

MCT Constitution Reform Hot Topics - Q&A

1. Why were Enrollment requirements put in place by the government?

Tribes had determined tribal status based on kinship, lineage, and family ties. After the allotment period, the United States government mandated that every federally recognized tribe defines criteria for tribal enrollment. The government suggested using blood quantum and often provided a step-by-step guide for how tribes could determine blood quantum and tribal enrollment.

By 1930, "enrollment" was an accepted concept, even though no official membership enrollment lists existed for many tribes. A few tribes supervised enrollment lists, usually relating to legal questions in which the federal government owed the tribe money as determined by the courts. Apart from those special cases, the Superintendents and Agents had been occupied for years with the allotment process, identifying those who were eligible to receive an allotment, and they had been involved yearly in the distribution of goods and money and checking the eligible names off an annuity roll. Many tribes had accepted Annuity Roll numbers and Allotment Roll numbers, so eligibility for services was equated to enrollment status even if there were no actual enrollment lists. The eligibility questions were tied to allotment lists, annuity rolls, and prior census rolls.

With the passage of the Reorganization Act (IRA) of 1934, also known as the Wheeler-Howard Act, tribes were encouraged to specifically set up a constitution that gave recognized criteria for determining membership and enrollment. Indian Tribal Constitutions adopt the BIA census as the base roll for membership.

For the first one hundred years of the United States' existence, and before the enactment of the Allotment Acts in 1887 (aka Dawes Act), the federal government did not define "Indian" based on anything close to "blood quantum." Instead, under federal law and treaties, "Indian" was a political designation signifying citizenship in a Tribal Nation.

Indians on reservations who lacked the requisite blood quantum were not given property, and such lands that would have been allotted to them were made available to whites. Blood quantum rules also diminished the ability of Indians to sell their lands. Mixed-blood Indians were able to sell their lands, but full-blood Indians needed the permission of the U.S. government to sell their properties. The consequences for Indians were the loss of significant property, and diminished sovereignty rights.

The U.S. government did not widely apply the concept of blood quantum until the IRA of 1934, which set up procedures for tribes to adopt constitutions to define their membership.

ARTICLE 4. of the 1847 Treaty with the Chippewa of The Mississippi and Lake Superior has this language: "It is stipulated that the half or mixed bloods of the Chippewas residing with them shall be considered Chippewa Indians, and shall, as such, be allowed to participate in all annuities which shall hereafter be paid to the Chippewas of the Mississippi and Lake Superior, due them by this treaty, and by the treaties heretofore made and ratified."

The United States' interest in "blood quantum" has been to reach a point where there are no more Indians. Their view was about helping (and perhaps encouraging) Indian termination and assimilation through the natural interaction of Indians and non-Indians. At some point, the Indians will have so little "Indian blood" that the United States will feel they are no longer legally responsible for providing financial assistance and services, even under their legal duties of upholding treaty obligations. The U.S. government would then absorb all the lands the Indians have left because they hold it "in trust." This scenario is not surprising because we have heard this before.

Thomas Jefferson wrote to William H. Harrison, Governor of Indiana Territory, on February 27, 1803, "You will also perceive how sacredly it must be kept within your own breast, and especially how improper to be understood by the Indians. For their interests and their tranquility it is best they should see only the present age of their history." More recently, Secretary of Interior Ryan Zinke commented: "The United States never believed it was getting into the Indian business without an eventual exit ramp off that highway."

Zaagibagaang- Anishinaabe Values in Action outlined the history of the Minnesota Chippewa Tribe (MCT) enrollment Criteria.

- The original MCT Constitution was approved in 1936 and included lineal descent as a criterion for enrollment.
- Throughout the 1940s, many discussions took place about enrollment criteria, specifically, degree of blood, lineal descent, and residency. By this time, the U.S. government had started using 1/4 degree blood quantum as criteria for many services and was putting pressure on the Tribes to do the same.
- Although the Tribal Executive Committee (TEC) passed resolutions to continue with lineal descent as the enrollment criteria, the Secretary of the Interior disapproved. Finally, in 1961 the enrollment criteria were changed to require 1/4 degree MCT blood.

The bottom line is that the MCT was coerced into adopting the "blood quantum" requirement. Fortunately, blood quantum is not mentioned in any of the seven mandatory criteria for a tribe to obtain Federal Recognition. As sovereign nations, tribes can determine their criteria for enrollment. Blood quantum has led to frequent violations of interference with Indigenous sovereignty and the erasure of Native identity.

With the current use of blood quantum, we are heading toward extinction. A way to prevent this is enrollment through lineal descent. With lineal descent as the basis for enrollment, calculating the percentage of Indian blood and identifying people through a flawed system of inadequate records and Base Roll will stop.

2. What is the 1941 Base Roll?

The Chippewa Indians in Minnesota signed a series of treaties with the United States government. The Treaty of January 14, 1889 (The Nelson Act) was enacted by Congress and amended by subsequent acts. The Treaty provided for the cession of land by the Chippewa Indians in exchange for annuities and other benefits. The 1941 Base Roll is a list of all persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 and Acts amendatory thereof.

3. What is the importance of the Base Roll to direct lineage?

In the current time and hereafter, we must define who is Native and who belongs by showing that enrollees are connected to that tribe. The base roll of 1941 is the beginning point that shows who lived in this area, part of the makeup of the reservation when enrollment processes began. Direct lineage would be anyone now and in the future who can trace the descendency back to the original enrollees of 1941.

4. What are the current enrollment requirements for members of the MCT?

Article II-Membership, Section 1. The membership of the Minnesota Chippewa Tribe shall consist of the following:

- (a) Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642) and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe.
- (b) All children of Minnesota Chippewa Indian blood born between April 14, 1941, the date of the annuity roll, and July 3, 1961, the date of approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director.
- (c) All children of at least one quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates or the

Tribal Executive Committee within one year after the date of birth of such children.

Sec. 2. No person born after July 3, 1961, shall be eligible for enrollment if enrolled as a member of another tribe, or if not an American citizen.

5. Who decides who gets enrolled into a reservation?

Under our current structure, the MCT handles enrollment procedures, and the Secretary of the Interior conducts the appeals. However, after the IRA of 1934, various court cases tested tribal membership requirements. From the disputes, American Indian tribal governments have won the right to determine their membership. The courts have consistently recognized that in the absence of express legislation by Congress to the contrary, an Indian tribe has complete authority to determine all questions of its membership. Each Tribe, as a distinct political community, has the power to determine its tribal membership. A tribe may determine who will be considered members by written law, custom, intertribal agreement, or Treaty with the United States.

6. If blood quantum is removed, what would replace it?

Tribal membership would revert to Lineal Descent. A lineal ancestor means an ancestor of the person's parent. They would include a grandparent, great-grandparent, and any further lineal ancestors. A lineal descendant is a direct descendant of a person in a direct bloodline, including children, grandchildren, and great-grandchildren.

7. What is 32-15 Resolution?

On February 24, 2015, the TEC enacted the 32-15 Resolution that would allow "The Minnesota Chippewa Indian blood of persons enrolled on the effective date of this amendment shall be corrected on the membership rolls of the Tribe by including the verified federally recognized Anishinabe/Ojibway/Chippewa blood possessed by the member." The TEC has suggested 32-15 be put to a Secretarial Election for the people to vote on. If there is a valid vote, other Chippewa blood would be added to a person's blood quantum to meet the current 1/4 MCT blood quantum requirement.

8. Why can't I support 32-15 and the removal of blood quantum?

The 32-15 Resolution would allow individuals to add other Chippewa blood to meet the 1/4 blood quantum enrollment criteria of the MCT. If you support the removal of blood quantum, it would be inconsistent to support 32-15 because 32-15 continues the federal concept of the 1/4 blood quantum requirement.

9. What is the Washburn letter?

In 2009, the White Earth band requested guidance on operating under a separate Constitution from the MCT Constitution and how to amend the MCT Constitution to achieve this goal. Their inquiry concluded when Kevin Washburn, the Asst. Secretary of

Indian Affairs responded in a 2015 letter to the White Earth Tribal Council that the MCT Constitution provides the method to amend it when requested by 2/3 of the TEC or when a tribal member petitions for a referendum vote. Washburn said he lacked the authorization to call an election without one of these requests.

10. Why was the Secretary of the Interior put in place?

The Department of the Interior's Office of Indian Affairs (O.I.A.) worked closely with tribes during their constitutional drafting and ratification processes. Non-attorney field agents from the O.I.A. traveled to reservations to promote the adoption of written constitutions. Agents forwarded proposed draft constitutions to the O.I.A.'s Washington D.C. office, where a small team of lawyers ensured the documents were "legally correct. The O.I.A. returned proposed changes to the Indians who had drafted the constitution, who either accepted or resisted the changes.

The Department of the Interior also exerted its influence through a provision, including by many tribes at the O.I.A.'s urging, requiring the Secretary of the Interior to approve any subsequent amendments to the constitution or ordinances passed pursuant to the new constitution. Although Congress ultimately rejected mandatory secretarial approval of every Tribe's constitution or proposed amendment, many tribes nonetheless included such provisions in their constitution, whether in part because of BIA pressure or the security of federal support.

11. If the Secretary of the Interior is removed, what kind of checks and balances will be put in place?

The MCT Constitution Reform group proposes an Amended Revised Constitution and Bylaws of the Minnesota Chippewa Tribe. A Grand Council will replace the Secretary of the Interior oversight in the following six (6) Articles in the MCT Constitution.

1. Article II-Membership (Appeals on Adverse Enrollment Decisions)
2. Article V-Authority of Tribal Executive Committee.
3. Article VI-Authority of Reservation Business Committee (RBC).
4. Article IX-Bonding of Tribal Officials.
5. Article X-Vacancies & Removals.
6. Article XV Manner of Review (Resolutions and Ordinances)

12. What is a Grand Council?

A Grand Council is an oversight governing body consisting of enrolled MCT members. Each of the six Bands will select representatives to coordinate the TEC and RBC oversight process.

This article is posted on fdlconstitution.org with full citations.