

Aboriginal Rights and Self-Governance

(Teacher Background Notes)

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Legal distinctions arise from the relationships among the Crown, the Government of Canada, and Aboriginal peoples.

Aboriginal: This term is used to refer to Indian, Inuit, and Métis peoples of Canada as defined by the Constitution Act (1982).

Registered Indians: This term is used to refer to those persons registered with the federal government through the Department of Indian Affairs and its authority as granted in the Indian Act. The Indian Act in 1876, and its many later revisions, applies to all people the government registers as Indians. The federal government did not register the Inuit or the Métis. As treaties were signed, the government kept adding names to the Indian Register. Where no treaties were signed, a special census was taken to get names for registering. As children were born to registered Indians, their names were also added to the Register.

Treaty or Status Indians: Sometimes people in this registered group are called Status Indians, and where treaties have been signed, the term Treaty Indian is often used. All Status Indians have special rights as defined in the Indian Act.

In the past, government policies were often geared toward encouraging Indians to abandon their traditional culture and to become assimilated into the majority culture. The Indian Act, therefore, provided that Indians could obtain voting rights, could serve in the military, or could choose to live off reserve — but they would no longer be considered Status Indians and would lose the special rights that went along with this. Over time, the Indian Act was amended to change this loss of status through enfranchisement.

Non-Status Indians: Prior to the enactment of Bill C-31 (1985), the Indian Act also provided for the removal of names from the Indian Register and their rights as Status Indians. Removal of status occurred when Indian women married non-Indian men. Other Indian people who are Non-Status Indians include those who were never registered or persons who had been allotted Métis scrip.

Reinstated Status Indians: This term is used to refer to people who have regained their status on the Indian Register as per the Bill C-31 amendment made to the Indian Act effective April 17, 1985. They are required to make further application to specific Bands, usually the Band from which they were disenfranchised, to receive Band membership. In reference to this group of people, the term Status Indian is sufficient.

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Métis: The Métis are the descendants of European fathers and Indian mothers. In present-day Canada, the reverse is also true. These people have evolved into a distinct group with a unique culture. The Métis, as a distinct cultural group, are also unique in a legal sense. The Indian Act states that some people may not be registered as Indians; the Métis are a major group treated as such. Rather than signing treaties with the Métis and setting up reserves for them, the federal government allotted scrip. This occurred only in the Prairie provinces, the Yukon, and parts of the Northwest Territories. Some were regarded as Indian either as whole communities or individuals.

The Indian Act has been the continuing subject of debate and contention. In 2002, the federal government proposed a new Act to replace the Indian Act, called the First Nations Governance Act. Hearings and consultations were held on the subject, but there is widespread disagreement on the new Act among First Nations, partly because the Act was developed primarily by the federal government rather than by the First Nations themselves. Final decisions as to how to amend the existing Indian Act in order to respect the principle of self-governance remains an ongoing issue in Canada.

Sources:

Indian and Northern Affairs Canada; Status - Most Often Asked Questions:
<http://www.ainc-inac.gc.ca/pr/pub/ywtk/index_e.html#wtr>

Indian and Northern Affairs Canada, Communities First, First Nations Governance:
<http://www.fng-gpn.gc.ca/AB_e.html>

CBC News In Depth, The First Nations Governance Act, June 14, 2002:
<<http://www.cbc.ca/news/indepth/firstnations/indianact.html>>