

MNS Constitution Review Commission Report

Lorna Docken

April 7, 1997

Earl Pelletier

The Metis Nation of Saskatchewan (MNS) is governed by the MNS Constitution which was adopted December 1993. At that time the constitution replaced an existing set of by-laws which had served to govern the Metis Society of Saskatchewan since 1988. The adoption of the MNS Constitution was a large step towards Metis Governance, as it took the Metis of Saskatchewan out of the membership organization category into nationhood.

Any constitution must grow to suit the people it governs and no revisions had been made to the MNS Constitution since its inception. Therefore, January 29, 1997, MNS President Jim Durocher established an MNS Constitutional Review Commission to revisit the MNS Constitution for the purpose of conducting interviews with Metis and subsequently making recommendations to the various bodies of the MNS including the Metis Nation of Saskatchewan Legislative Assembly and Metis Nation General Assembly on revisions which would be directed at building on strengths and working on problem areas identified by respondents.

A series of discussion questions were developed to encourage input from respondents. Some respondents filled out the surveys and returned them to us. The majority had their comments recorded by the commission as they only responded to specific items at community consultations.

The following responses were obtained through the community consultations with Metis in Saskatchewan. Three hundred and fifty (350) persons participated to date in the process. (see attached schedule) Two more Consultations are to be held: Metis Women of Saskatchewan General Assembly and WR2A. At present most respondents have been elected representatives of the Metis Nation of Saskatchewan, therefore represent the views of their constituents. As per the attached goals, terms of reference and schedule, an effort was made to accommodate the MNS Senate and gain their participation as much as possible. We gratefully acknowledge the participation of the Senators, Elders and all other respondents. THANK YOU to all who participated.

DO YOU FEEL THAT THE METIS PEOPLE OF SASKATCHEWAN SHOULD HAVE A SINGLE CONSTITUTION WHICH DETERMINES HOW SELF-GOVERNMENT WILL BE REGULATED IN ALL METIS COMMUNITIES?

Well over 90% of respondents answered "YES" to this question. Issues which arose from this question centered around recognition of regional diversity on the one hand and on the other hand the importance of maintaining the integrity of the MNS Structure so that fragmentation and weakening of the Nation would not occur.

Our recommendation would be to append new legislation to the existing MNS Constitution as it is developed. For example, the Northwest side locals have been working towards governance in their communities through a protocol agreement with the Northwest Municipalities. We see this as an opportunity to build on the existing constitution rather than creating problems of fragmentation. Perhaps a Northwest Metis Act could be developed out of the work completed on the North West Saskatchewan Metis Council which has been established under the MNS tripartite northern project.

The terms "guidelines" "laws" and "rules and regulations" arose again and again. This would indicate that as a Nation we are at the point of considering legislation as essential to our operations.

ARE YOU AWARE OF THE METIS NATION OF SASKATCHEWAN CONSTITUTION ADOPTED DECEMBER 1993? IF YES, HOW ARE YOU FAMILIAR WITH THE CONSTITUTION?

About 80% of respondents were aware of the MNS Constitution. About 50% of respondents are familiar with the constitution. Most of those who are familiar with the constitution are either elected officials of the Metis Nation Legislative Assembly or staff of the Nation in some capacity. As our commission travelled, more people were made familiar with the constitution either at or in preparation for the community consultations.

WHAT DOES THIS CONSTITUTION MEAN TO YOU AS A METIS PERSON?

Responses to this question were varied. However they could be categorized as such:

- 1 A basis for governance (guidelines)
- 2 A recognition of Nationhood (protection of our Metis Rights)
- 3 A way to help Metis people with social problems.

DO YOU FEEL THAT THIS CONSTITUTION SHOULD FORM THE FOUNDATION OF METIS GOVERNANCE IN SASKATCHEWAN?

Well over 90% of respondents answered yes to this question. It was stated many times that the constitution should provide a framework and rules (guidelines) for Metis Governance. The constitution was likened to a tree, living and breathing. It was said that all of us must work to allow it to grow as we evolve as a Nation.

Concerns were expressed over lack of clarity and detail in different areas of the constitution. Some went so far as to state that there are contradictions. This problem, people felt, led to different interpretations which almost amount to non-compliance. It was said that the constitution must provide clear roles and responsibilities for all persons involved with the MNS. It was stressed that there are examples of blatant disregard for the constitution which must stop. Everyone must comply without exception.

The issue of accountability arose in most areas and related to all levels of involvement.

It is our recommendation that a Code of Ethics be appended to the MNS Constitution for all Metis Citizens to follow. Further to this, all elected officials of the MNS must be subject to sanctions for non-compliance to the Code of Ethics.

Most respondents made the connection between the MNS Constitution and a Metis Act. It was stated to us many times that a Metis Act must be built around the MNS Constitution. A Metis Act it was stated should recognize Aboriginal Rights and lead to Metis inclusion under Section 91(24).

We concur with the above suggestions to use the MNS Constitution as a basis for the Metis Recognition Act.

Many respondents objected to the MNS or any of our subsidiary bodies being incorporated under provincial or federal legislation. Some advocated for sovereignty and all rights and privileges which would accompany it.

SPECIFIC AREAS DISCUSSED

METIS NATION LEGISLATIVE ASSEMBLY/ANNUAL GENERAL ASSEMBLY

Respondents expressed approval of the Metis Nation Legislative Assembly (MNLA) due to the "bottoms up" nature of the assembly. They also like the information sharing which occurs at the assembly. People went on to say that it makes us more government like in structure because all of the representatives are elected officials.

Criticism of the system was mostly centered around the one vote per local aspect of the system and inequities resulting from differing sizes of locals or unequal splits of population. For instance, a large local such as #269 with 1600 registered voting age citizens has the same voting power as a small 9 person local.

Problems were cited in the lack of organization at assemblies which resulted in the following:

- disputes over credentials
- persons bringing legislation to the floor which leads to uninformed decision making on crucial issues
- too much personal fighting
- too many outsiders distracting MNLA members

We recommend that the Articles on the Metis Nation Legislative and General Assemblies be expanded to clear up confusion on the above.(attached)

Concern was expressed over the exorbitant cost of holding assemblies and how it resulted in us meeting too infrequently. It was recommended that we look at holding outdoor assemblies to cut down on lodging and sustenance costs. **We concur with this recommendation.**

The question was raised on why we had no youth representatives at the MNLA.

We recommend that the youth be invited to participate in the MNLA by giving a report to the assembly and having one guaranteed seat.

Very problematic is the fact that decisions of the MNLA must be ratified at an Annual General Assembly. There has not been an AGM since 1993, therefore all of the amendments and even legislation such as our Metis Nation Wildlife Act are not officially accepted. We heard both sides from respondents. On the one hand if the system is maintained, the grassroots citizens will have an opportunity for input in all crucial decisions. On the other hand, the MNLA members are elected to represent the views of the grassroots citizens at the assembly and without the requirement the decisions of the past 3 1/2 years could be official and progress could be made.

We recommend that the AGM be maintained for information sharing purposes, as well as to give direction to the MNLA, but that decisions of the MNLA shall be final and binding in all regards.

EXECUTIVE

The majority of respondents felt that there should be more than 3 executive members. Suggestions for how the executive should be composed were varied. **The most predominant suggestion was to add a vice president.** The idea of renaming the Treasurer and Secretary as Vice-Presidents arose as well as regionally elected Vice-Presidents.

Concern was expressed over the lack of job description for executive and Regional Directors. It was felt that the result is non-compliance to the MNS Constitution.

We recommend expansion of the section on PMC members, and the above mentioned Code of Ethics. (attached)

URBAN COUNCILS

We were given direction by over 50% of respondents to immediately develop Urban Councils in preparation for Metis Governance. This number is slightly out of line, because many respondents in rural areas did not feel comfortable commenting on the issue.

We recommend development and implementation of an Urban Metis Governance Act to be appended to the MNS Constitution.

We received a recommendation on development of rural councils. This idea is worthy of consideration and may be an asset in dealing with the needs of small rural locals. At one of the consultations a respondent provided information on the rural municipalities system.

We recommend further investigation of the rural councils.

ELECTIONS

MNS citizens are very proud of the fact that we hold democratic ballot box elections. It was suggested that the system extend to The Metis Women of Saskatchewan and MNS locals as well and that these bodies hold ballot box elections at the same time as the provincial body to eliminate the conflicts between elections.

Respondents felt strongly that election reform is required. Some of the problems cited on elections were:

- lack of Resources,
- lack of training for elections personnel
- lack of clarity in some areas of elections regulations
- lack of impartiality of elections personnel
- uncertainty over who is eligible to vote

We recommend that A Metis Elections Act be developed and implemented which clearly outlines processes and policy. Further to this, we recommend that an independent body be consulted to build on the current system.

SENATE

The vast majority of respondents felt that the MNS Senate needed to have their roles spelled out more clearly and that they needed more guidelines for their role in dispute resolution. For example, if allegations of wrongdoing are levelled at any elected official, there should be documentation of violation of the rules. **This once again points to the Code of Ethics as well as an expansion/clarification of the Article on the Senate.**

We heartily concur with a suggestion to separate Senate, Women and Youth in the constitution.

Concerns were raised over what is perceived to be a lack of respect for the Senators on the part of the elected leaders. On the other hand people had concerns over a non-elected having more power than the elected leaders. To put it into the proper context, the roles of the two bodies are supposed to be complementary, not parallel. The Senate is to be a group of persons unconnected to the political body, therefore unbiased, to perform a quasi-judicial function when required. The attached roles and responsibilities of the Senate adopted at Batoche in July of 1994 requires expansion to set parameters, so that everyone is clear on their roles. In this way, Senators would not be forced to act on their own discretion and develop policy as the need arose.

There was much concern over the fact that many of the Senators are elderly and infirm, therefore not up to the stresses of the duties of a Senator. Senators it was stated "should be put up on a pedestal" "looked to for their wisdom" "pass on the culture to the youth". Lack of resources is a huge concern. Senators are understandably fatigued when they must meet at late hours because the only time they have funds to meet is at MNS functions where their attendance is required all day.

Some of the MNS Senators and other respondents feel that lifetime appointments of Senators is appropriate. About an equal number of respondents and over half of the Senators stated that they would like to see more people have the opportunity to participate on the MNS Senate, therefore there should be set terms.

We advocate lifetime appointments of Senators, with set terms for a working Senate. We concur with a suggestion for more than one Senator per region in order to make such a system successful. For example, each region could have a limit of 3 Senators at any given time, but only one of these Senators would be chosen for a provincial working board. This would allow individuals to be Senators but not have to participate beyond their physical capabilities.

AMENDING FORMULA

The Biggest problem cited was the cumbersome nature of the amending formula. While a vast number of respondents felt that a simple majority vote should be used for determining a vote, most felt that the 3/4 majority is acceptable. **We concur.**

There is much confusion around the requirement for quorum at the MNLA. It presently is at 75 members of the assembly, including the PMC, Senate, Metis Women's representatives and Local Presidents.(33 without any presidents)

We recommend that the requirement for quorum be set at 3/4 of the eligible MNLA members.

PROVINCIAL METIS COUNCIL

The most frequent recommendation was for implementation of a Code of Ethics for the Provincial Metis Council. **We concur with this idea.** We heard that there is not enough awareness of PMC activities. A communication tool is essential. We recommend a regular newsletter for distribution to fill the void left by the demise of the NEW BREED JOURNAL.

REGIONS

Although there were mixed responses to this question, the majority of respondents felt that the regions must be realigned to reflect demographic realities. Concerns were over inequities of population distribution and other factors such as the Northern Administration District, workload differentials, and funding shortages in Regions with heavy populations. Concern was expressed over the administrative costs related to 12 Regions. Suggestions were made to cut back on the number of regions. Large urban Centers such as Prince Albert, Saskatoon and Regina, it was suggested should become regions of their own to reflect their high populations and unique circumstances.

We recommend that the MNS Regions be realigned to include three urban regions and 7 rural/northern regions. The division should be based on population.

Although an official enumeration has not been conducted, census data and MNS Citizenship files reflect similar trends. The proposed Urban Metis Governance Act would have to reflect these changes.

LOCALS

The concept of locals is derived from a system used by unions to form basic units. Some Metis Communities objected to the term and suggested changing to a system to reflect our nationhood and aspirations towards Metis Governance. We were fortunate to interview some persons who are also involved in Northern, Rural and Urban Municipalities. They suggested that we look at Provincial Government Acts such as SUMA, SARM AND NMA.

Most respondents felt that MNS Locals should have their requirement tightened up so that the problem of paper locals is eliminated. Locals, it was suggested, should also be subject to the Code of Ethics and that non-compliance should result in suspension and dissolution of the local. It was suggested that the number of persons required to maintain local status (9) is too low and that there should be some sort of boundary established for residency of rural locals, as many of our rural citizens are on farms. On the other hand, concern was raised about remote communities with small populations meeting a requirement for larger lists.

Our recommendation is to raise the required number to form a local to 25 Metis persons 16 years of age and over. We further recommend that locals within a 50 kilometre radius combine their citizenship to form larger more powerful locals. This would also serve to somewhat alleviate the concern over representation at Assemblies. Special circumstances should be taken into consideration by Regional Councils when reviewing remote locals with small populations. Urban Locals should likewise be subject to the suggested Urban Metis Governance Act. We recommend adding to the Locals section in the MNS Constitution to allow for immediate suspension by the Regional Council and MNS Head Office for non-compliance to the MNS Constitution, to be ratified by the MNLA.

AFFILIATES

There is much discrepancy between the MNS Constitution and MNS Affiliate Constitutions. To put it all into context, one must remember that many of the MNS Affiliates have older constitutions than the MNS, and therefore operate under the old order whereby the MNS is a non-profit corporation, not a government. Also, the affiliates, for the most part have a larger budget than the MNS. The different affiliates developed out of particular socio-economic problems which required pragmatic solutions. In example, Gabriel Dumont Institute was developed to address a need for cultural retention and culturally appropriate education for Metis. It has been highly successful and grown into an autonomous Metis Institution. From the responses to the questionnaire, it is evident that there are two schools of thought on the above. One group feels that status quo should be maintained and that there could be even more distance put between the MNS and its affiliates. Another school of thought exists with the notion that in order to operate as a government and to be more efficient, we must tie the affiliates into the MNS as the Provincial Government ties in its departments.

We recommend an arms length approach, with a limited number of political (MNS) appointments on any affiliate board. We recommend compliance to the MNS Constitution by the affiliates. Further, we recommend a standard format for boards and modification of affiliate constitution and/or by-laws to harmonize them with the MNS in preparation for Metis Governance. We fully support the Article which prohibits elected officials from employment with affiliates. We wish to take it further and prohibit staff from sitting on boards. This makes everyone's role clear and eliminates confusion.

OTHER

The issue raised most often in the other category was Citizenship(membership). While everyone knows that the MNS is a Metis only organization and that if one reads the preamble, it is evident that Metis are distinct from other Aboriginal Peoples, the Membership Article only states that one must be Aboriginal. It is unclear from the Article as well, what actually constitutes proof of Aboriginal Ancestry. Presently, the MNS Provincial Secretary's Office utilizes policy developed out of reaction to this dilemma. In actuality, the term membership as opposed to citizenship, dates back to the old MSS constitution which was developed for a membership organization. It does not fit in with aspirations for Metis Governance. It was suggested many times that as per the Constitution a Metis Citizenship Act be developed as a priority.

We concur with the above and have attached a Draft Metis Nation of Saskatchewan Citizenship Act for discussion and ratification. We concur with a suggestion to move the Article on Membership forward in the constitution. This would have to be in the form of the Citizenship Act

It was suggested that Block Funding Arrangements be pursued for the MNS and Affiliates with the MNLA having authority to finalize and approve budgets. **We have no strong opinions on the above**

Dispute resolution at the local and regional level came up on numerous occasions. It was suggested that the body involved in such disputes should be cut off from programs and services until resolution has occurred. This would maintain harmony in the Metis Nation.

We advocate such an approach, however protocol must be followed to allow for dispute resolution (local, regional, provincial, Senate, MNLA) and the cut off must be to control of programs and services so that students and other recipients of services are not affected. The area of dispute resolution is now with the Senate. Problematic is the fact that persons do not always follow all of the steps of protocol. We see the benefits of each level establishing a dispute resolution body, so that every dispute does not have to automatically go to the Senate.