



# **Four Winds & Associates**

**Aboriginal Awareness  
Frequently Asked Questions about Aboriginal People**

**2018**

# Four Winds & Associates

## Aboriginal Awareness

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*Note: Efforts have been made to acknowledge original sources, if cases are identified where this has not been done, please notify Four Winds & Associates. Errors or omissions will be corrected in all future print.*



# Frequently Asked Questions about Aboriginal People

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Each year, Indigenous and Northern Affairs Canada (INAC) receives thousands of questions from the general public about Aboriginal peoples. Here are the answers to some of the most frequently asked questions.

## **Who are the Aboriginal peoples in Canada?**

They are the descendants of the original inhabitants of North America. The Canadian Constitution recognizes three groups of Aboriginal people: Indians (now known as First Nations people), Métis and Inuit. These are three distinct peoples with unique heritages, languages, cultural practices, and spiritual beliefs.

## **What is Aboriginal self-government?**

In August 1995, the Government of Canada adopted an approach to negotiating practical and workable arrangements with Inuit and First Nation people to implement their inherent right to self-government. These arrangements recognize the rights of Inuit and First Nation people to make decisions about matters internal to their communities, integral to their unique cultures, traditions and languages, and connected with their relationship to the land and resources.

Under the federal policy, Inuit and First Nation groups may negotiate self-government arrangements for different things such as government structure, land management, health care, child welfare, education, housing, and economic development. Negotiations are held between Inuit and First Nation groups, the federal government and, in areas affecting its jurisdiction and interests, the relevant provincial or territorial government. Self-government arrangements may take many forms, based on the diverse historical, cultural, political and economic circumstances of Inuit and First Nation groups, regions and communities involved.

## **Who are Indians?**

The term “Indian” collectively describes all the Indigenous people in Canada who are not Inuit or Métis. Indian people are one of three peoples recognized as Aboriginal in the *Constitution Act, 1982*: Indian, Inuit, and Métis. In addition, three categories apply to Indians in Canada: Status Indians, Non-Status Indians, and Treaty Indians. Some people may fit into more than one of those categories.

Some people find the term “Indian” outdated and offensive and prefer to identify themselves as First Nations people. Although the term “First Nation” is now widely used, there is no legal definition for it.



## **Who are Registered or Status Indians?**

A Status or Registered Indian is a person who is listed in the Indian Register. The Indian Register is the official record identifying all Status Indians in Canada. The *Indian Act* sets out the requirements for determining who is a Status Indian.

## **Who is eligible for registration as a Status Indian under the Indian Act?**

The eligibility rules have changed many times since the mid-1800s when the first lists of the members of the various bands who were recognized as Indians were drawn up. Bill C-31 changed the *Indian Act* in 1985, ending various forms of discrimination that had caused many people to lose their status. A person wishing to register for the first time, or to be reinstated after having lost her or his status, should complete an application. For more information about the application process, visit the <http://www.aadnc-aandc.gc.ca> website.

## **Do Status Indians have special immigration benefits to the United States (US)?**

Yes. Status Indians from Canada are permitted to move to the US without going through the normal immigration process. At the border crossing, they must present satisfactory documentation showing that they have at least 50 percent Indian ancestry. The types of documents requested may include any number of the following: a letter from the band office confirming 50 percent Indian ancestry; a Certificate of Indian Status card; a birth certificate; photo identification; and if the person is Haudenosaunee, a Haudenosaunee Iroquois Confederacy identification card.

## **How many Status Indians are there in Canada?**

According to Indian and Northern Affairs Indian Registry System, there were 704,851 Status Indians as of December 31, 2002. Of these, 13,184 were living outside of Canada.

## **Who are Non-Status Indians?**

A Non-Status Indian is an Indian person who is not registered as an Indian under the *Indian Act*. This may be because she or he never applied to be registered. This may also be because she or he, although a descendant of persons who are or were registered or entitled to be registered under the *Indian Act*, is not entitled to be registered under the terms of the *Indian Act*.

## **Who are Inuit?**

Inuit are the Aboriginal people of Arctic Canada. They live primarily in Nunavut, the Northwest Territories, Labrador, and Northern Quebec. Inuit means “the people” in Inuktitut, the Inuit language.

## **Who are Treaty Indians?**

Treaty Indians are Indians who are registered or affiliated with a treaty band and are descendants of Indians who signed treaties with the Crown.



## **What are treaty rights?**

First Nations signed treaties with various British and Canadian governments before and after Confederation in 1867. No two treaties are identical, but they usually provide for certain rights, including reserve lands, annuities (a small sum of money paid each year), and hunting and fishing rights. Several treaties also have certain allowances for Chiefs and Councillors such as salary instead of annual payments, as well as a clothing allowance of a suit of clothing every three years. Treaty rights are collective rights that provide for payments to individual Treaty Indians. The payments depend on the precise terms and conditions of the treaty signed by her or his First Nation.

## **What are claims?**

The federal government recognizes two broad classes of claims: comprehensive and specific claims. Comprehensive claims are based on the recognition that there are continuing Aboriginal rights to lands and natural resources. These kinds of claims arise in those parts of Canada where Aboriginal title has not been dealt with by treaty or other legal means. The claims are called “comprehensive” because of their wide scope. They include such things as land title, fishing and trapping rights, and financial compensation.

Specific claims arise when there is an outstanding historical grievance between a First Nation and the Crown that relates to an unfulfilled obligation of a treaty or another agreement, or a breach of statutory responsibilities by the Crown. Canada is committed to honouring its lawful obligations to First Nations. Canada’s Specific Claims Policy was established to allow First Nations to have their claims appropriately addressed through negotiations by the government without having to go to court. Claims are accepted when it is determined that Canada has breached its lawful obligation to a First Nation.

## **Who are Métis people?**

The word “Métis” is French for “mixed blood.” The Canadian Constitution recognizes Métis people as one of the three groups of Aboriginal people living in Canada. Historically, the term “Métis” applied to the children of French fur traders and Cree women in the Prairies, and of English and Scottish traders and Dene women in the north. Today, the term is used broadly to describe people with mixed First Nation and European ancestry who identify themselves as Métis, distinct from First Nation people, Inuit or non-Aboriginal people. Many Canadians have mixed Aboriginal and non-Aboriginal ancestry, but not all identify themselves as Métis. Note that Métis organizations in Canada have differing criteria about who qualifies as a Métis person.

## **What is a First Nation?**

Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the terms “First Nations people” refers to the Indian people in Canada, both Status and Non-Status. Some Indian people also use the term First Nation to replace the word “band” in the name of their community.

## **What is an Indian band?**



A band is a group of First Nation people for whom lands have been set apart and for whom money is held in trust by the Crown. A band can also be a group or band of Indians that the Governor in Council has declared to be a band under the *Indian Act*. Each band has its own governing band council, usually consisting of one or more Chiefs and several Councillors who are either elected or chosen through traditional custom. The members of a band generally share common values, traditions and practices rooted in their ancestral heritage. Today, some bands prefer to be known as First Nations.

### **How many bands are there?**

There are currently 614 bands.

### **Who can call the reserve their home?**

A reserve is land set apart and designated as a reserve for the use and occupancy of an Indian group or band. Some bands now prefer the term “First Nation community,” and no longer use the term “reserve.” Individual First Nation members do not have the right to individually possess reserve land except by applying the *Indian Act*. First Nation councils may enact residency by-laws that regulate on-reserve residency, but these by-laws cannot infringe on individual residency rights arising from the *Indian Act*.

### **Who are members of a First Nation?**

Most Status Indians are members of a First Nation. However, it is important to note that not all Status Indians are members of a First Nation. If a Status Indian is a descendant of members of one of the 253 First Nations that control their membership, that person has to apply directly to her or his First Nation for membership.

### **Do Status Indians pay taxes?**

In general, Aboriginal people in Canada are required to pay taxes on the same basis as other people in Canada, except where the limited exemption under Section 87 of the *Indian Act* applies. Section 87 says that the “personal property of an Indian or a band situated on a reserve” is tax exempt. Inuit and Métis people are not eligible for this exemption and generally do not live on reserves.

The exemption in Section 87 of the *Indian Act* has existed since before Confederation. It reflects the unique constitutional and historic place of Aboriginal people in Canada. The courts have held that the exemption is intended to preserve the entitlements of Indian people to their reserve lands, and to ensure that the use of their property on their reserve lands is not eroded by taxes. Employment income earned by a Status Indian working on a reserve is considered tax exempt. The courts have stated that factors such as the location of the duties and residence of the employee and employer must be considered to determine whether the income will be considered tax exempt.



The Goods and Services Tax (GST) or Harmonized Sales Tax (HST) generally do not apply to purchases by Status Indians if the purchase is made on a reserve or is delivered to a reserve by the vendor or the vendor's agent.

For answers to particular questions, please refer to the relevant statute or appropriate regulations, or contact any Canada Customs and Revenue Agency office for publications and more information.



## TERMINOLOGY\*

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The following terminology is intended to provide a general understanding of some terms generally used by Indian and Northern Affairs Canada (INAC). The list focuses on some of the important aspects of the relationship between INAC and the people it serves - First Nations, Inuit and Northerners.

**Aboriginal peoples:** The descendants of the original inhabitants of North America. The Canadian Constitution recognizes three groups of Aboriginal people - Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

**Aboriginal rights:** Rights that some Aboriginal peoples of Canada hold as a result of their ancestors' long-standing use and occupancy of the land. The rights of certain Aboriginal peoples to hunt, trap and fish on ancestral lands are examples of Aboriginal rights. Aboriginal rights vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures.

**Aboriginal self-government:** Governments designed, established and administered by Aboriginal peoples under the Canadian Constitution through a process of negotiation with Canada and, where applicable, the provincial government.

**Aboriginal title:** A legal term that recognizes an Aboriginal interest in the land. It is based on the long-standing use and occupancy of the land by today's Aboriginal peoples as the descendants of the original inhabitants of Canada.

**Band:** A body of Indians for whose collective use and benefit lands have been set apart or money is held by the Crown or declared to be a band for the purposes of the Indian Act. Each band has its own governing band council, usually consisting of one chief and several councillors. Community members choose the chief and councillors by election, or sometimes through custom. The members of a band generally share common values, traditions and practices rooted in their ancestral heritage. Today, many bands prefer to be known as First Nations.

**Bill C-31:** The pre-legislation name of the 1985 Act to Amend the Indian Act. This act eliminated certain discriminatory provisions of the Indian Act, including the section that resulted in Indian women losing their Indian status when they married non-Status men. Bill C-31 enabled people affected by the discriminatory provisions of the old Indian Act to apply to have their Indian status and membership restored.

**Custom:** A traditional Aboriginal practice. For example, First Nations peoples sometimes marry or adopt children according to custom, rather than under Canadian family law. Band councils chosen "by custom" are elected or selected by traditional means, rather than by the election rules contained in the Indian Act.





**First Nation:** A term that came into common usage in the 1970s to replace the word “Indian,” which some people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term “First Nations peoples” refers to the Indian peoples in Canada, both Status and non-Status. Some Indian peoples have also adopted the term “First Nation” to replace the word “band” in the name of their community.

**Indian:** Indian peoples are one of three groups of people recognized as Aboriginal in the Constitution Act, 1982. It specifies that Aboriginal people in Canada consist of Indians, Inuit and Métis. Indians in Canada are often referred to as: Status Indians, non-Status Indians and Treaty Indians.

**Status Indian:** A person who is registered as an Indian under the Indian Act. The act sets out the requirements for determining who is an Indian for the purposes of the Indian Act.

**Non-Status Indian:** An Indian person who is not registered as an Indian under the Indian Act.

**Treaty Indian:** A Status Indian who belongs to a First Nation that signed a treaty with the Crown.

**Indian Act:** Canadian federal legislation, first passed in 1876, and amended several times since. It sets out certain federal government obligations and regulates the management of Indian reserve lands, Indian moneys and other resources. Among its many provisions, the Indian Act currently requires the Minister of Indian Affairs and Northern Development to manage certain moneys belonging to First Nations and Indian lands and to approve or disallow First Nations by-laws. In 2001, the national initiative Communities First: First Nations Governance was launched, to consult with First Nations peoples and leadership on the issues of governance under the Indian Act. The process will likely take two to three years before any new law is put in place.

**Indian status:** An individual's legal status as an Indian, as defined by the Indian Act.

**Innu:** Naskapi and Montagnais First Nations (Indian) peoples who live in Northern Quebec and Labrador.

**Inuvialuit:** Inuit who live in the Western Arctic.

**Inuit:** An Aboriginal people in Northern Canada, who live in Nunavut, Northwest Territories, Northern Quebec and Northern Labrador. The word means “people” in the Inuit language — Inuktitut. The singular of Inuit is Inuk.

**land claims:** In 1973, the federal government recognized two broad classes of claims — comprehensive and specific. Comprehensive claims are based on the assessment that there may be continuing Aboriginal rights to lands and natural resources. These kinds of claims come up in those parts of Canada where Aboriginal title has not previously been dealt with by treaty and other legal means. The claims are called “comprehensive” because of their wide scope. They include such things as land title, fishing and trapping rights and financial compensation. Specific claims deal with specific grievances that First Nations may have regarding the fulfilment of treaties. Specific claims also cover grievances relating to the administration of First Nations lands and assets under the Indian Act.



**Métis:** People of mixed First Nation and European ancestry who identify themselves as Métis, as distinct from First Nations people, Inuit or non-Aboriginal people. The Métis have a unique culture that draws on their diverse ancestral origins, such as Scottish, French, Ojibway and Cree.

**The North:** Land in Canada located north of the 60th parallel. INAC's responsibilities for land and resources in the Canadian North relate only to Nunavut, Northwest Territories and Yukon.

**Nunavut:** The territory created in the Canadian North on April 1, 1999 when the former Northwest Territories was divided in two. Nunavut means “our land” in Inuktitut. Inuit, whose ancestors inhabited these lands for thousands of years, make up 85 percent of the population of Nunavut. The territory has its own public government.

**Off-reserve:** A term used to describe people, services or objects that are not part of a reserve, but relate to First Nations.

**Oral history:** Evidence taken from the spoken words of people who have knowledge of past events and traditions. This oral history is often recorded on tape and then put in writing. It is used in history books and to document claims.

**Reserve:** Tract of land, the legal title to which is held by the Crown, set apart for the use and benefit of an Indian band.

**Surrender:** A formal agreement by which a band consents to give up part or all of its rights and interests in a reserve. Reserve lands can be surrendered for sale or for lease, on certain conditions.

**Tribal council:** A regional group of First Nations members that delivers common services to a group of First Nations.

\*These terms are listed in *Words First: An Evolving Terminology Relating to Aboriginal Peoples in Canada*, compiled by the Department's Communications Resources Directorate.

This general information is provided as a brief overview only. The provisions of the Indian Act, its regulations, other federal statutes and their interpretation by the courts take precedence over the content of this information sheet.

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# First Nations

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First Nations is the name used by Canada's Aboriginal or indigenous peoples, which refers to INDIAN peoples and may sometimes include the MÉTIS and INUIT.

Terminology referring to Aboriginal or NATIVE PEOPLE is complex and is not always what Aboriginal persons would call themselves. The term "Indian" is defined as either a member of any of the Aboriginal peoples of the Western Hemisphere (but excluding the Inuit and the Métis), or in the legal sense of the INDIAN ACT. The term "Inuit," replacing the term "ESKIMO" during the 1970s, identifies the people of northern Canada, Alaska, Greenland and eastern Siberia. The Métis are Aboriginal people of mixed ancestry, Indian and French, English or Scottish background. Some Métis regard themselves as the only true Aboriginal or "original" peoples, since they alone emerged as a new group in North America.

Native people worldwide often prefer the broader term "aboriginal." This avoids the distinction between "natives" and "non-natives," important from the point of view of the Métis. The term Aboriginal is also used in section 35 of the Constitution Act of 1982, and refers to the Indian, Inuit and Métis peoples of Canada.

Aboriginal people may also consider themselves minority indigenous peoples and, in Canada until the 1980s, as peoples of the "Fourth World." The Dene Declaration of 1975 included the phrase "We the Dene are part of the Fourth World". Among the Fourth World peoples, for example, are the Aborigines of Australia, the Maori of New Zealand, the Ainu of Japan, the Saami of Scandinavian countries and the Indian peoples of Central and South America. Fourth World indigenous minorities define themselves as powerless, exploited and often colonized populations living within First, Second and Third World countries; that is, the industrialized, capitalist, democratic, socialist and communist, developing and emerging nation-states of the world.

In 1980-81, the Joint Council of the NATIONAL INDIAN BROTHERHOOD and the ASSEMBLY OF FIRST NATIONS used the term "First Nations" for the first time in their Declaration of the First Nations. First Nations often refers only to Indian peoples. Symbolically, the term attempts to elevate Aboriginal peoples to a status of "first among equals" in their quest for self-determination and SELF-GOVERNMENT alongside the English and French founding nations in Canada. The term is not used by Aboriginal peoples outside Canada.

Author RENÉ R. GADACZ



# Indian

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Indian, the term used by Europeans to identify aboriginal people of South, Central, and North America, is believed to have originated with Christopher Columbus, who thought he had reached Asia when, in fact, he had arrived in the Caribbean. The term persisted and has been used indiscriminately to refer to all aboriginal peoples on these continents except the INUIT of the Canadian Arctic and the Greenland and Alaska Eskimo. Indians are identified along with Inuit and MÉTIS as the aboriginal peoples of Canada in section 35(2) of the Constitution Act of 1982.

Many Indians in Canada self-identify using traditional terms from their own language. For example, Siksika replaces BLACKFOOT, Anishnabek replaces OJIBWA, Chippewa, Salteaux, and INNU replaces NASKAPI. To some people "Indian" is somewhat pejorative and as a result many Indians are more comfortable with the following terms - native people, native, aboriginal people or FIRST NATIONS. There is no single term used to identify the first people of Canada which enjoys widespread acceptance.

In Canada, the legal definition of an Indian is contained in the INDIAN ACT, legislation which first passed in 1876, but which stemmed from similar pre-Confederation laws. People legally defined as Indians are known as status Indians. Status Indians are subject to laws contained in the Indian Act and only then can "own" land on a reserve. Non-status Indians are of Indian ancestry but, through intermarriage with whites or by abandoning their status rights, have lost their legal status while retaining their Indian identity.

Among status Indians there are 2 groups: treaty Indians and registered Indians outside treaty areas. Treaty Indians are people who "took treaty." A treaty is an agreement between the Crown and a specific group of Indians who are held to have surrendered their land rights for specified benefits. Registered Indians are people who reside in areas of Canada such as the NWT, BC, the YT and Nunavut, where treaties were never made, or people of Indian status in treaty areas who, for a variety of reasons, have not taken treaty. With the exception of specific promises contained in treaties, treaty Indians and registered Indians outside treaty receive identical benefits and privileges from the federal government. Status Indians and non-status Indians reside across Canada in every province and territory. In 1996 approximately 54% of the status Indian population resided on reserves.

In 1985 the federal government introduced Bill C-31 which enabled Indian women who lost their legal status through marriage to men who did not possess Indian status to regain their status. Bill C-31 also enabled all first-generation children of these marriages and any Indian who had enfranchised to regain their legal status as Indians. There were over 600 000 status Indians in 1996.

Author HARVEY MCCUE





# Metis



*Source: Metis National Council*

## **National Definition of Métis**

**Métis means a person who self-identifies as Métis, is of historic Métis Nation Ancestry, is distinct from other Aboriginal Peoples and is accepted by the Métis Nation.**

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## Who are the Métis?

Prior to Canada's crystallization as a nation in west central North America, the Métis people emerged out of the relations of Indian women and European men. While the initial offspring of these Indian and European unions were individuals who possessed mixed ancestry, the gradual establishment of distinct Métis communities, outside of Indian and European cultures and settlements, as well as, the subsequent intermarriages between Métis women and Métis men, resulted in the genesis of a new Aboriginal people - the Métis.

Distinct Métis communities emerged, as an outgrowth of the fur trade, along some parts of the freighting waterways and Great Lakes of Ontario, throughout the Northwest and as far north as the McKenzie river. The Métis people and their communities were connected through the highly mobile fur trade network, seasonal rounds, extensive kinship connections and a collective identity (i.e. common culture, language, way of life, etc.).

The Métis, as a distinct Aboriginal people, fundamentally shaped Canada's expansion westward through their on-going assertion of their collective identity and rights. From the Red River Resistance to the Battle of Batoche to other notable collective actions undertaken throughout the Métis Nation Homeland, the history and identity of the Métis people will forever be a part of Canada's existence.

Today, the Métis people are alive and well within Canada; however, they continue to push for the respectful recognition and reconciliation for their Aboriginal rights and existence within the Canadian federation.

## **The Métis Nation**

The Métis people constitute a distinct Aboriginal nation largely based in western Canada. The Métis Nation grounds its assertion of Aboriginal nationhood on well-recognized international principles. It has a shared history, a common culture (song, dance, dress, national symbols, etc.), a unique language (Michif with various regional dialects), extensive kinship connections from Ontario westward, a distinct way of life, a traditional territory and a collective consciousness.



## **The Métis Nation's Homeland**

The Métis Nation's Homeland is based on the traditional territory upon which the Métis people have historically lived and relied upon within west central North America. This territory roughly includes the 3 Prairie provinces (Manitoba, Alberta and Saskatchewan), parts of Ontario, British Columbia and the Northwest Territories, as well as, parts of the northern United States (i.e. North Dakota, Montana).

## **The Métis Population in Canada**

In September 2002, the Métis people adopted a national definition of Métis for citizenship within the Métis Nation. Based on this definition, it is estimated that there are 350,000 to 400,000 Métis Nation citizens in Canada. The Métis Nation is now in the process of uniformly implementing this definition across the Homeland, as well as, developing a consistent acceptance process.

Although the Canadian Census has never accurately reflected the Métis Nation's population, in 2001, the Métis population from Ontario westward was 262,785. Based on these statistics, the Métis now represent 26% of the total Aboriginal population in Canada. The 2001 Census further reports that one third of the Métis population is under the age of fourteen and two thirds of the Métis population lives in urban centers.



# Non-Status People

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A Non-Status Indian is an Indian person who is not registered as an Indian under the *Indian Act*. This may be because she or he never applied to be registered. This may also be because she or he, although a descendant of persons who are or were registered or entitled to be registered under the *Indian Act*, is not entitled to be registered under the terms of the *Indian Act*.

Enfranchisement - this word has two principal meanings: "setting free" and "gaining the right to vote." and was the most common of the legal processes by which native people lost their Indian Status under the Indian Act:

- Some gave up their status by choice but were able to take a share of band reserve lands and funds
- Native women lost status automatically upon marriage to a non-native men
- Until 1960, Status Indians did not have the right to vote. Only if they were "set free" from being Indians (and became Non-status Indians) were they allowed to vote.
- A 1933 amendment to the Indian Act ruled that Indians who joined the clergy or the armed forces lost their status as Indians.

In 1985, the Canadian government cancelled the enfranchisement policy and allowed Indians who had lost their status to have it restored.



# Inuit

Source: Indian & Northern Affairs

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For many centuries, outsiders called Inuit “Eskimos.” Inuit no longer find this term acceptable. They prefer the name by which they have always known themselves – Inuit, which means “the people” in their own language, Inuktitut.

Inuit inhabit vast areas of Nunavut, the Northwest Territories, the coast of northern Labrador and about 25 percent of Northern Quebec. Traditionally, they have lived above the tree line in the area bordered by Alaska in the west, the Labrador coast in the east, the southern tip of Hudson Bay in the south and the High Arctic Islands in the north.

About 55,700 Inuit live in 53 communities across the North. The Inuit population has grown rapidly over the past few decades. According to Statistics Canada, if present trends continue, there will be about 84,600 Inuit in the North by 2016.

Inuit are one of the three Aboriginal peoples in Canada, as defined by the Canadian Constitution. The other two Aboriginal peoples are First Nations and Métis people.

## **A culture rooted in the land**

Inuit origins in Canada date back at least 4,000 years. Their culture is deeply rooted in the vast land they inhabit. For thousands of years, Inuit closely observed the climate, landscapes, seascapes and ecological systems of their vast homeland. Through this intimate knowledge of the land and its life forms, Inuit developed skills and technology uniquely adapted to one of the harshest and most demanding environments on earth.

Inuit treated human beings, the land, animals and plants with equal respect. Today, they continue to try to maintain this harmonious relationship. They try to use the resources of land and sea wisely to preserve them for future generations.

Strict hunting traditions and rules help maintain this balance.

Inuit in Labrador, for example, forbid the killing of any animal in its mating season.

Before the creation of permanent settlements in the 1940s and '50s, Inuit moved with the seasons. They established summer and winter camps to which they returned each year. These seasonal camps enabled Inuit to use the resources of land and sea at the times of the year they were most abundant.

Traditional knowledge about Inuit history, and the land, plants and wildlife, has been passed down through the generations. The family is the centre of Inuit culture, and co-operation and sharing are





basic principles in Inuit society. Inuit share the food they have hunted, and everyone does his or her part to help those in need.

Inuit culture has been exposed to many outside influences over the past century. Nevertheless, Inuit have managed to hold on to their values and culture. Inuktitut is still spoken in all Inuit communities. It is also the principal language used in radio and television productions originating in the North, and it is in the school curriculum.

Many Inuit communities continue to practise traditional Inuit dance and song, including the drum dance and throat singing. Oral tradition and storytelling are still very much alive in Inuit culture, with tales passed down over the centuries. These stories are often about powerful spirits that inhabit the land and sea. They have been a continuing source of inspiration for Inuit artists whose prints and sculptures are prized by collectors and art galleries around the world.

### **The contact period**

The first regular contact between Inuit and Europeans began in the mid-1700s when European whalers arrived in the Arctic. By the late 1800s the whaling industry had started to decline and it was replaced by the fur trade. In the decades that followed, an economic relationship based on fur trading developed between Inuit and Europeans.

Apart from encounters with fur traders and some explorers, Inuit had very little contact with the rest of Canada until the 1940s. By then, the Canadian government had begun to establish its presence in the Arctic.

The government encouraged Inuit to live in permanent settlements, instead of their seasonal camps. These settlements were soon supported by Royal Canadian Mounted Police (RCMP) detachments, health and social services, and a housing program.

In the 1960s, Inuit began to form marketing co-operatives to help sell local products, including art prints and carvings that were to become world-famous. By the 1970s, the new centralized settlements had become a permanent feature of Inuit life, with new schools and improved medical facilities. Regular air travel and telecommunications helped link the settlements to each other and the rest of the world.

Inuit communities are governed by elected municipal councils. Supporting these councils are committees that deal with hunting, fishing and trapping, and health and education. Inuit schools today offer a modern educational system that incorporates cultural teachings, including Inuktitut language teaching.

### **The Inuit economy today**

Today, Inuit work in all sectors of the economy, including mining, oil and gas, construction, government and administrative services. Many Inuit still supplement their income through hunting.



Tourism is a growing industry in the Inuit economy. Inuit guides take tourists on dogsled and hunting expeditions, and work with outfitting organizations. About 30 percent of Inuit derive part-time income from their sculpture, carving and print making.

The settlement of land claims in the Northwest Territories and Northern Quebec has given Inuit money and a framework to develop and expand economic development activities. New emerging businesses include real estate, tourism, airlines and offshore fisheries.

### **Land claims and Aboriginal rights**

Since the mid-1970s, Inuit have negotiated several comprehensive land claims with the federal government, the Government of the Northwest Territories and the Province of Quebec. These include the James Bay and Northern Quebec Agreement, signed in 1975, the Inuvialuit Final Agreement, signed in 1984 with the Inuit located in the Western Arctic, and the Nunavut Land Claims Agreement, reached in 1993. Each of these agreements meets the needs of the specific region. In all cases, the settlement package includes financial compensation, land rights, hunting rights and economic development opportunities. The Nunavut Land Claims Agreement also committed the federal government to the division of the Northwest Territories and the creation of the territory of Nunavut on April 1, 1999.

The Labrador Inuit Association is currently negotiating its land claim with Canada and the Province of Newfoundland and Labrador. Makivik Corporation, which represents Inuit of Northern Quebec, is negotiating its offshore claim with Canada and the Government of the Northwest Territories.

### **Inuit national and international organizations**

Until the 1970s, Inuit had no regional or national organizations to represent them at the political level. However, in the early 1970s, a group of new leaders emerged. They founded the Inuit Tapiriit Kanatami (ITK) in 1971. The ITK leaders lobbied for changes to policies affecting Inuit and their role in Canada. As a result of their efforts, the federal government provided long-term funding to help them establish national and regional Inuit organizations. Using this funding, Inuit organizations focused on issues like self-government, constitutional recognition of Aboriginal rights, environmental issues and land claims.

The Inuit Broadcasting Corporation is the national organization in charge of Inuit broadcast services. Through Television Northern Canada, it broadcasts Inuit television programs across Nunavut, the NWT, Northern Quebec and Labrador, as well as the Yukon Territory.

In addition to national and regional Inuit organizations, Inuit in Canada work to support Inuit cultural groups that cross international boundaries. In 1977 the Inuit Circumpolar Conference (ICC) was created to represent the interests of Inuit in Canada, Greenland, Chukotka (Russia) and Alaska. The ICC works to strengthen unity between Inuit in these regions and promotes sustainable development and Inuit rights and interests at the international level.



The Conference also gives Inuit in Canada the opportunity to participate in economic development projects and joint ventures across the circumpolar region, and with Indigenous peoples in other parts of the world.

## DEFINITIONS

**Aboriginal rights:** Rights that some Aboriginal peoples of Canada hold as a result of their ancestors' longstanding use and occupancy of the land. The rights of certain Aboriginal peoples to hunt, trap and fish on ancestral lands are examples of Aboriginal rights. Aboriginal rights will vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures.

**Inuvialuit:** Inuit who live in the western Arctic.

**Land claims:** In 1973, the federal government recognized two broad classes of claims – comprehensive and specific. *Comprehensive claims* are based on the recognition that there are continuing Aboriginal rights to lands and natural resources. These kinds of claims come up in those parts of Canada where Aboriginal title has not previously been dealt with by treaty and other legal means. The claims are called “comprehensive” because of their wide scope. They include such things as land title, fishing and trapping rights and financial compensation. *Specific claims* deal with specific grievances that First Nations may have regarding the fulfilment of treaties. Specific claims also cover grievances relating to the administration of First Nations lands and assets under the *Indian Act*.

**Nunavut:** The territory that was created in the Canadian North on April 1, 1999 when the former Northwest Territories was divided in two. Nunavut means “our land” in Inuktitut. Inuit, whose ancestors inhabited these lands for thousands of years, make up 85 percent of the population of Nunavut. The territory has its own public government.

### Publications and Public Enquiries

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# Aboriginal Peoples and their Heritage.

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**When Europeans first came to North America, they learned a lot of things from Aboriginal peoples. And a lot of that knowledge is still being shared today.**

First Nations and Inuit have lived in North America for thousands of years. Their ancestors had to be very resourceful to thrive in this territory with its varied landscape and its often harsh climate.

In the Arctic, where living conditions are severe and there are no trees, Inuit's ancestors used snow's insulating qualities to invent the igloo. They also perfected the kayak, a boat adapted to icy waters. For instance, if a kayak capsizes, the kayaker can quickly put the boat upright without getting out. Also, kayakers can easily thread their way through ice floes.

Eastern North America is covered with dense forest and a great many waterways. By inventing bark canoes, Aboriginal peoples of this region used these waterways to penetrate the forests!

Aboriginal peoples living in the Prairies were nomads who hunted buffalo, a migratory animal. They perfected a lightweight, solid dwelling that was easy to move from place to place: the teepee. This dwelling is made of poles arranged in a cone shape and covered with animal skins.

On the Pacific Coast, Aboriginal people built dams to catch fish. They lived in permanent villages and developed a tradition of sculpture.

## **Centuries of heritage**

Over the centuries, Aboriginal peoples have acquired knowledge, invented technology and developed a way of life adapted to their specific environment. They have depended on nature for their survival and have had a special relationship with it. For them, the Earth is sacred, something to be respected. In fact, they consider themselves a part of the Earth.

Aboriginal peoples transmitted a great deal of very useful knowledge to the first Europeans who arrived in North America (sometime around 1500).

For example, Aboriginal peoples introduced Europeans to new plants. Some were used for food and others for medicine. Today, many of the items we find in our medicine cabinets come from traditional Aboriginal healing methods and remedies.

It would have taken Europeans much longer to establish themselves in North America without the contribution of Aboriginal peoples. And today, life would be very different!



# Native People - Government Policy

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For the most part, government policy towards native people has meant INDIAN policy. The INUIT were barely touched by government until the 1940s, while special responsibility for MÉTIS and non-status Indians has been largely denied. The early history of Indian policy in Canada is characterized by the presence of both France and Britain as colonizing powers. Post-Confederation policy was largely based on the Upper Canadian model, although with significant regional differences.

## Trade, Military Alliances and Aboriginal Rights

The very scientific and social revolution that made European expansion overseas possible made it more difficult for Europeans to coexist with the pre-industrial peoples they encountered throughout the world. The European technological society sought to conquer nature and shed traditional values - in sharp contrast with native cultures, which were based on extremely close relationships with nature and on strong reliance on tradition. When the 2 societies had to share the same territory, the differing outlooks were irreconcilable.

European states attempted to solve the problem by assuming dominance. They claimed by right of "discovery" the less populated lands around the world and declared indigenous people living there to be subject to the colonizing power. However, the material and practical dependence of the Europeans who first came to North America upon the more numerous and better-adapted native people led to Indian-white trading and military alliances. During the period of alliances, which lasted until the early 19th century, Indian policy was diplomatic and military in orientation because native people were considered in some sense to constitute sovereign and independent nations.

French contacts with native peoples involved trade, war and missionary work. Official French policy had 2 objectives: to evangelize the native people and to assimilate them into French society. Although a few native groups settled on church-controlled agricultural reserves near the French, the vast majority continued to live apart as independent nations. By the 1690s, the failure of large-scale assimilation of natives was accepted even by missionaries and government officials. Fur traders had always discouraged it as being bad for trade.

Since the French settlements did not expand extensively into native territory and displace the inhabitants, the French never recognized formally that native peoples had rights in the land and no land cession treaties were ever made. The more populous English colonies, however, expanded towards the West. Although some of them had made treaties with the Indians whom they displaced, they posed a constant threat to neighbouring tribes.



Conflicting alliances between native groups and Europeans dated from the early 17th century when Samuel de CHAMPLAIN built an alliance with the HURON and hence alienated the Huron's enemies, the IROQUOIS. Throughout the next 2 centuries the French and British each attracted native allies in their competition for trade, land and empire in North America.

With the collapse of French imperial power after the SEVEN YEARS' WAR (1756-63), France's erstwhile native allies faced the threat of unobstructed British expansion. Native resistance was expressed in a series of risings associated with the OTTAWA chief, PONTIAC.

The Imperial authorities responded by issuing in the ROYAL PROCLAMATION OF 1763 an assurance to the natives that they would not be disturbed in their territories beyond the settled colonies. Native land could only be surrendered to the Crown and at a general assembly of native peoples. This principle formed the basis of the later treaty system.

Within 20 years, the successful revolt of Britain's Thirteen Colonies revived alliances as Indian nations vainly strove to protect their territory from American expansion. Britain willingly used their assistance in its own diplomatic and military endeavours to protect its Canadian conquests. Indian support proved valuable to the British in the WAR OF 1812.

This twilight of the alliance period overlapped with the beginning of the second stage of Indian policy extending through Confederation to the mid-20th century. Its characteristic features were the imposition by European governments of treaties, reserves and paternalistic social policies, all intended to promote Indian assimilation to the general population. As land was needed for settlement in Upper Canada, treaties were made to "extinguish" ABORIGINAL RIGHTS to the soil according to the principles of the Royal Proclamation of 1763. By contrast, land-cession treaties were not made in the older colonies of the Maritimes or in Québec even when new areas were opened to settlement.

## **European Settlement and Native Status**

As the non-Indian population increased, Indians ceased to be treated as independent nations and were settled on reserves. There, Indian "bands" were organized under the supervision of Indian Department superintendents or agents. No longer military diplomats, but local managers of reserve land and BAND affairs, they encouraged Indians to farm, become self-supporting by non-traditional means and generally live like the surrounding population. Schools and churches were usually provided. These activities were organized by a civilian Indian Department, which replaced the military authority in 1830.

The establishment of common property in reserves and band funds, special legislation and treaty rights led to the development of the legal concept of Indian status. Some persons of Indian ancestry - the Métis and non-status Indians - never qualified for Indian status or lost it in a variety of ways. The ultimate goal of Indian policy in most of the post-Confederation period was to eliminate all Indian status by assimilating Indians and encouraging them to apply for ENFRANCHISEMENT. This legal process has never been popular with Indians and has failed in its overall objective.



## Post-Confederation Treaties and Their Modern Counterparts

At Confederation, responsibility for Indians was allocated to the central government in Ottawa. This did not affect the general direction of Indian policy, which remained largely unchanged until at least the mid-20th century. As the Dominion prepared for the settlement and development of new territories, the treaty system continued to be used as an expansionist arm of Indian policy.

The later 19th century and early 20th century treaties, like their earlier counterparts, purported to extinguish aboriginal right to a prescribed territory. They provided in return land reserves and a modest contribution of cash, goods and services to the Natives subject to the treaty. Treaty Indians today claim that the terms of the treaties were meant to be interpreted liberally. For example, provision for a school is seen as a promise of education from primary through to post-secondary.

In addition to disagreements over interpretation, the treaties have given rise to specific claims alleging failure to fulfil treaty terms or claiming maladministration of treaty of Indian Act provisions, particularly with respect to the surrender and sale of reserve land. Of a total of 754 claims made to the end of the fiscal year 1995-96, 354 are still in process of review or negotiation. It is likely that additional new claims will continue to be presented.

With some few exceptions, people of mixed blood, or Métis, and others who did not acquire or retain Indian status for one reason or another were not included in the treaties or in the bands created by the Indian Act. The Métis were, however, given grants of land or scrip in Manitoba under the Manitoba Act of 1870 to extinguish their aboriginal title to the soil. This practice was later extended to other parts of western and northern Canada in a process outside of the treaty-making but, from 1899 onwards, often parallel to it.

Where the land was not yet wanted for settlement or development, Native People were left without treaties. This practice has given rise in more recent times to large comprehensive land claims in northern Canada. The Alaska Native Claims Settlement Act of 1971 became an American forerunner for the modern comprehensive land claims settlements in Canada. It provided many more land rights than the earlier treaties and far more generous cash and resource settlements. The first of these large comprehensive agreements was the JAMES BAY AND NORTHERN QUÉBEC AGREEMENT of 1975 in Québec. It was precipitated by a plan to build hydroelectric dams in northern Québec. This settlement has been followed by others in the years since which are either completed or in process of negotiation. They cover territory in the Northwest Territories and Yukon. Some are in non-treaty area within the provinces. Comprehensive land claims are being researched in the Maritimes and there are others in Labrador, Québec and Ontario.

While the Dominion government made treaties in the 19th century on the prairies where it controlled the land, it could not do so unilaterally in BC, where Crown lands were under provincial control. For the most part in BC, aboriginal right has awaited recognition and settlement until recent years. In 1992 a tripartite treaty commission began work toward the negotiation of treaties in BC. In 1996 a historic agreement in principle was reached between the Nisga'a Tribal Council and representatives of the BC and federal governments laying the



foundation for the first modern-day treaty in BC. The agreement was signed and provincial legislation passed in 1999 ratifying the treaty with the Nisga'a people. The treaty has yet to be passed as federal legislation and will become the first treaty in British Columbia since 1899.

## **The Indian Act and Indian Administration**

The administrative arm of Indian policy also continued with little change after Confederation. The Indian Department became a federal office in 1868 and has continued under various titles until the present day. Indian legislation was consolidated into one INDIAN ACT in 1876. The diversity among Indian people and the regions of Canada, combined with the differences in historical experience, however, led to variations in regional administration. In the more settled regions, Indian administration was linked by the common goals of interim protection and ultimate assimilation. In the remoter regions, prudence and economy dictated neglect.

A 1939 court decision ruled that Inuit were a federal responsibility, but they have not been subject to the Indian Act. Separate programs of economic development and services were applied to them, especially since the 1950s as development increasingly invaded their homeland and disrupted their way of life. More recently these northern people have participated in modern comprehensive land claims, specifically the Inuvialuit Agreement in the western Arctic and Nunavut in the east, which give them political powers as well as land and economic benefits.

Prior to WWII, Indian policy was made by government without consulting Indians and with little public attention. By the 1940s this began to change. Indians became politically more active and less willing to accept their marginal position in society or to have others make decisions for them. Public opinion became more informed and disturbed about Indian poverty and marginality. Policy reflected this changing situation through new and expanded programs. The government sought to promote economic development and to provide equality of services to Indians, particularly through agreements with the provinces.

The Indian Act was revised in 1951, but the quickened pace of change soon required a further revision. Consultation meetings (1968-69) with Indian representatives created the expectation of participation in the proposed revision. Indians made it clear that they wanted their special rights honoured and their land and treaty claims settled before Indian Act revision. Indian expectations were dashed with the release of the government's policy proposals (White Paper) in June 1969, which seemed to ignore all of their stated priorities.

The proposals suggested a phased abolition of the Indian Dept and of the Indian Act within 5 years, eliminating Indian status. The importance of Indian treaties and aboriginal claims was downplayed. The Indian response to the proposed government policy was hostile and sustained.

A comprehensive network of Indian political organizations was formed and made counterproposals of their own on a wide range of claims. The government, facing an awakened public conscience, retreated from its proposals and then provided funding to support Indian efforts to clarify their demands. Indian people nevertheless remain suspicious that the White Paper policies remain the goals of government even yet.





## **The Indian Initiative Toward Renewed Self-Sufficiency to the Present**

Since the White Paper, Indian political activity has greatly increased awareness of Indian problems and goals among the general public and the Indian population itself. Most Indian political organizations with whom governments deal obtain their support and validity from a strong community base. An experienced Indian leadership has emerged capable of meeting the government's stated willingness to negotiate issues.

At the insistence of native people, a section was inserted in the Constitution Act of 1982 which affirms existing aboriginal and treaty rights and which includes within the definition of "aboriginal peoples of Canada" the Indians, Inuit and Métis. However, the meaning of the section remains largely undefined and is a matter of controversy amongst first ministers and native leaders.

Amendments to the Indian Act in 1987 abolished the concept of enfranchisement, a key policy goal for over a century and a half. They also restored Indian status and band membership rights to those who had lost them because of inheritance exclusively through male descent or through enfranchisement. These amendments had the additional effect of allowing bands to control their own membership based on their own membership rules. Self-administration has had a place in Indian affairs, particularly since the 1960s when aspects of band governance, including the administration of some federally funded programs, began to be taken over by FIRST NATIONS. Dissatisfaction remained, however, with these delegated powers.

In response to this dissatisfaction the House of Commons Special Committee on Indian Self-Government (the Penner Committee) released a report in 1983 recommending that Indian communities be given the opportunity to work out new forms of First Nations government to replace the present limited structures under the Indian Act. Recognizing that Indian nations were self-governing before the period of dependency and paternalism, the report recommended the establishment of Indian governments as another order of government separate from the federal and provincial.

Individual self-government agreements are currently being negotiated on the basis of the inherent right of First Nations to self-government declared in the Constitution Act of 1982. These negotiations, involving Canada, provincial and territorial governments and individual First Nations, aim to reach individual ABORIGINAL SELF-GOVERNMENT agreements within the Canadian Constitution. Government administration under the Indian Act and the treaties continues at a reduced level while First Nations' involvement in programs increases.

Meanwhile, the fronts on which First Nations hope to advance are the settlement of comprehensive and specific claims, treaty-making in BC, and the achievement of self-government agreements with those First Nations wanting them (eg, NISGA'A and NUNAVUT). The agreements reached may ultimately replace the Indian Act as the chief instrument governing the relationship between First Nations and government without altering the special relationship between Indian people and the Crown or abrogating existing aboriginal, treaty or constitutional rights.



**Suggested Reading** Robin Fisher, *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890* (1977); Brad Morse, *Aboriginal Peoples and the Law* (1984); Paul Tennant, *Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989* (1990); J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada* (1991); Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples From Earliest Times* (1992); John David Hamilton, *Arctic Revolution: Social Change in the Northwest Territories* (1994); Edward S. Rogers and Donald B. Smith, *Aboriginal Ontario* (1994).

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## Royal Proclamation of 1763

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The Royal Proclamation of 1763 was issued by King George III to establish a basis of government administration in the N American territories formally ceded by France to Britain in the Treaty of PARIS, 1763, following the SEVEN YEARS' WAR. It established the constitutional framework for the negotiation of Indian treaties with the aboriginal inhabitants of large sections of Canada. As such, it has been labelled an "Indian Magna Carta" or an "Indian Bill of Rights."

The document is referred to in s25 of the CONSTITUTION ACT, 1982. This provision details that there is nothing in Canada's Charter of Rights and Freedoms to diminish the rights and freedoms that are recognized as those of aboriginal peoples by the Royal Proclamation.

King George's Proclamation became a key legal instrument for the establishment of colonial governments in the PROVINCE OF QUEBEC, E Florida, W Florida and Grenada. It also defined the legal status of a large area in the N American interior as a vast Indian reserve. The eastern boundary of this territory, which explicitly excluded the colony of Québec and the lands of the Hudson's Bay Co, was set along the heights of the Appalachian mountain range. The western border was not specifically described. These special provisions to acknowledge and protect some rights of the native peoples in the N American interior were made in recognition of the fighting power they collectively represented.

By holding out to Indians the promise of a degree of security as the sole authorized inhabitants of the larger part of their ancestral lands, the British government was endeavouring to stabilize the western frontier of the old crown colonies along the Atlantic seaboard. The decision to formalize this limited but important recognition of native rights was hastened by news that a number of Indians following Ottawa Chief PONTIAC had successfully demonstrated their defiance of crown rule over their lands by briefly seizing several British military posts recently captured from the French. Knowledge of this act only seemed to underline for imperial authorities the self-interested wisdom of affording to native groups, many of whom had recently fought the British as allies of the French, a degree of protection from the land grabbing expansionism of frontiersmen along the western borders of the Thirteen Colonies. The implications of doing otherwise, and of thereby incurring an enormous expense for the maintenance of law and order in the N American interior, were unthinkable to the parsimonious officials responsible for the strategic defence of the British empire.

King George reserved the western lands to the "several nations or tribes of Indians" that were under his "protection" as their exclusive "hunting grounds." As sovereign of this territory, however, the king claimed ultimate "Dominion" over the entire region. He further prohibited any private person from directly buying the interest of native groups in their ancestral soil. This exclusive right of purchase he rather reserved for himself and his heirs alone. As detailed in the Proclamation, he set out a procedure whereby an Indian group, if they freely chose, could sell their land rights to properly authorized representatives of the British monarch. This could only take place at some public meeting called especially for the purpose. It was thus that the constitutional basis was established for the future negotiation of Indian treaties in British N America. The Royal Proclamation thereby established the British Crown as the essential central agent in the transfer of Indian lands to colonial settlers.



Although it proved virtually impossible for imperial authorities to check the western boundaries of the Thirteen Colonies at the Royal Proclamation line, repeated efforts were made to hold back the pressure of colonial settlement from the larger part of those lands reserved to the Indians. Outrage against this imperial policy in the Thirteen Colonies was one of the factors responsible for the outbreak of the American Revolution in 1776. The first systematic attempts to enforce consistently the treaty-making provisions of the Royal Proclamation took place in the regions north of the Great Lakes which became designated as Upper Canada in 1791. The treaty-making procedures that evolved in this crown colony were later largely exported to the territories purchased in 1870 by the new Dominion from the Hudson's Bay Co.

Although these regions had been specifically designated in 1763 as outside the jurisdictional framework put in place by the Royal Proclamation, Canadian government officials recognized that the native peoples of the newly annexed territory had the same rights to their unceded ancestral lands as Indians in the UC area prior to the negotiation of treaties. Hence a basis of land tenure was established throughout most of the prairie provinces and northern Ontario, where 7 numbered treaties were negotiated in the 1870s, on the basic principles outlined in the Royal Proclamation of 1763.

The Royal Proclamation tends to come under close scrutiny whenever there is cause to examine the legal character of aboriginal land title. In the *St Catharine's Milling* case, for example, which became in 1889 the vehicle for the settling of a constitutional dispute between the governments of Ontario and the young Dominion, lawyers for the former argued that the Royal Proclamation was of no force in the legal elaboration of Indian rights. In handing down the opinion of 3 of 7 Canadian Supreme Court judges in 1973, however, Mr Justice Emmett HALL expressed quite a different view of the Proclamation. Responding to a case involving the territorial rights of the Nishga nation, he found that the basic principles of the Royal Proclamation were generally applicable in British Columbia, where most of the land remains uncovered by Indian treaties. If Mr Justice Hall's view is technically correct, the implications of this are that aboriginal land rights are legally enforceable over other large areas of the country such as the Yukon, the eastern Arctic, parts of Québec and the Maritime provinces. In these regions the treaty-making provisions of the Royal Proclamation have never been implemented.

It remains to be seen, therefore, whether the principles of the Royal Proclamation have constitutional application to all of Canada or only to parts of the country. Another question to be faced is whether the Proclamation is itself the source of aboriginal land rights, or whether it merely acknowledges and confirms pre-existing rights. The inclusion of reference to King George's statement in the Canadian Constitution Act, 1982, assures that the interpretation of his words will remain for a long time to come an important topic of attempts to clarify the precise character of aboriginal rights in Canadian law.

Author ANTHONY J. HALL



# Indian Act

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The Indian Act, is the principal federal statute dealing with INDIAN status, local government and the management of reserve land and communal monies. The present Act was passed in 1951, but its provisions are rooted in colonial ordinances and Royal Proclamations. The earliest Indian legislation was directed at regulating trade with the Indians and non-Indian settlement in native territories. Prior to Confederation, laws to protect native lands were enacted in Upper and Lower Canada and in NS, NB, PEI and BC. The concept of Indian status was originally developed to determine entitlement to live in Indian reserve communities, but this changed after 1985 amendments to the Act which now treat Indian status, band membership and residency as separate issues. The policy of the federal government is to undertake changes to the legislation in response to native initiatives.

## Transitional State

The CONSTITUTION ACT, 1867, assigned to Parliament legislative jurisdiction over "Indians and Lands reserved for the Indians"; 2 separate powers cover status and civil rights on the one hand and Indian lands on the other. The first federal Act was passed in 1868, drawing heavily on earlier legislation of the PROVINCE OF CANADA. Subsequent legislation promoted assimilation into non-Indian society: Indian status was seen as a transitional state, protecting Indians until they became settled on the land and acquired European habits of agriculture. ENFRANCHISEMENT, first legislated in 1869, was the vehicle for assimilation, and was originally a voluntary relinquishment of Indian status. The first Indian Act, so called, was passed in 1876 and was expanded considerably over the years to promote assimilation policy. Traditional Indian practices such as the SUN DANCE and POTLATCH were officially suppressed. Enfranchisement in certain circumstances became involuntary.

During the 1970s, much public attention focused on the statutory rule that an Indian woman lost status on marriage to a non-Indian. A 1973 decision of the Supreme Court of Canada was widely criticized when it held that this rule did not discriminate against women even though Indian men kept their status if they married non-Indians. Equality provisions in the CONSTITUTION ACT, 1982, finally led government to amend these provisions. Those who had lost status through marriage were reinstated as Indians and as band members. Their children gained Indian status, but would not gain band membership for 2 years. This interval was intended to give Indian bands time to enact their own membership codes, which could exclude the children, but not their mothers. If such a code was not enacted prior to June 1987, the children gained band membership as well.

The effect of this amendment was to increase substantially the number of status Indians in Canada, placing pressure on band budgets and their limited land resources. While the total area of Indian reserves did not change appreciably, the status population nearly doubled in the 10 years after 1985. The ability to enact a membership code remains, but persons already on a band list cannot be removed.



## **Constitutional Challenges**

Constitutional challenges arising from the 1985 amendments have already been brought in cases such as *Twinn* (1995) and *Corbiere* (1993), both before the federal court of appeal as of 1996. These amendments, which also provided for greater band regulation of liquor and residency on reserves, fell short of the kind of SELF-GOVERNMENT Aboriginal people have argued for.

Further amendments to the Act in 1988 afforded bands greater powers to tax land interests in their reserves and permitted lessees to mortgage their leaseholds. The general prohibition against property on reserve as security for financing has been seen as an obstacle to economic development in many communities.

Indians remain concerned that the unilateral increase of their numbers, coupled with general government austerity and increasing involvement of provinces in Indian issues, signal a general lack of commitment to their special needs and rights. Parliament has been notably reluctant to exercise the full scope of its legislative powers over Indians, and despite acknowledged shortcomings, the Indian Act remains an essentially Victorian statute that continues to resist change. The Chrétien government (1993-2004) stated that it was prepared to abolish the Act, continuing a line of similar commitments made for over a century, but it remains unclear which laws or whose law-making powers would fill the void.

Section 88 of the Act incorporates provincial laws (treaties) that affect Indians specifically and which do not contradict the provisions of the Act. Also, provincial laws are subject to the terms of any applicable treaty, and only the federal government can override treaty rights.

Author WILLIAM B. HENDERSON



# Aboriginal Rights

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Although generalizations about aboriginal definitions of aboriginal rights are difficult because of the diversity of aboriginal cultures, it can be said that most aboriginal peoples define aboriginal rights as inherent, collective rights which flow from their original occupation of the land which is now Canada and pre-contact social orders. For many the concept can be summed up as the right of independence through self-determination in respect of governance, land, resources and culture. It is important to note that these rights are asserted by the Indian, Inuit and Métis peoples of Canada.

Aboriginal rights, like treaty rights, are recognized and affirmed by s35 of the CONSTITUTION ACT, 1982. The SUPREME COURT OF CANADA has held that this provision protects a spectrum of different kinds of rights ranging from legal recognition of customary practices such as marriage and adoption, to the site-specific exercise of harvesting or other rights where no claim is made to the land itself, to assertions of an aboriginal title to traditional lands.

## Canadian Law

Aboriginal peoples have traditionally pointed to 3 principal arguments to establish aboriginal rights: international law, the ROYAL PROCLAMATION OF 1763 and the common law as defined in Canadian courts. Only the last argument has met with any success in the courts, although aboriginal groups continue to participate internationally in United Nations working groups concerned with indigenous populations and minority rights. The Proclamation of 1763 is now considered to be a historic expression of the common law rather than an independent source of legal rights.

## Proof of Aboriginal Rights

No aboriginal right, even though constitutionally protected, is absolute in Canadian law. Fishing rights, for example, are not exclusive in the sense that only aboriginal peoples can exercise them and they are not immune to regulation by other governments. Aboriginal title, on the other hand, may give rise to an exclusive right to use and occupy lands, but that right may be interfered with for other societal purposes such as economic development or power generation. Infringement of aboriginal rights or title must be justified by non-aboriginal governments on the basis of a legitimate government purpose and recognition of the constitutional protection of the rights being affected. There may also be a requirement for prior consultation with the aboriginal peoples concerned and compensation in some circumstances.

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# Indian Treaties

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## Introduction

Indian treaties in Canada are constitutionally recognized agreements between the Crown and aboriginal peoples. Most of these agreements describe exchanges where aboriginal groups agree to share some of their interests in their ancestral lands in return for various kinds of payments and promises from Crown officials. On a deeper level, Indian treaties are sometimes understood, particularly on the aboriginal side, as solemn pacts or sacred covenants between peoples that establish the underlying principles for the relationship linking those for whom Canada is an ancient homeland with those whose deepest family roots lie in other countries. Thus treaties between the Crown and aboriginal peoples establish a constitutional and moral basis of alliance between FIRST NATIONS peoples and the sovereign institutions of the Canadian state.

On the aboriginal side the sacredness and binding character of treaties is not to be found primarily in the signature marks or in the legalistic language which adorn treaty documents. Instead the true force of their treaties with the Crown is rooted in what was actually said, often in aboriginal languages, at the time of the negotiations when treaty deliberations were frequently accompanied with the smoking of sacred pipes (CALUMET) or with an exchange of symbolically significant presents such as elaborately decorated WAMPUM belts. In the eyes of the aboriginal participants, it is these ceremonial conventions which often raised the proceedings to the highest level of law making and diplomacy. In keeping with this orientation, many contemporary native people look to those among their own elders who are most deeply schooled in the oral histories of First Nations, as the highest authorities on what they generally describe as the spirit and intent of their treaties with the Crown.

On the Crown side the basic principles for treaty making with aboriginal peoples were articulated by King George III in the ROYAL PROCLAMATION OF 1763, which established the constitutional foundations of Canada after the government of France withdrew its territorial claims to North America. The constitutional character of past and future treaties between aboriginal peoples and the Crown was renewed in the Constitution Act of 1982. Section 35 of that document, which describes itself as "the supreme law of Canada," both recognizes and affirms "existing Aboriginal and treaty rights."

In 1990 the Supreme Court of Canada in the Sioui case determined that "treaties and statutes relating to Indians should be liberally construed and uncertainties resolved in favour of the Indians." In the same case the court introduced into Canadian jurisprudence a principle adopted from a 19th-century ruling in the USA indicating that Indian treaties "must therefore be construed, not according to the technical meaning of its words to learned lawyers, but in the sense in which they would naturally be understood by the Indians."

In spite of the high constitutional character of treaties in Canada, these deals were often viewed cynically by those non-Indians responsible for both making and implementing these agreements as relatively cheap and expedient ways to ease natives off most of the lands of Canada so that these resources could be opened for exploitation by other groups and interests. The tendency on





the part of federal and provincial governments so far has been to continue this cynicism by interpreting Treaties as narrowly and legalistically as possible, while holding to the position that natives "ceded, surrendered and yielded" all their aboriginal rights and titles to their ancestral lands through these instruments.

This narrow and one-sided view of treaties essentially as real estate deals by which native groups sold all their interest in vast parcels of land for small original payments and small continuing payments - usually \$5 per treaty Indian per year - has produced a huge schism of perception. On the one hand is the view of treaties as legal instruments that extinguished ABORIGINAL RIGHTS. On the other hand is the view of treaties as instruments of relationship between peoples who agree to share the lands and resources of Canada as co-existing but relatively autonomous communities. Seen from this latter perspective, treaties didn't extinguish rights but rather confirmed rights through Crown recognition that aboriginal peoples have the capacity to make and enforce their own laws and thus to act as self-governing participants on the international stage. Bridging the gap between these 2 views of treaties, either as a solvent or as a confirmation of aboriginal rights, poses a huge challenge to the people and law makers of Canada.



# Land Claims

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Land claims are dealt with by a process established by the federal government to enable INDIANS, INUIT and MÉTIS to obtain full recognition of their rights under treaties or as the original inhabitants of what is now Canada. At the core of the process is negotiation between native groups and the federal government, and in some cases the provincial and territorial governments and other third parties. The process is formally based on legal concepts such as land title, aboriginal rights and treaties, and is intended to make economic and social adjustments between 2 different societies.

## **Historical Basis, 1763-1969**

The ROYAL PROCLAMATION OF 1763 reserved an unspecified area of what is now Canada for the use of aboriginal people, and forbade any unauthorized purchase or possession of those lands by non-native settlers. The British government, followed after 1867 by successive Canadian governments, concluded treaties with various groups of Indian people to legitimate European settlement in their lands.

The gradual occupation of Canada by immigrants, with or without treaties, has continued for almost 400 years and has made the native people a small minority within an industrial nation. In some cases native bands that had concluded treaties have lost control of reserve lands, and in others the reserve lands promised according to treaty were not requested or allocated. Native people, many of whom had been nomadic, often found themselves isolated on reserves with little or no access to wildlife and no money, skill or natural resources to make a living from their reserves. For those Indians, Inuit and Métis who did not sign treaties or take reserve land, the impact of being surrounded or overrun by agriculture, industry, cities and "foreign" institutions has been similar to that on the treaty Indians. They have suffered the shock of great change in virtually every aspect of their lives and in their homelands.

## **Development of the Claims Process - The Process**

On 8 August 1973 the federal government, wishing to clear the way for industrial development of the North and to improve the position of native peoples in Canada, announced a new policy for the settlement of native claims. The policy confirmed the responsibility of government to meet its lawful obligations through fulfilment of the terms of the treaties and to negotiate settlements with native groups in those areas of Canada where native rights based on traditional use and occupancy of the land had not been dealt with by treaty or superseded by law. The policy emphasized that the co-operation of provincial and territorial governments would be required.

In order to carry out the new policy, an Office of Native Claims was created in 1974 within the Department of INDIAN AND NORTHERN AFFAIRS CANADA (INAC). Under the leadership of an assistant deputy minister, negotiators, lawyers and researchers dealt with 2 main types of claim: specific and comprehensive. Specific claims are based on problems arising from the administration of Indian treaties, the INDIAN ACT, Indian funds and disposition of Indian land. Although negotiation is the preferred course of action to settle these claims, settlement may also



be reached by administrative remedy or court action. Specific claims are usually made by Indian groups living in the provinces, as opposed to the territories, and most settlements consist of compensation and land (sometimes land only). Comprehensive claims are based on the traditional use and occupancy of land by Indians, Métis or Inuit who did not sign treaties and were not displaced from their lands by war or other means. These claims, which are settled by negotiation, involve the 2 territories and the northern parts of some provinces. The areas of land and the numbers of native people involved are usually greater than in the case of specific claims. Settlement of these claims comprises a variety of terms including money, land, forms of local government, rights to wildlife, rights protecting native language and culture and joint management of lands and resources.

The federal government provides funding in the form of contributions to native associations for the research and presentation of their claims. Once claims are submitted, lawyers of the Department of Justice and officials of INAC determine the acceptability of each claim. Upon acceptance, further funding is provided to the associations for research and for negotiation. These loans must be repaid from the proceeds of the eventual settlements.

### **Development of the Claims Process - Evolution of the Process, Conflict and Concord**

During more than 2 decades of negotiation of Aboriginal land claims in Canada, the system has responded to national and international changes in communications, economics, value-systems and politics. The implementation of settled claims-agreements has provided a basis for improvement and revision, and a number of confrontations. The most significant of the land-claim confrontations was the Oka, Québec, crisis of summer 1990 when a long-standing dispute over land ownership, tensions within the Mohawk community and ethnic tensions combined in an eruption that included blockades, the shooting death of a provincial police officer, a standoff between Mohawk Warriors and Canadian soldiers, and violence and destruction by civilians on both sides. The affair attracted international attention.

On 31 May 1991 the Commons Standing Committee on Aboriginal Affairs produced a report on the events, with recommendations that were subsequently incorporated into federal claims policy. The major issues affecting the Mohawks of Kanasatake and Kahnawake, however, are under discussion.

In November 1994, after years of tension, the First Nations of Penticton, Upper and Lower Similkameen, BC, erected a barrier across a road leading to the Apex Ski Resort in order to halt expansion of commercial activity on lands claimed as traditional territory. This action touched off a series of failed negotiations, legal suits and applications for injunction among the First Nations, the provincial government and the resort company. The Supreme Court of BC granted an injunction guaranteeing public access to the resort but the overall issues of access and land-ownership still have yet to be resolved.

During the summer of 1995 a dispute arose between a rancher in the Gustafsen Lake region of BC and a small group of aboriginal people and their sympathizers over the use and occupancy of ranch land for the conduct of the SUN DANCE ceremony. When dissidents threatened to use firearms RCMP were called in by the province. After a standoff of several days, with shots fired



by both sides but no casualties, the dissidents surrendered. The First Nations of the area did not recognize or support the protesters and the matter was treated under the provincial Criminal Code.

The Kettle Point and Stony Point CHIPEWYAN of Ontario have for years sought to retrieve lands that were taken for the military base of Camp Ipperwash. In 1995 a demonstration by First Nation members over a gravesite resulted in police action and the shooting death of a demonstrator. On 16 Jan 1996 the Minister of INAC announced the appointment of a federal negotiator, and the intention of the government to settle all issues and make amends for the wrongful taking of the Stony Point lands.

During these years of confrontation Aboriginal people and governments, in commissions, inquiries and meetings, examined all aspects of the situation of aboriginal people in Canada and some agreements were revised or expanded.

In 1980 the federal government appointed the first chief negotiator from outside the public service to assure greater neutrality and access to Ministers. In 1986 the Office of Native Claims was abolished and replaced by several specialized units of the Department - including one to oversee the implementation of agreements. New federal policy papers were published in 1987, 1991 and 1996, and both provincial and territorial governments created their own administrative structures for claims and aboriginal affairs. In 1982 the Canadian Constitution was amended to confirm aboriginal rights, including those identified in claims settlements. Formulas were found to solve the impasse over "extinguishment" of aboriginal rights vis-à-vis the need of government for finality of agreements.

In BC, where comprehensive claims are numerous, a treaty commission process has been developed for the preparation and negotiation of claims. The federal government is acting upon the aboriginal inherent right to self-government, both within and outside the claims process.



# Métis Scrip

The Canadian government attempted to acknowledge the special relationship of the Métis to the treaty proceedings, by paying half-breeds for their aboriginal inheritance in the form of dollar-valued land certificates known as scrip. Unfortunately, however, efforts to implement this program were often undermined by the largely fraudulent activities of "jobbers," who succeeded in amassing to themselves the major portions of the resources originally earmarked for the Métis communities.

# 8

DOMINION OF CANADA.  
 PROVINCE OF MANITOBA.  
 County of St. Boniface

I, Henri Maitel  
 of the Parish of St. Boniface in  
 the County of St. Boniface in the  
 Province of Manitoba, a laborer make  
 oath and say as follows:

1. I claim to be entitled to participate in the allotment and distribution of the 1,400,000 acres of land set apart for Half-breed children, pursuant to the Statutes in that behalf.
2. I was born on or about the fifteenth day of July A.D. 1853 at the Parish of St. Boniface in said Province; and am now of the full age of twenty-one years.
3. Joseph Maitel, a half-breed is my father; Marie Pichot a wife of Henri my mother; my said father was the half-breed head of a family resident in the Parish of St. Boniface in the said Province, on the fifteenth day of July, A. D. 1870.
4. I was not the head of any family at the last named date and I have not made any claim other than the above in this or any other Parish, nor have I claimed or received as an Indian any annuity moneys from the Government of said Dominion.

Henri Maitel  
Maitel

Sworn before me at the Parish of St. Boniface  
 in the County of St. Boniface on the  
twenty-seventh day of June A.D. 1876, having  
 been first read and explained in the French  
 language to the said deponent, who seemed perfectly  
 to understand the same, and his mark in my presence.

M. H. [Signature]  
 Commissioner.



# *Aboriginal Languages in Canada*

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## **Algonquian languages**

- Algonquin
- Attikamekw
- Blackfoot
- Cree
- Malecite
- Micmac
- Montagnais-Naskapi
- Ojibway
- Oji-Cree

## **Athapaskan languages**

- Carrier
- Chilcotin
- Chipewyan
- Dene
- Dogrib
- Kutchin-Gwich'in (Loucheux)
- North Slave (Hare)
- South Slave
- Haida

## **Iroquoian languages**

- Mohawk
- Kutenai

## **Metis**

- Michif

## **Salish languages**

- Shuswap
- Thompson (Ntlakapamux)

## **Siouan languages**

- Dakota/Sioux
- Tlingit

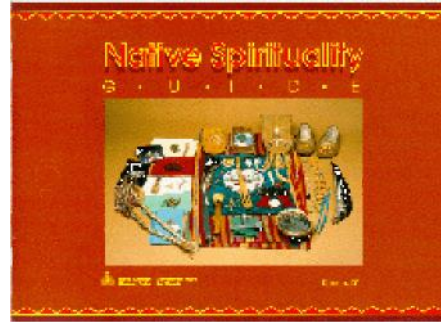
## **Tsimshian languages**

- Tsimshian
- Gitksan
- Nishga

## **Wakashan languages**

- Nootka
- Inuktitut (Eskimo)





## NATIVE SPIRITUALITY GUIDE

The purpose of this guide is to help police officers gain an understanding of sacred ceremonies practised and sacred items carried by many Native people across Canada.

Please note: The ceremonial items presented in this guide were originally offered by an Elder for use in an educational environment. The RCMP is sensitive to the fact that many Elders do not consent to the technical reproduction of spiritual elements in this fashion. The RCMP sincerely appreciates the assistance of the carrier of this bundle in making this project possible.

It should be noted that the various spiritual beliefs and sacred items and ceremonies portrayed in this guide may vary according to different tribal groups across Canada. The reader is advised to use the local community as a reference base as local Elders will be able to clarify their traditional ceremonial practises as well as the significance of individual sacred objects.

The RCMP wishes to acknowledge the co-operation of Corrections Canada and Manitoba Native Elders Art Shofley, Angus Merrick, Charlie Nelson and Velma Orvis for contributing material for this guide.

### **The Circle of Life**

*"You have noticed that everything an Indian does is in a circle, and that is because the Power of the World always works in circles, and everything tries to be round. In the old days, when we were a strong and happy people, all our power came to us from the sacred hoop of the nation and so long as the hoop was unbroken, the people flourished. The flowering tree was the living centre of the hoop and the circle of the four quarters nourished it. The East gave peace and light, the South gave warmth, The West gave rain and the North, with its cold and mighty wind gave strength and endurance. This knowledge came to us from the outer world with our religion. Everything the Power of the World does, is done in a circle. The sky is round and I have heard the earth is round like a ball and so are the stars. The Wind, in its greatest power whirls. Birds make their nests in circles, for theirs is the same religion as ours. The sun comes forth and goes down again in a circle. The moon does the same and both are round. Even the seasons form a great circle in their changing and always come back again to where they were. The life of man is*



*a circle from childhood to childhood and so it is in everything where power moves. Our Teepees were round like the nests of birds and these were always set in a circle, the nation 's hoop, a nest of many nests where the Great Spirit meant for us to hatch our children. "*

(Black Elk Speaks, pp. 198-200) Spiritual Advisor to the Oglala Sioux in 1930.

### **Traditions**

Native cultures in their traditional nature are authentic and dynamic, fostering distinctive and sophisticated development. A sense of identity, pride and self-esteem are rooted in established spiritual principles.

Native spiritual life is founded on a belief in the fundamental inter-connectedness of all natural things, all forms of life with primary importance being attached to Mother Earth.

### **The Medicine Wheel**

The symbol of the circle holds a place of special importance in Native beliefs. For the North American Indian, whose culture is traditional rather than literate, the significance of the circle has always been expressed in ritual practise and in art. The lives of men and women, as individual expressions of the Power of the World move in and are nourished by an uninterrupted circular/spiral motion. This circle is often referred to as the Medicine Wheel. Human beings live, breathe and move, giving additional impetus to the circular movement, provided they live harmoniously, according to the circle's vibratory movement. Every seeker has a chance to eventually discover a harmonious way of living with their environment according to these precepts.



### **The Four Powers**

Each of the four directions represents a particular way of perceiving things, but none is considered superior or more significant than the other. The emphasis is always placed on the need to seek and explore each of the four great ways in order to gain a thorough understanding of one's own nature in relation to the surrounding world.

The four cardinal points of the circle transcend the mere compass directions. The directions themselves embody four powerful natural forces representing seasonal influences associated with various other powerful attributes.

North represents Wisdom. Its colour is white, its power animal is the buffalo and its gift is strength and endurance. From the South comes the gift of warmth and growth after winter is over, a place of innocence and trust. Its colour is green (or sometimes red), its power animal, the mouse. To the West is the place of introspection, of looking within one's spirit. Its colour is black, its gift rain and its power animal the bear. The East is marked by the sign of the Eagle. Its colour is gold for the sun's illumination, the new dawning sky and enlightenment. Its gift is peace and light.

Understanding the meaning of the Medicine Wheel depends on the concept that a person's life consists of "conquering the four hills: Infancy, Youth, Maturity and Old Age. The four stages are celebrated in ritual as the four prime moments in life corresponding to the four directions. The first hill is the South (innocence and trust) where the infant's reception into life occurs. The second hill, that of introspection, in the West, becomes the youth's solitary vigil and quest for vision. This first quest seeks the revelation of the Great Spirit's manifestation and continuing presence.







This is the time when a power animal attribute enters a Native individual's soul becoming a part of his or her name. (Sitting Bull, Black Elk, Crazy Horse and so on). It marks the beginning of the dweller within, the dreaming soul that contacts the higher spiritual planes bringing back visions that serve as fundamental guide posts in life. The hill of maturity lies to the North and represents the successful realization of ability and ambition. It is the place of recognition in which the pursuit of wisdom underlies and nourishes all action. Sympathy with life itself grows in this quarter.

The final hill is that of old age situated in the East. It represents a quiet, reflective and meditative segment where the old ones now can pass on their knowledge to youth as they have mastered the meaning of joy and sorrow and the many other trials and tribulations encountered over the course of their existence.

### **Ceremonies**

Ceremonies are the primary vehicles of religious expression. A ceremonial leader or Elder assures authenticity and integrity of religious observances. Nothing is written down, as the very writing would negate the significance of the ceremony. Teachings are therefore passed on from Elder to Elder in a strictly oral tradition.

### **Elders**

Elders may be either men or women. Their most distinguishing characteristic is wisdom which relates directly to experience and age. There are exceptions. Elders need not be "old". Sometimes the spirit of the Great Creator chooses to imbue a young native. Elders' spiritual gifts differ. Some may interpret dreams. Others may be skilful in herbal remedies or be healers during a sweat lodge ceremony, and so on.

### **Prayers**

Natives communicate with the Great Creator and spirit helpers through prayers offered at individual or group ceremonies.

### **Pipes**

Pipes are used during both private and group ceremonies, the prayer itself being wafted through the smoke of the burning plant material. Pipes are of no set length. Some stems may or may not be decorated with beads or leather. Others may be elaborately carved with bowls inlaid with silver. Bowls may be of wood, soapstone, inlaid or carved in the form of various totemic power animals (an eagle with folded wings) or another sacred animal.

*From the top down: Natural Tobacco, Calamus root, Sweetgrass and Tobacco, Tobacco seed. On the left: Sage; on the right: Red Willow bark. Cloths; blue for the sky and then the four colours representing humanity; the white, yellow, red and black races.*



The pipe is disassembled into its component parts while being carried from one place to another. The pipe is never a "personal possession". It belongs to the community. The holder of the pipe is generally considered its custodian. While every native has the right to hold the pipe, in practise, the privilege must be earned in some religious way. The pipe is usually passed on to another custodian under specific fasting and cleansing rite regulations. There are pipes exclusively used by either men or women. Men's pipes become unclean if touched by women and vice versa.

### **Pipe Ceremony**

Pipe ceremonies constitute the primary group gatherings over which Elders preside. Participants gather in a circle. A braid of sweetgrass (one of four sacred plants) is lit and burnt as an incense to purify worshippers, before the pipe is lit. Burning sweetgrass also symbolizes unity, the coming together of many hearts and minds as one person.

The Elder strikes a match, puts it to the end of the sweetgrass braid and fans the smouldering grass with an eagle's feather, to encourage smoke production. The Elder then goes from person to person in the circle where the smoke is drawn four times by hand gestures toward the head and down the body. The Elder must fan the glowing end to keep it burning properly or the material loses its spark.

### **Sacred Plants: Red Willow Bark, Sage, Calamus Root, Sweetgrass braid, Poplar leaves and Tobacco**

The Elder then places tobacco in the pipe and offers it in the four sacred directions of the compass. Some Western tribes begin by making an offering to the West. Eastern Natives may propitiate the Spirit of the East whence comes the light of the sun at daybreak, who also gives guidance, direction and enlightenment. Then the Elder faces South where the guardian spirit of growth presides after winter is over. Next is West, the direction of the spirit gateway where reside the souls of those who have left this plane of existence. The spirit of the North concerned with healing and purification is then addressed.



Spirits will be asked for assistance in the main prayer, which may be specifically for one individual, a participant in the circle or for someone far away or someone who has passed over. The pipe, passed from person to person in the circle, might be offered to all creation, to those invisible spirit helpers who are always there to guide humanity. The last of the tobacco is offered to the Great Creator.

Another version of the Pipe Ceremony is the Sacred Circle which essentially follows the same procedures, but also allows a time period for individual participants to address the assembly.

### **Fasting**

Fasting is a time-honoured way of quickening spirituality in which a growing number of Natives are partaking. An Elder provides the necessary ceremonial setting and conditions to guide the fasting member. Fasting means the total renunciation of food and drink for a specified time period. Health considerations are evaluated by both the Elder responsible and a physician prior to the fast.

### **Sweat Lodges**

Used mainly for communal prayer purposes, the Sweat Lodge may also provide necessary ceremonial settings for spiritual healing, purification, as well as fasting. Most fasts require a sweat ceremony before and after the event.

Lodge construction varies from tribe to tribe. Generally, it is an igloo-shaped structure about five feet high, built in about one and a half hours from bent willow branches tied together with twine. The structure is then encased in blankets to preclude all light. A maximum of eight participants gather in the dark.

In the centre, there is a holy, consecrated virginal section of ground (untrampled by feet and untouched by waste material) blessed by an Elder with tobacco and sweetgrass. There, red hot stones heated in a fire outside the lodge are brought in and doused with water. A doorkeeper on the outside opens the lodge door four times, contributing four additional hot rocks (representing the four sacred directions) to the centre. A prepared pipe is also brought in.

Sweat Lodges may be dismantled after the ceremony is over, but often, they are left standing to accommodate the next ceremony. Lodges may only be entered in the presence of an Elder.

### **Feasting**

Some ceremonies such as "doctoring" sweat require the participant to eat a meal. There are specific rituals requiring special foods. Sacred food for the Ojibway for instance consist of wild rice, corn, strawberries and deer meat. Typical feast foods for the Cree from the prairies would be Bannock (Indian Bread), soup, wild game and fruit (particularly Saskatoon berries or mashed choke cherries). For a West Coast Indian, sacred foods might include fish prepared in a special way. Although foods may differ, their symbolic importance remains the same.

### **Rattles**

Rattles are shaken to call up the spirit of life when someone is sick. The Elder also uses a rattle to summon the spirits governing the four directions to help participants who are seeking spiritual and physical cleansing to start a "new" life during a sweat lodge ceremony.

### **Drums**

Drums represent the heartbeat of the nation, the pulse of the universe. Different sizes are used depending on "doctoring" or ceremonial purposes. Drums are sacred objects. Each drum has keeper to ensure no-one approaches it under the influence of alcohol or drugs. During ceremonies, no one may reach across it or place extraneous objects on it.

### **Eagle Whistles**

When a dancer approaches a drum and blows an eagle bone whistle, the drum group responds by singing an appropriate song. The whistle is blown four times to honour the drums, the dancers and the spirit of the eagle. Four verses are sung, one for each time the whistle is blown. Large pow-wows have strict rules around how often this may occur during a pow-wow session.

### **Herbs / Incense**

Sweetgrass, sage, cedar and tobacco encompass the four sacred plants. Burning these is a sign of deep spirituality in Native practises. Cedar and sage are burned to drive out negative forces when prayer is offered. Sweetgrass, which signifies kindness, is burned to invite good spirits to enter. Participants also use these purification rituals to smudge regalia, drums and other articles before taking part in a pow-wow.

The four plants are used in both individual and group ceremonies. Each plant was originally given to a specific tribe. Now they are used together or singly as incense which is generally ignited in an abalone shell or another type of container to be passed from person to person in the circle.

### **Medicine Pouches**

Prescribed by an Elder, plant material can also be worn in a medicine pouch by a person seeking the mercy and protection of the spirits of the Four Directions. Elders caution Natives not to conceal any other substances in their pouches. To do so would make a mockery of their beliefs.

Peyote, a hallucinogenic material used by Natives in some parts of the US, historically is usually not considered a part of the Canadian Native culture. Other herbs and dried animal parts (diamond willow fungus, dried/powdered beaver testicles and buffalo droppings) are some other materials that may be burnt in ceremonial functions.

Sweet Grass Braid



## **CEREMONIAL RITUALS**

### **Pow-wow**

Some say the name is derived from the Algonkian word meaning "to dream". Pow-wow an ancient tradition among aboriginal peoples, is a time for celebrating and socializing after religious ceremonies. In some cultures, the pow-wow itself was a religious event, when families held naming and honouring ceremonies.

### **Giveaway**

For instance, a family celebrating a member's formal entry into the dance circle, or wishing to commemorate the death of a loved one, often hosts a giveaway during a pow-wow. This tradition embodies the value of sharing with others. Gifts such as blankets, beadwork and crafts are given to friends and visitors followed by appropriate songs and dances.

### **Today**

Today's pow-wow is more of a social event, although honour ceremonies and other religious observances remain important parts of the celebration.

Dancing, feasting and having fun, the old ways are remembered and pride is taken in traditional heritage as old friendships are renewed and new ones begun. Elders say that coming together in a joyous spirit is an important unifying and healing experience which brings together many nations in a celebration of life.

### **Honour Songs**

Honour songs, as their name implies, are requested to honour particular individuals. Spectators should always stand and remove caps and hats when an honour song is intoned. The traditional pow-wow is more conducive to socializing and is not as demanding for participants. The hosts share the prizes with all registered singers and dancers. Whether competitive or traditional, pow-wows still bring people of all nations together in a celebration of life.

### **Grand Entry**

Spectators should always stand and remove caps or hats during Grand Entry, Flag Songs and the Invocation. This beautiful parade of pride and colour starts off the pow-wow and each subsequent session of dancing. Preceded by the Eagle Staff, invited dignitaries and various categories of dancers join in the Grand Entry and dance to a special song rendered by the drum groups, following the path of the sun through the sky. The line-up is as follows: Eagle Staff, Flag bearers, dignitaries and princesses, men's traditional, grass and fancy dancers, followed by women's traditional, jingle and fancy dancers, youth and children in categorical order. All competitors must participate or risk losing points and/or elimination if they don't.

### **Eagle Staff**

The Eagle Staff is an important symbol to many North American tribes. The eagle represents the Thunderbird spirits of the supernatural world who care for the inhabitants of our physical world. Qualities such as farsightedness, strength, speed, beauty and kindness are attributed to the eagle, which never kills wantonly, only to feed itself and its family. The Eagle Staff symbolizes reverence for the Creator and all of life

### **Invocation**

Any significant event is initiated with words of prayer by a respected Elder. Traditionally, First Nations never had "priests" as such but rather spiritual leaders. They are often offered tobacco with a request for prayer indicating respect and honour for that person and the higher power. Hunters and gatherers frequently expressed their gratitude with tobacco to show respect for the life they had taken.



### **Flag Songs**

The respect shown to veterans or warriors is an integral part of Native culture, a tradition that harks back to the times when tribal welfare depended on warriors. In a society based on collectivity, veterans are honoured for self-sacrifice to their cause and their willingness to die so that others may live. Special songs are sung to honour veterans who fought under these flags.

Veterans are also honoured as flag bearers, by being called upon to retrieve dropped eagle feathers and through various veterans' songs. Dropping an eagle's feather is serious business during a pow-wow. Retrieving it involves a ceremony - overseen by an Elder or respected spiritual leaders and/or warriors (veterans). All spectators should rise and remove hats

or caps. No cameras may be used at this time.

### **Dancers - Mens Traditional**

This dance originated in times when war parties returned to their villages to "dance out" the story of their battles, as well as hunters depicting stalking their prey after a successful hunt. The traditional dance outfit is frequently decorated with bead or quill work and features a circular bustle of eagle feathers. Traditional dancers may also carry objects symbolic of their warrior status such as shields, weapons, staffs or Medicine Wheels - reminders of the wisdom in the four directions, unity and the cycle of all things. Dancers are judged on how well they keep time to the music, follow the beat of the drum and stop with the music, both feet on the ground.

### **Mens Grass Dance**

Contemporary grass dance outfits feature many colourful fringes in place of the grass tussocks that were originally tucked into their belts. Many dancers also wear a hair roach, a crow belt and carry an eagle bone whistle, emblems of the Omaha Society where the dance originated. Although it is a free-style type of dance, the troupe must follow the drum beat and stop with the music with both feet on the ground. Dancers also keep their heads moving in time to the beat to keep their roach crest feathers spinning.

### **Mens Fancy**

Said to have originated in Oklahoma in the early 1900s, this dance was begun when promoters of native ceremonials asked native dancers to beautify their outfits for the spectators' benefit. Based on the same step as the traditional grass dances, the fancy dance also features increased speed, acrobatic steps and varied body movements. Dancers must also be able to follow the beat, stopping precisely at its end.

### **Sneakup**

This specialty dance simulates warriors sneaking up on their prey or tracking an enemy. On the drum roll, they shake their bells and gesture while sneaking up on the centre of the dancing arena, stopping on the last beat of the verse and walking back to the perimeter. On the fourth rendition they continue as in a normal song.

### **Womens Traditional**

Some of the most beautiful outfits can be found in this category. Long dresses are frequently decorated with heavy beadwork, ribbons or shells. Beaded or concho belts are also worn as well as hair ties, earrings, chokers and necklaces. Most dancers carry a shawl, an eagle fan or a single

feather. The dance consists of bending knees in time to the beat, giving slight up and down movements to the body while subtly shifting the feet to turn.

### **Womens Fancy Shawl**

The fancy shawl outfit consists of a decorative knee-length dress, beaded moccasins with matching leggings, a fancy shawl and various jewellery pieces. The dance itself is extremely mobile with a great deal of spinning and fancy footwork. Dancers in this category must follow the drum beat and stop precisely at the end, both feet on the ground.

### **Jingle Dress**

Jingle dancers wear knee-length cloth dresses featuring row upon row of small bells or jingles sewn to the fabric. Dancers follow the drumbeat to make their jingles sound with the lightest step possible. The sound should stop precisely on the drum beat.

### **Team Dance**

Team dancing is a relatively new addition to the pow-wow. Dancing in a single style, team members must synchronize their movements. Dancers are judged on synchronization, their outfits and how well their steps are put together.

## **TREATMENT OF MEDICINE BUNDLES BY LAW ENFORCEMENT OFFICIALS**

Once the Medicine Bundle has been touched by someone other than its designated guardian, it can no longer be used in its un-cleansed condition. The custodian must again perform purification rites (which may take three or four days and involve the presence of different spiritual Elders) to restore the Bundle's sacredness. In other words, vital spiritual essence is lost when these items are not treated according to the respect they deserve.

In most cases, police and security officials have not been aware of the spiritual significance regarding the Bundle's contents. Nor have they been culturally sensitized enough to the Native Elders' regard of ceremonial accessories which must be treated with the utmost respect.

### **Spiritual Artifacts**

A Manitoba Elder graciously provided some samples of a collection of spiritual artifacts used in sacred ceremonies. The collection, which appears in this guide, should not be construed as being "typical." Contents in Medicine Bundles may vary considerably taking into account the cultural diversity of Aboriginal First Nations across Canada and the U.S. Law enforcement officers are encouraged to contact Elders in their region to determine what spiritual artifacts and practises are current in their localities.

### **Description**

Eagles' wings and feathers, rawhide gourds, drums, abalone shells, prayer cloths and prints are some of the more common objects in use, in addition to the pipe. Eagle wings and feathers are awarded for outstanding deeds. They may be worn in the hair or on a costume, but normally they are carried in the hand. Indians regard the eagle as a sacred bird. The eagle represents power, strength and loyalty. The four sacred plants, sweetgrass, sage, cedar and tobacco or kinnikinnick (red willow shavings) are also often worn in a "medicine" pouch around the neck or pinned onto clothing. Elders may have additional sacred items such as bear claws on a thong or badges that have been given as gifts during ceremonies.



### **Searches**

Male law enforcement officers may conduct a search of someone wearing these without incident if they ask the wearer to open the bundle. If the person is genuine, then the request will be granted. The spirituality of the bundle is only violated if it is touched or opened without the carrier's permission. It is therefore important that police officers be aware that spiritual items of religious significance should be treated with the proper respect and not be touched by anyone except the Elder/Custodian.

Female police officers should, whenever possible, have a male officer conduct this search. This is due to the belief that women, during their "moon time", are spiritually far more powerful than men and the simple act of viewing the items will cause them to be desecrated.

What is important to remember is that in ever increasing numbers, Natives are returning to their own heritage in expressing their religious beliefs. These sacred objects may be encountered with greater frequency now that spiritual Elders often travel great distances to conduct their sacred ceremonies. While keeping public safety in mind, security personnel and other law enforcement officials should endeavour to make themselves more aware of these traditions and the artifacts involved through increased cross-cultural training and awareness.

For more information, please contact:

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