

**Chiefs of Ontario**

**Fall Chiefs Assembly**

November 21-23, 2023 Toronto, Ontario



**BRIEFING NOTE**

**Métis Rights Assertions Update**

**To: First Nations Leadership**

**From: Chiefs of Ontario, Justice Sector**

**Date: November 21-23, 2023**

**Purpose: Métis Rights Assertions Update**

**BACKGROUND**

At the June 2022 Annual Chiefs Assembly, Chiefs-in-Assembly passed Resolution 22/25A, mandating the Chiefs of Ontario (COO) to establish a Technical Committee tasked with developing an advocacy strategy to address the ongoing issue of Métis rights assertions in First Nations Ancestral and Treaty territories.

The draft Advocacy Strategy was presented to Chiefs-in-Assembly at a Special Chiefs Assembly in September 2022 and accepted by way of confidential resolution. The Technical Committee on Rights Assertions continues to provide direction and guidance on the implementation of the Advocacy Strategy as new developments occur. The committee has met eleven times since its establishment.

The purpose of this briefing note is to provide an update and analysis on this file as of September 2022.

**RECAP OF ACTIVITIES**

*(1) Resource Contributions*

COO has been declined funding to support this file from both the Governments of Canada and Ontario. COO has been using its own resources to support the work requisite of this advocacy, including funding the June 2023 Ottawa Demonstration.

Given the mandate we received from Chiefs-in-Assembly, and to support the September 2023 Ottawa Demonstration, COO put out a call to PTOs, IFN, and the unaffiliated First Nations to support this work. COO would like to acknowledge and express gratitude to the Anishinabek Nation, the Association of Iroquois and Allied Indians, the Wabun Tribal Coucil, and Caldwell First Nation for their generous contributions.

Contributions supported coordination for the Ottawa Demonstration, including busing from various First Nations to Ottawa, food and water, and space rental, the digital letter campaign, legal and professional fees, and honorariums, amongst others. We are proud of what has been accomplished on this file given our financial limitations.

*(2) Ottawa Demonstrations Opposing Bill C-53*

First Nation Leadership, Elders and Knowledge Keepers, youth, family and community members, technicians, and allies held two peaceful demonstrations on Parliament Hill on June 19, 2023, and September 20, 2023, to oppose Bill C-53.

First Nation Leadership and Youth held press conferences in the Parliamentary Press Gallery on both dates.

COO provided coordination support, key messaging, and access to legal counsel during Technical Preparatory sessions before and during both demonstrations.

*(3) Political Meetings*

First Nation Leadership met with Parliamentarians (Members of Parliament and Senators) during both trips to Ottawa, and met with an MP virtually in early November 2023.

As of November 2023, First Nation Leadership has met with at least 19 MPs (Liberal, Conservative, and NDP) and Senators through Chiefs of Ontario channels to discuss First Nations’ perspectives and urge them not to pass Bill C-53.

*(4) Digital Letter Campaign to MPs*

As a part of our coordination efforts for the September Ottawa Demonstration, COO launched a digital letter campaign on September 5, 2023. Our original goal was to get 1,000 letters sent to Members of Parliament across Ontario region. As of November 2023, 1,636 have been sent to MPs opposing Bill C-53.

*(5) Standing Committee on Indigenous and Northern Affairs’ Study of Bill C-53*

Bill C-53 passed first and second reading on June 21, 2023, and was referred to the Standing Committee on Indigenous and Northern Affairs (INAN) for study in the fall.

COO submitted a Request to Appear to the clerk of the Committee in October 2022. Pursuant to the Routine Motions of the Committee, in which each appearing organization is permitted two witnesses.

Ontario Regional Chief Glen Hare and Nipissing First Nation Chief Scott McLeod [appeared](https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20231102/-1/40204) on behalf of the Chiefs of Ontario on November 2, 2023. Other First Nations witnesses included Ogichidaa Francis Kavanaugh, Nishnawbe Aski Nation Grand Chief Alvin Fiddler, Executive Director of the Wabun Tribal Council Jason Batise, AIAI Grand Chief Joel Abram, Assembly of Manitoba Chiefs Grand Chief Catherine Merrick, Chief Executive Director of the Matawa Tribal Council David Paul Achneepineskum, Greg Desjarlais of the Confederacy of Treaty 6 First Nations (Alberta region), and Animakee Wa Zhing #37 Chief Linda McIvar. Please note this is not a complete list of all First Nations witnesses, as advocacy to have further witnesses appear is ongoing. COO provided support, advice, and coordination with key messaging.

Below are some significant concerns that have been raised with respect to Bill C-53 during INAN witness panels:

* There are no provisions limiting future treaties to self-government or internal matters;
* Bill C-53 allows future treaties to circumvent Parliamentary procedure which is inconsistent with the treaty ratification legislation and processes applying to *all* other Indigenous peoples. Contrary to Bill C-53, the right and proper process for modern-day treaties since 1975 is for the treaties to be negotiated, initialed, ratified by Indigenous people, signed by the parties, and then presented to Parliament. This allows Parliament to know what is in a treaty before it passes legislation and gives royal assent. Bill C-53 sidesteps that process; and
* Bill C-53 is an unprecedented transfer of constitutional authority from Parliament to the Executive, and Parliament will have no further oversight or approval role in the treaty ratification process. Bill C-53 would create a troubling precedent to enter into future treaties. [Sections 5 through 7](https://www.parl.ca/DocumentViewer/en/44-1/bill/C-53/first-reading) are of most concern. They empower the Governor in Council to give a treaty force and effect to acquire constitutional protection and give it priority over all other federal law if it meets certain *unknown* requirements.

On November 10, 2023, correspondence from ORC Hare went out to the Clerk of INAN urgently requesting the committee to extend the study of Bill C-53 given the high level of interest from First Nations to participate.

COO also submitted over 17 documents and a written brief to INAN providing additional evidence that supports our position and concerns with the MNO being included in Bill C-53. The deadline to submit briefs was November 17, 2023.

It appears as though Canada is still determined to pass Bill C-53. INAN is asking witnesses to provide suggested amendments for them to bring to the House of Commons for debate that would attempt to satisfy parties raising concerns, including First Nations in the Ontario region, the MMF, and the Alberta Métis settlements. There is no guarantee that the Liberals will accept those amendments.

Once amendments are made (if applicable) and the bill passes third reading, it will go to the Senate for consideration. This will be another opportunity to present suggested amendments to the bill. Below are our suggested amendments in order of preference:

1. Withdraw Bill C-53 until there is due diligence on Canada’s behalf to verify the MNO’s claims and First Nations are meaningfully consulted.
2. Remove the MNO from the legislation.
3. Address the technical concerns with the legislation listed above and raised by First Nations.

*(6) Provincial Level*

As of November 2023, COO has sent correspondence on four occasions to Indigenous Affairs Minister Greg Rickford raising concerns with Ontario’s 2017 identification of six new so-called “historic Métis communities” in the Ontario region and requesting a meeting to discuss a pathway forward on this issue. This is in addition to the 15+ letters sent by First Nation Leadership to the province during the September 2022 letter campaign and follow up in December 2022. All of this correspondence has gone unanswered. COO will continue to push for a meeting.

The COO Justice Sector worked with Justice Portfolio Holder, Regional Deputy Grand Council Chief Travis Boissoneau, and Ontario NDP MPP Sol Mamakwa, to coordinate a question on Métis rights assertions in First Nations Ancestral and Treaty territories in the Ontario region during Question Period. The following questions were asked to Premier Ford on October 31, 2023:

1. *I’ve been speaking to First Nation leaders across Ontario, and they are frustrated and confused about Ontario’s ongoing consultation of the Métis Nation of Ontario within First Nation territories. First Nations affected by these decisions have asked the government repeatedly to share the evidence Ontario is using to support this recognition. Ontario still hasn’t shared that evidence. Will Ontario share this evidence – Yes or No?*
2. *The Ontario Court of Appeal recently provided direction on consultation in the recent Whiteduck decision. The Ontario Government MUST consult with First Nations about issues affecting their traditional territories, including when it recognizes Métis Nation of Ontario communities in those territories. Will the government follow this decision – Yes or No?*

Premier Ford did not respond and Minister Greg Rickford did not provide a substantive response to the questions, but instead, highlighted that “Ontario is proud of the fact that they have increased the number of Resource Revenue Sharing Agreements available for Indigenous communities. This is just another example of how Ontario is working to ensure that First Nations communities have the economic tools that they need to engage in a resource-based economy in Northern Ontario and as an addition to that, to be involved in a sustainable, responsible development in forestry and mining,” and that “Ontario will always live up to the standard of the duty to consult and ensure that First Nations communities across the province play an important and equitable role in all of the economic opportunities available now and in the future.”

As a next step, COO will be submitting a Freedom of Information (“FOI”) Request to Ontario / the Ministry of Indigenous Affairs to access the records pertaining to Ontario’s recognition of the six new so-called “historic Métis communities”, and will be sending follow up correspondence to Ontario for Minister Rickford to meet with the Technical Committee to discuss this issue further.

*(7) New Research Published by Robinson Huron Waawiindamaagewin*

On November 7, 2023, Robinson Huron Waawiindamaagwin (RHW) released [new research](https://uploads-ssl.webflow.com/64eddfdceee1c8876622c760/654a7e9cd7aa33f863cf0133_SSM%20(Petition)%20Report.pdf) from Dr. Celeste Pedri-Spade and Dr. Darryl Leroux that examines the legitimacy of the Métis Nation of Ontario’s political claims within RHW territory by taking a critical lens to key historical reports and academic literature available on the Sault Ste. Marie “historic Métis community”.

This information comes at a critical time in our collective effort to oppose Bill C-53. We continue to encourage Leadership to review, share, and promote the findings.

*(8) Wabun Legal Update*

In March 2023, the Wabun Tribal Council brought a court challenge to Canada’s decision arguing that Canada failed to consult First Nations and violated Canada’s constitutional obligations by, among other things, recognizing Métis groups that don’t meet the Powley test.

MNO brought a motion to strike, seeking to have Wabun’s court case thrown out before it gets to a full hearing.

The motion to strike hearing was heard on August 8-9, a decision was expected in mid-September. As of November 2023, we are still awaiting the decision. Updates will be circulated once received.

*(9) Métis National Council Ordered to Take a Position on MNO “communities”*

In the September 2023 Ontario Superior Court of Justice [decision](https://www.canlii.org/en/on/onsc/doc/2023/2023onsc5469/2023onsc5469.html#_ftnref83), the judge ordered the Métis National Council (MNC) to provide a complete and substantive answer to “whether it is the MNC’s position that the six Ontario new historic Métis communities fall within or don’t fall within the historic Métis Nation Homeland” within 20 days of the release of the decision. That deadline has now passed, and we are still waiting for the MNC’s response.

If the MNC were to respond by saying that the MNO’s six new “historic Métis communities” do not fall within the Métis Nation Homeland, this would further call into question the legitimacy of the MNO’s claims.

**CURRENT STATUS**

Bill C-53 is currently being studied by the Standing Committee on Indigenous and Northern Affairs. AIAI Grand Chief Joel Abram is appearing as a witness this week on November 23, 2023. The Minister of Crown-Indigenous Relations will appear with his officials next week. The Committee is set to begin clause-by-clause consideration of the bill on December 5, 2023.

COO will continue to monitor INAN proceedings and update First Nation Leadership on developments and strategy.

**NEXT STEPS**

1. Begin preparing to lobby Senators during the Senate’s consideration of Bill C-53.
2. Freedom of Information Request – Ontario / Ministry for Indigenous Affairs to try to obtain the documentation that supported Ontario’s identification of the six new so-called “historic Métis communities” in the Ontario region.

**CONTACT**

For questions on this briefing, please contact Jackie Lombardi, Director of Justice at Chiefs of Ontario, at [jackie.lombardi@coo.org](mailto:jackie.lombardi@coo.org).