

## THE DENIED COMMUNITY RIGHTS OF THE ACADIAN METIS

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In the context of the Canadian Constitution Act (1982), and in the context of the “Powley Criteria” as established by the Supreme Court of Canada in 2003, the constitutional rights claimed by the Métis in Eastern Canada are being denied by the testimonies of certain historians in the courts. Sections 35 (1) and (2) of the Canadian Constitution Act indicate that the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; and in this Act, the “aboriginal peoples of Canada” include the Indian, Inuit and Métis peoples of Canada. However, in 2003, the Supreme Court of Canada established the Powley Criteria that describe the qualifications required in order for a Métis community to be recognized as a “rights-holder” in the context of the Canadian Constitution. The most significant criteria indicate that a contemporary community, that is seeking recognition as a Métis rights-holder, must self-identify as a Métis community and show that it is the continuation of a historical Métis community that existed in a particular area, as an identifiable Métis community, with a unique and distinct culture, prior to the time of effective political and legal control by Europeans. Therefore, the following discussion will focus on the controversy associated with ascertaining the presence or absence of qualifying “Métis Communities” in Acadia.

Some readers of this paper may identify themselves as belonging to the various ethnic groups mentioned. Please be advised that ethnic group interpretations, that may be preconceived by readers, may not exactly coincide with the ethnic interpretations by the Canadian Constitution, by the Powley Criteria, by the courts and by the implications of this paper. It is a well known fact that individuals, with the same ancestry, may choose to self-identify as belonging to different ethnic groups. Hopefully this alert will minimize confusion.

The existence and recognition of Métis communities in Eastern Canada are being denied by the courts and certain historians on the basis that the mixed-blooded peoples in the East never developed into distinct and separate Métis communities with their own unique culture. The existence of Acadians as mixed-blooded (métis) people is not being denied, but it is their existence as an identifiable contemporary and historical Métis community that is being denied. In the case of the Acadian-Métis community, denial is also based on a comparison that is made between the recognized Métis Nation of the West and the mixed-blooded Acadians of the East. This comparison is made in a manner that describes the recognized Métis Nation of the West as resulting from the intermarriage of French and Cree peoples whose mixed-blooded offspring developed into a third distinct culture (community) that was different than that of the French and of the Cree. This distinction is confirmed by discrimination that was enacted against the mixed bloods by both the French and the Cree. The comparison goes on to say that in the East, although intermarriages occurred between the French (Acadians) and the Mi'kmaq to produce mixed bloods, a third distinct culture (community) never developed to be different than that of the French (Acadians) and of the Mi'kmaq. This concept is supported by the fact that mixed bloods were accepted, without discrimination, by either the Acadian or the Mi'kmaq community. **However, this comparison is flawed because it incorrectly assumes that the ethnic terms “French” and “Acadian” are synonymous, with no consideration being given to historical distinctions.**

Historical facts can be reviewed in a manner that interprets a different concept. The histories of the West and of the East are somewhat different, but there are also similarities that allow for a

contradictory interpretation. To repeat the western scenario, it is correct to say that in the West the French and Cree intermarried to create mixed-blooded offspring (métis) who in turn intermarried (métis marrying métis) to create peoples who were neither considered French or Cree; that is, they created a unique and distinct community that differed from the (other) French and the Cree. This third entity, that was certainly not considered British, was no longer considered French although the French language with a mix of Cree words (Michif language) was spoken. This third entity with a distinct culture was considered separate due to discrimination from both the (other) French and the Cree and became known as the **“Western Canadian-Métis Nation”**.

If one applies the same sequenced scenario to the East, it is also correct to say that in the East the French and the Mi'kmaq intermarried to create mixed-blooded offspring (métis) who in turn intermarried (métis marrying métis, and métis marrying a low number of immigrants) to create peoples who were neither considered French or Mi'kmaq; that is, they created a unique and distinct community that differed from the (other) French and the Mi'kmaq. This third entity, that was certainly not considered British, was no longer considered French although the French language with a mix of Mi'kmaw words (Acadian language) was spoken. This third entity with a distinct culture was considered separate due to discriminating factors (see below) and could be termed as the **“Eastern Acadian-Métis People”**.

All this to say that an unfair comparison is being made by suggesting that a third (Métis) community never developed in between the Acadians and the Mi'kmaq. One has to look for the development of a third (Métis) community in between the (other) French and the Mi'kmaq, as exemplified in the Western Métis Nation comparison. A fair comparison would indicate that the **“Acadians themselves as a whole”** should be examined as possibly constituting a third distinct and separate Métis community with a unique culture. Due to a low rate of immigration and a high rate of intermarriage among themselves, within a few generations, most Acadians were (and still are) of a mixed-blooded ancestry that resulted mostly from the same mechanism as out West, that is “métis marrying métis”. One should bear in mind that historically the Acadians did not refer to their mixed-blooded ancestry as being “Métis”, however the term “Mulatto” was occasionally used in this context. Some present day authorities have even suggested that the term “Acadian” has a “Métis” significance. The terms “Acadian” and “Acadian-Métis” are therefore used synonymously in this paper.

The Acadian-Métis people were certainly discriminated against from all sides as documented in history. From 1713 (Treaty of Utrecht) until the deportation of 1755, the Acadians lived on (present day) mainland Nova Scotia that was British territory. Even though considered to be British subjects during this period, the Acadians were discriminated against and were deported by the British authorities. The reason given was that the Acadians refused to sign an Oath of Allegiance to the British Crown that would require that they bear arms against their country of origin (France) and against their friends and relatives the Mi'kmaq. They wished to remain “Neutrals” due to a fear that an allegiance with the British would turn the Mi'kmaq against them, certainly a fear of a potential discrimination with lethal consequences. The “Neutral” position of the Acadians also resulted in discrimination from France (see below) because they also refused an allegiance to France while they were living on British soil.

In 1747, under the command of a French Canadian Captain (Nicolas-Antoine Coulon de Villiers), 240 French Canadians and 60 Maliseet and Mi'kmaw warriors attacked New England soldiers who were lodged in Acadian homes and in the church at Grand Pré. Another Captain (Louis de La Corne) was also part of this expedition. At least 100 New England soldiers were killed, 30 seriously injured and 50 taken prisoner. The “Neutral” Acadians refused to participate, except for a few who acted as guides. After this successful victory, the French Canadians insisted that the Acadians then sign an Oath of

Fidelity to France, but the Acadians still refused and wanted to remain “Neutral”.

Then in 1750, the same Captain Louis de La Corne was in charge when the Acadians of Beaubassin (today's Amherst, Nova Scotia) were requested to vacate their homes and farms and to cross over into French territory (now New Brunswick). When the neutral Acadians refused, La Corne dispatched Le Loutre and some Mi'kmaw warriors to evacuate the Acadians by burning their village, certainly an act of discrimination by both the (other) French and the Mi'kmaq.

Other historical factors place the Acadian-Métis in a separate category: The mixed-blooded people of Acadia, with French and Mi'kmaw bloodlines, were identified as either Acadian or Mi'kmaq depending on the communities in which they lived. Historical events indicate that generally the British made a distinction between the Acadian and the Mi'kmaw communities. They considered most Acadians to be related to the Mi'kmaq as “half breeds” with French and Mi'kmaw bloodlines. However the British dealt with the Acadian communities differently than with the Mi'kmaw communities. For example, the Acadian communities containing Mi'kmaw bloodlines were deported (beginning in 1755) while the Mi'kmaw communities containing French bloodlines were not; the British dealt with the Mi'kmaw communities via warfare, scalping proclamations and treaties of “Peace and Friendship”. Despite historical claims that no Mi'kmaw people were deported, it is however certain that Mi'kmaw bloodlines and some Mi'kmaw people, who were living as members of the Acadian community, were also deported as recently proven by the science of DNA testing (see below). Similarly, it is probable that some mixed-blooded Acadians succumbed to the scalping proclamations, even though these proclamations were not aimed at the Acadian communities.

Distinguishing and discriminating factors also followed the deportation. The Acadians, who were deported to France, were not well received and were discriminated against to the point that some left France to immigrate to Louisiana. Other Acadians, who escaped the deportation, were eventually captured and imprisoned until their release allowed them to immigrate to Louisiana. However, even in Louisiana, the elite French settlers already present despised the arrival of these desperate Acadian peasants. All Acadians, most of whom were deported into the British colonies of New England, were labelled by the British as “Acadian French”, “Roman Catholic” and of “Mixed Blood”. These three identifying characteristics stimulated a profound discrimination factor that resulted in a shame and denial of mixed-blooded identity that persists even today in many Acadians, whose ancestors returned to Acadia from exile or imprisonment. Some deported Acadian-Métis did not return to Acadia but remained in the United States of today, where many of their assimilated descendants have lost their Acadian / Mi'kmaw identity, except that some of these descendants have recently discovered their Amerindian ancestry out of Acadia via the science of DNA testing.

In conclusion, it appears that the truth is being denied by the courts and certain historians via a “play on words” that does not distinguish between French and Acadian. This commentary is another “play on words” that offers a different interpretation. The Acadians, having a mixed-blooded ancestry, have developed into a distinct community with a unique culture that is different and separate from that of the (other) French, the British and the Mi'kmaq, a difference that is supported historically by discrimination. The Acadians themselves have to be considered as forming a third distinct entity, a Métis Community, that has constitutional rights and that the courts are searching for in the East, in accordance with the “Powley Criteria” as established in 2003 by the Supreme Court of Canada.