indians, and the Government of the Yukon. Treaties under the *Umbrella Final Agreement* in respect of four First Nations had already been signed when the Act was passed. An additional seven treaties have since been brought into force by order in council (see Government of Canada, *Yukon – Final Agreements and Related Implementation Matters*). Three First Nations in Yukon have not signed modern treaties. The *Yukon First Nations Land Claims Settlement Act* also provides that "[a]n order approving a final agreement or transboundary agreement shall be laid before the House of Commons on any of the first thirty days on which that House is sitting after the order is made" (s. 5(2)).

96. Such as in the *Self-Government Treaty Recognizing the Whitecap Dakota Nation / Wapaha Ska Dakota Oyate Act*, S.C. 2023, c. 22, ss. 4–5. An earlier example with slightly different language is the *Nisg'a Final Agreement Act*, S.C. 2000, c. 7, ss. 4–7.

97. Crown-Indigenous Relations and Northern Affairs Canada, *Government of Canada introduces self-government bill with Métis Nation partners*, News release, 21 June 2023.

98. INAN, *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 and to make consequential amendments to other Acts*, Twelfth report, 8 February 2024.

99. *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, s. 1.

100. Métis Nation of Alberta and Government of Canada, *Métis Nation Within Alberta Self-Government Recognition and Implementation Agreement*, 24 February 2023, cl. 8.35.

Métis Nation of Ontario and Government of Canada, *Métis Self-Government Recognition and Implementation Agreement*, 24 February 2023, cl. 8.34.

Métis Nation–Saskatchewan and Government of Canada, *Métis Nation within Saskatchewan Self-Government Recognition and Implementation Agreement*, 24 February 2023, cl. 6.22.

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101. *Statutory Instruments Act*, R.S.C. 1985, c. S-22.

102. *Metis Settlements General Council v. Canada (Crown-Indigenous Relations)*, 2024 FC 487.

103. *Federal Courts Act*, R.S.C. 1985, c. F-7.

104. *Nisga'a Final Agreement Act*, S.C. 2000, c. 7.

Self-Government Treaty Recognizing the Whitecap Dakota Nation / Wapaha Ska Dakota Oyate Act, S.C. 2023, c. 22, also contains a similar provision at section 14.

105. See for instance Métis Nation of Ontario and Government of Canada, *Métis Self-Government Recognition and Implementation Agreement*, 23 February 2023, cl. 12.03(d).

106. Government of Canada, "Self-government agreements," *Self-government*.

107. Such as in the *Anishinabek Nation Governance Agreement Act*, S.C. 2022, c. 9, s. 1, ss. 4(1)–4(2).

108. See for instance Métis Nation of Alberta and Government of Canada, *Métis Nation Within Alberta Self-Government Recognition and Implementation Agreement*, 24 February 2023, cl. 13.01(d)(i).

109. Government of Canada, *Aboriginal Tax Policy*.

110. *Canada Evidence Act*, R.S.C. 1985, c. C-5.

111. *Access to Information Act*, R.S.C. 1985, c. A-1.

112. *Privacy Act*, R.S.C. 1985, c. P-21.

113. *Yale First Nation Final Agreement Act*, S.C. 2013, c. 25.

114. *Statutes Repeal Act*, S.C. 2008, c. 20.

115. Justice Laws Website, *2023 Annual Report:* Statutes Repeal Act.

116. Section 2 of the *Statutes Repeal Act*, S.C. 2008, c. 20, states:

> In every calendar year, the Minister of Justice shall cause to be laid before the Senate and the House of Commons, on any of the first five days on which that House sits, a report listing every Act of Parliament or provision of an Act of Parliament that is to come into force on a day or days to be fixed by proclamation or order of the Governor in Council and that
>
> (a) was assented to nine years or more before the December 31 immediately preceding the laying of the report; and
>
> (b) had not come into force on or before that December 31.

117. *Statutes Repeal Act*, S.C. 2008, c. 20, s. 3.

118. Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts, 44th Parliament, 1st Session.

119. *Interpretation Act*, R.S.C. 1985, c. I-21.

120. Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts, 44th Parliament, 1st Session.

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121. During its study of Bill C-53, INAN heard testimony and received several briefs from First Nations and Métis concerned about the bill. For example, some witnesses raised concerns about the effect of Bill C-53 and future treaties with the MNO, Métis Nation of Saskatchewan and Métis Nation of Alberta on First Nations rights. Others raised concerns about the legitimacy of certain Métis communities in Ontario. In 2017, the MNO and the Government of Ontario identified six historic Métis communities in Ontario. For more information, see Métis Nation of Ontario, *Ontario and the MNO announce identification of historic Métis communities*, 22 August 2017; Robinson Huron Waawiindamaagewin, *Robinson Huron Waawiindamaagewin's Submissions on Bill C-53*, Brief submitted to INAN, 24 November 2023; Wabun Tribal Council, *Brief by the Wabun Tribal Council on Bill C-53*, Brief submitted to INAN, 17 November 2023; Wiikwemkoong Unceded Territory, *Brief by the Chiefs of Ontario on 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 and to make consequential amendments to other Acts*, Brief submitted to INAN, 16 November 2023; Darryl Leroux, *Dr. Leroux's Brief on Bill C-53 to the Standing Committee*, Brief submitted to INAN, 17 November 2023; Six Nations of the Grand River, *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 and to make consequential amendments to other acts*, Brief submitted to INAN, 17 November 2023; INAN, *Evidence*, 9 November 2023, 1635 (Chief Linda McVicar, Animakee Wa Zhing 37 First Nation); and INAN, *Evidence*, 2 November 2023, 1540 (Grand Chief Glen Hare, Ontario Regional Chief, Chiefs of Ontario).

122. For example, see Cadotte Lake Metis Nation, *Submissions on Bill C-53 to the Standing Committee*, Brief submitted to INAN, 17 November 2023; Fort Chipewyan Métis Nation Association, *Brief Submitted to Standing Committee on Indigenous and Northern Affairs, Review of Bill C-53: An Act Respecting the Recognition of Certain Métis Governments*, Brief submitted to INAN, 17 November 2023; Lac Ste. Anne Métis Community Association, *Review of Bill C-53: An Act Respecting the Recognition of Certain Métis Governments*, Brief submitted to INAN, 17 November 2023; and Fort McKay Métis Nation Association, *Fort McKay's Submissions on Bill C-53 to the Standing Committee*, Brief submitted to INAN, 5 September 2023.

123. Government of Canada, *Appearance before the Standing Committee on Indigenous and Northern Affairs (INAN) – Bill C-53, Recognition of Certain Métis Governments in Alberta, Ontario and Saskatchewan and Métis Self-Government Act (November 30, 2023)*; and INAN, *Evidence*, 31 October 2023, 1600 (Melanie Omeniho, President, Women of the Métis Nation – Les Femmes Michif Otipemisiwak).

124. For example, see Tony Belcourt, *Written Submissions to the House of Commons Standing Committee on Indigenous and Northern Affairs Canada Bill C-53: Recognition of Certain Métis Governments in Alberta, Ontario and Saskatchewan and Métis Self-Government Act*, Brief submitted to INAN, 17 November 2023; Thomas Isaac, *House of Commons Standing Committee on Indigenous and Northern Affairs: Study of Bill C-53,* An Act respecting the recognition of certain Métis Governments in Alberta, Saskatchewan and Ontario, Brief submitted to INAN, 28 November 2023; Métis Nation of Alberta, *Federal Review of 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 and to make consequential amendments to other Acts, Brief submitted to INAN, 23 October 2023; Métis Nation of Ontario, *Written Submissions to the House of Commons Standing Committee on Indigenous and Northern Affairs Canada, Bill C-53: Recognition of Certain Métis Governments in Alberta, Ontario and Saskatchewan and Métis Self-Government Act*, Brief submitted to INAN, 17 November 2023; Métis Nation–Saskatchewan, *Métis Nation–Saskatchewan Written Submission Re: Bill C-53*, Brief submitted to INAN, 17 November 2023; INAN, *Evidence*, 26 October 2023, 1550 (Margaret Froh, President, Métis Nation of Ontario); INAN, *Evidence*, 31 October 2023, 1605 (Hayden Stenlund, Student, as an individual); INAN, *Evidence*, 31 October 2023, 1610 (Melanie Omeniho, President, Women of the Métis Nation – Les Femmes Michif Otipemisiwak); INAN, *Evidence*, 23 November 2023, 1545 (Cassidy Caron, President, Métis National Council); and INAN, *Evidence*, 30 November 2023, 1650 (Hon. Gary Anandasangaree, Minister of Crown-Indigenous Relations).

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125. For example, see INAN, *Evidence*, 30 November 2023, 1550 and 1555 (Hon. Gary Anandasangaree, Minister of Crown-Indigenous Relations); Thomas Isaac, *House of Commons Standing Committee on Indigenous and Northern Affairs: Study of Bill C-53, An Act respecting the recognition of certain Métis Governments in Alberta, Saskatchewan and Ontario*, Brief submitted to INAN, 28 November 2023; Métis Nation of Ontario, *Written Submissions to the House of Commons Standing Committee on Indigenous and Northern Affairs Canada – Bill C-53: Recognition of Certain Métis Governments in Alberta, Ontario and Saskatchewan and Métis Self-Government Act*, Brief submitted to INAN, 17 November 2023; Métis Nation of Alberta, *Federal Review of 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 and to make consequential amendments to other Acts, Brief submitted to INAN, 23 October 2023; Métis Nation–Saskatchewan, *Métis Nation–Saskatchewan Written Submission Re: Bill C-53*, Brief submitted to INAN, 17 November 2023; and INAN, *Evidence*, 31 October 2023, 1600 (Melanie Omeniho, President, Women of the Métis Nation – Les Femmes Michif Otipemisiwak).

126. *Metis Settlements General Council v. Canada (Crown-Indigenous Relations)*, 2024 FC 487.

127. Otipemisiwak Métis Government, *Otipemisiwak Treaty*.

128. Métis Nation–Saskatchewan, *Statement by President Glen McCallum of the Métis Nation–Saskatchewan on Withdrawing Support from Bill C-53*, News release, 17 April 2024.

129. Métis Nation–Saskatchewan, *Métis Nation–Saskatchewan takes historic step on the path to self-government through official launch of Kishchi Mashinaayikun Ooshchi Michif*, News release, 27 May 2024; and Métis Nation–Saskatchewan, *Our Moment: Métis Self-Government*.