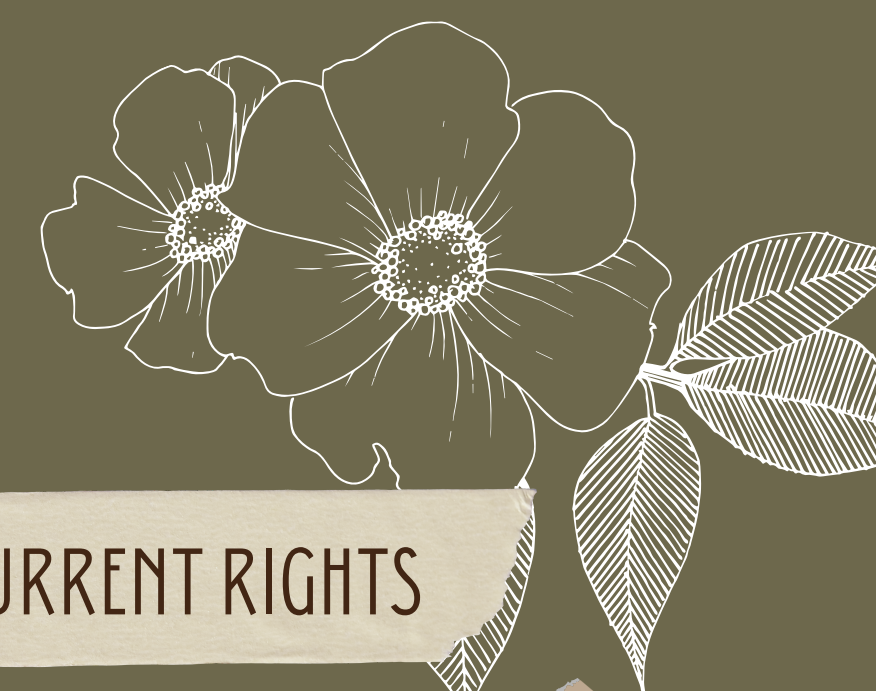


MÉTIS LAND RIGHTS



What are the unique challenges that Métis face with ensuring that their land rights are recognized and protected?

1: INDIGENOUS LAND RIGHTS

THERE ARE TWO WAYS AN INDIGENOUS GROUP CAN HAVE ITS LAND RIGHTS ERASED:

Surrender:

When treaties were signed between Indigenous Nations and Canada, many gave up or "surrendered" their land rights [although many Indigenous groups disagree on this interpretation].

Extinguishment:

Up until the Constitution was changed in 1982, the government could pass laws that "extinguished" Aboriginal rights to land.

In both cases, the province now owns the lands, but they must consult the group if they want to do anything that would affect the groups' Aboriginal rights.

ABORIGINAL TITLE

If the land rights have not been surrendered or extinguished, the Indigenous group has a legal right to manage and have economic benefits from the land. This is called **Aboriginal Title**.

To prove title, an Indigenous group must go to court and show that when the British asserted sovereignty they:

1) **Occupied the land:** Did the group use the land often enough? This takes into consideration the lifestyle of the group; were they nomadic or did they build homes?

2) **Had exclusive use of the land** - the group must demonstrate some form of control over the land. They could jointly own or share the land with other groups.

If a group doesn't have enough historical evidence, they can provide evidence of a connection between the historical and present occupation.

2: HISTORICAL INJUSTICES

Historically, the Canadian government refused to enter into treaties with Métis communities and instead issued scrip under the *Manitoba Act, 1870* and the *Dominion Lands Act*.

Scrip was a certificate given to Métis individuals promising payment of a certain amount of land or money. In exchange, the individuals agreed to give up their land rights.

The scrip system misused and often took advantage of the Métis in what has been described as a "sorry chapter" in Canadian history.

CASE STUDY: MANITOBA

The Red River Métis held a lot of power in the Canadian prairies in the late 1800s. They negotiated conditions when the region of Manitoba joined the rest of Canada.

In the *Manitoba Act, 1870* the children of the Red River Métis were promised 1.4 million acres of lands in exchange for agreeing to give up their rights to title.

Government delays, public persecution of the Métis, and rapid land settlement meant that many Métis were not given the land they were promised or were swindled to sell the scrip they were given for much cheaper than its value.

In 2013, the Supreme Court found that Canada failed to fulfill its promise to the Manitoba Métis in a way that upheld the 'honour of the Crown.'

Legal scholars argue that since the government didn't uphold its end of the bargain, the Manitoba Métis should not have their land rights taken away.

3: CURRENT RIGHTS

EXTINGUISHMENT OR SURRENDER

It is unclear whether courts will find that Métis communities have given up their land rights by accepting scrip.

So far, the Canadian government has been successful in arguing that their relationship to the Métis was different than with other Indigenous groups. Since the Métis used and sold their land individually, they did not have a "collective" interest in the land.

There are several criticisms of this argument, including:

- Since most Métis communities did not sign treaties, they never surrendered their land rights
- Since scrip was only handed out to individuals, it has not erased the land rights of the larger community

MÉTIS TITLE?

There are specific challenges with the test the courts use to prove Title when applied to the Métis context:

1) **Occupation:** Many Métis communities were highly mobile and actively participated in trade and hunting that changed with the seasons.

2) **Exclusive use:** Métis often peacefully coexisted on the same land with other Indigenous Nations and so it might be difficult to show they had exclusive "control" over the land.

If a Métis group doesn't have enough historical data, they might struggle to show a connection between past and current occupation. Many groups went "underground" when Métis people were being persecuted.

It's uncertain if a claim for Title will succeed in court. So far, only one case for Métis title has been filed before the courts but it has been put on pause until research is complete.