

Module #6 Indigenous People of Canada

A. TREATY INDIANS

Module #6 will summarize Canadian recognition of Indigenous people as Treaty Indians, Non-Treaty Indians, Non-Status Indians, Inuit, and Métis. Module #9 explores Treaties in more detail. The History between Canada and First Nations includes Historic and modern Treaties. For in depth details on Treaties please see the web site for Crown Indigenous Relations and Northern Affairs Canada at:

<https://www.rcaanc-cirnac.gc.ca/eng/1100100028574/1529354437231> .

HISTORIC TREATIES

These treaties form the basis of the relationship between the Crown and 364 First Nations, representing over 600,000 First Nation peoples in Canada. The Government of Canada recognizes 70 historic treaties in Canada signed between 1701 and 1923. These treaties include:

- Treaties of Peace and Neutrality (1701-1760)
- Peace and Friendship Treaties (1725-1779)
- Upper Canada Land Surrenders and the Williams Treaties (1764-1862/1923)
- Robinson Treaties and Douglas Treaties (1850-1854)
- The Numbered Treaties (1871-1921)

MODERN TREATIES

The modern treaty era began in 1973 after the Supreme Court of Canada decision (*Calder et al. v. Attorney-General of British Columbia*), which confirmed the Crown obligations to enter Treaties. This decision led to the development of the Comprehensive Land Claims Policy and the first modern treaty, the *James Bay and Northern Québec Agreement* signed in 1975. Since 1975, Canada has signed 25 additional treaties. Some treaties include self-government. Modern treaties are the basis of the relationship between 97 Indigenous communities representing about 89,000 Indigenous peoples and the Crown resulting in:

- Indigenous ownership over 600,000 km² of land (almost the size of Manitoba)
- capital transfers of over \$3.2 billion
- protection of traditional ways of life
- access to resource development opportunities
- participation in land and resources management decisions
- certainty with respect to land rights in around 40% of Canada's land mass
- associated self-government rights and political recognition

As part of modern treaty negotiations, joint work is done to lay the groundwork for moving forward together after a final agreement has been signed (implementation of the agreement).

Historically, very few treaties were signed in British Columbia. A special independent body called the British Columbia Treaty Commission was established in 1992 by agreement among Canada, British Columbia and the First Nations Summit to be "the keeper of the process" of treaty negotiations in the province. The future of the next generation of Modern Treaties requires compliance with the United Nations Declaration on the Rights of Indigenous Peoples and is discussed further in Module # 10.

B. NON-TREATY INDIANS

Under the early colonial period Indian Treaties were required under British Law. As Colonial administration of Canada became autonomous, adherence to the law faded. Indeed it is our understanding that the tiny reserves offered to Musqueam, and the failure to solicit Treaty agreement with us was based on the cynical assumption that we would soon die off and become extinct, thus relieving the Crown of their lawful obligations.

This previous policy of administration by genocide now leaves over 400,000 modern living non-treaty Indians in First Nations recognized by Canada. Since the recognition of Indigenous Human Rights in Canadian courts the province of British Columbia has acknowledged obligations to B.C.'s non-treaty First Nations. Accommodation of these legal obligations below Treaty level include; strategic engagement agreements, reconciliation agreements, and forestry and major project revenue-sharing agreements.

Musqueam is a non-treaty nation despite having participated in the British Columbia Treaty Process for many years. When we reached negotiations on substantive issues, primarily land title, the Crown simply refused to proceed. As a consequence, Musqueam continued to litigate, and in 2008 we were offered an out of court settlement which the Crown offered to us on the condition that we agree to calling the settlement a "Reconciliation Agreement". We still have no Treaty.

Strategic Engagement Agreements (SEAs)

First Nations who have negotiated SEAs include: Tahltan Nation; Kaska Dena Council; Taku River Tlingit First Nation; Tsilhqot'in National Government; Ktunaxa Nation and Nanwakolas First Nations.

Reconciliation Agreements

The province has completed several agreements with First Nations in B.C. that create the opportunity for comprehensive and lasting reconciliation. At the heart of some of these agreements are also strategic engagement agreements. These agreements are with the Musqueam Indian Band (an out of court settlement on small parcels of land), Coastal First Nations, Haida Nation, Nanwakolas First Nations, Gitanyow Nation and Tseycum First Nation.

Economic and Community Development Agreements (ECDAs)

ECDAs are agreements between government and First Nations for sharing the direct mineral tax revenue on new mines and major mine expansions. The Ktunaxa Nation, Nak'azdli First Nation, McLeod Lake Indian Band, and the Stk'emlupsemc of the Secwepemc Nation each have negotiated ECDAs.

Forest Consultation and Revenue Sharing Agreements (FCRSA)

British Columbia has signed 100 FCRSA agreements with First Nations throughout the province since adopting the new model.

First Nations Clean Energy Business Fund (FNCEBF)

Since 2011, B.C. has invested more than 3.5 million dollars to help 72 Aboriginal communities participate in the clean-energy sector, including wind energy, biomass and run-of-river hydroelectric power. In addition, on March 14, 2013, British Columbia and the Tahltan First Nation signed the first agreement to share revenue from clean-energy projects through the FNCEBF.

C. NON-STATUS INDIANS

The Crown Indigenous Relations and Northern Affairs Canada web site says:

"Non-Status Indians" commonly refers to people who identify themselves as Indians but who are not entitled to registration on the Indian Register pursuant to the Indian Act. Some may however be members of a First Nation band."

People who are identified as Non-Status Indians in Canada are individuals who are not considered as Registered Indians because either they or their ancestors were refused or lost their Indian status through the mechanisms of the Indian Act, and who do not identify as being Métis. The mechanism by which people lost their status was "enfranchisement." The most common method of enfranchisement was through intermarriage, whereby a Status Indian woman marrying a non-Indian man lost her Indian status—as did her children; this law existed until the Indian Act was amended in 1985. Other ways in which individuals could be enfranchised was by obtaining the federal right to vote (until 1960), by purchasing fee simple land off reserve, or receiving a university degree or becoming an ordained minister (until 1951).

Prior to 1985, automatic entitlement to band membership usually accompanied entitlement to Indian status. The 1985 amendments recognized limited rights of bands to determine their own membership. As a result, persons may possess Indian status, but not be members of a band. In this case the Indian is recorded in the Ottawa Indian registry, but not in a band registry from which they inherit their First Nation identity. There are approximately 214,000 non-status Indians.

Pretty much every Indian family has non-status relatives. Our Grandmother's brother became a plumber in the 1930's. He lost his Indian status then; but was able to work off reserve and live amongst white people. He lost touch with his family over the years. Eventually after the Indian Act changed in 1985 to conform with the Charter of Rights and Freedoms the Musqueam Indian Band Membership clerk, who was a band member and family friend, located his descendants and reconnected them with Musqueam. They are non-status Indians, whose kinship to our community is recognized by Musqueam Nation and Musqueam Indian Band, but not by Canada.

Example of Someone you might think is Non-Status but is Status

A famous Indian exemplifies the confusing legal background to the Indian registry. This is Shania Twain. She was born Eileen Regina Edwards. When her parents divorced, she was two years old and her mother remarried to Jerry Twain, an Ojibwa from Mattagami Nation. Shania and her sisters were adopted by Jerry, and they changed their surname. She is legally registered as a Status Indian and is also on the membership list of the Temagami First Nation. When she moved to Nashville in 1991, she was not required to obtain a work visa or a green card, but entered the US under the auspices of the Jay Treaty of 1794, which allows Aboriginal peoples to travel freely across the US-Canada border. Under the provisions of the Jay Treaty Shania is registered in the United States as 50 percent Native American Blood Quantum.

D. INUIT

Inuit are Indigenous people of the Arctic. The word Inuit means "the people" in the Inuit language of Inuktitut. The singular of Inuit is Inuk. There are approximately 65,000 Inuit who live in 53 communities across the northern regions of Canada in Inuit Nunangat, "the place where Inuit live." Inuit Nunangat is comprised of 4 regions, Inuvialuit (Northwest Territories and Yukon), Nunavik (Northern Quebec), Nunatsiavut (Labrador), Nunavut.

The ancestors of today's Inuit moved east into Arctic Canada and Greenland from their northwest Alaskan homeland in a series of migrations beginning about 800 or 1,000 years ago. Inuit built houses framed with the bones of the bowhead whale, instead of the wood-framed winter houses of their Alaskan homeland. For centuries these communities have relied on their natural resources, strong leaders, and innovative tools and skills to adapt to the cold, harsh environments of the Arctic north. The Inuit people survived primarily on fish and mammals such as seals, whales, caribou, and walrus.

Out of respect for the land and ocean that provided for them, they, like other Indigenous Peoples, used all parts of the animal efficiently for food, clothes, and tools, creating innovative spears and harpoons, parka coats, blankets, and boats. Therefore, to this day, the Inuit place high value on inclusiveness, resourcefulness, collaboration, and "decision making through discussion and consensus." While individuals are expected to be self-reliant and fulfil their role in society, each member is also expected to support and help the others.

The Inuit have used naming, or renaming, to resist the colonial legacy and practice by choosing names in their own language. When the Canadian government formally recognized the Inuit claims to the land, the inhabitants changed the name of the region to Nunavut, which means "our land" in Inuktitut. Beyond the literal definition, *Nunavut* connotes home and a deep relationship and interconnectedness with the land.

Nunavut is the largest and most northern territory in Canada. In the eighteenth and nineteenth centuries, European traders, fishermen, and whalers began to make routine trips to set up summer posts in the vast region. From the beginning of the eighteenth century and as late as the 1930s, a lively fur trade thrived between the Europeans and the Inuit. The territory is far from Ottawa, however, and has historically received little investment or attention. With the end of the fur trade and the depletion of important ocean resources such as whales, many Inuit communities were left without the means to thrive. By the 1940s, the government began to settle the Inuit in permanent communities, and the pressure to adapt to Western ways increased. The traditional ways were discarded, and the Inuit became dependent on the government for education, health care, and other services.

The Inuit formed the Inuit Tapiriit Kanatami (ITK), formerly Inuit Tapirisat of Canada, in 1971. The ITK represents four distinct regional homelands: Inuvialuit (Northwest Territories), Nunavik (Northern Quebec), Nunatsiavut (Northern Labrador), and Nunavut, which became its own territory in 1999. After years of hard-fought negotiations, each region has successfully settled its own constitutionally protected aboriginal rights agreements. In these regions, the Inuit received titles to the land and, under several self-government agreements, expanded administrative powers to govern according to their worldview.

E. METIS

Métis is the French term for "person of mixed parentage" and derives from the Latin word *mixtus*, "of mixed" race. According to Statistics Canada's 2016 Census of Population results, 587,545 Canadians self-identified as Métis. The Supreme Court outlined a basic legal test in order to be considered "Métis" for the purposes of asserting Aboriginal rights under *s. 35 Constitution Act*. The major criteria are three-fold: identify as a Métis person; be a member of a present-day Métis community; and have ties to a historic Métis community with proven mixed-ancestry of Indian-European or Inuit-European people that has formed a 'distinctive' collective social identity and lived together in the same geographic area with a shared common way of life.

The term Métis does not encompass all individuals with mixed Indian and European heritage. It refers to a distinctive peoples who, in addition to their mixed ancestry, developed their own customs and recognizable group identity separate from their Indian or Inuit and European forbearers. The Métis communities claiming Aboriginal rights must have emerged in an area prior to the Crown effecting control over a non-colonized region. Alberta is the only province to recognize a Métis land base of eight Métis Settlements, with a population of approximately 5,000 people on 1.25 million acres (5,100 km²).

There is no one exclusive Metis People in Canada. The Metis of eastern Canada and northern Canada are as distinct from Red River Metis as any two peoples can be. As early as 1650, a distinct Metis community developed in Nova Scotia, separate from Acadians and Micmac Indians. The Métis of the Red River Valley have paternal ancestors from the Hudson's Bay and North-West Company employees, and maternal ancestors from various tribes. All Metis are aboriginal people. All have Indigenous ancestry.

The complex history of the Metis peoples is often associated with the Riel Rebellion, an uprising in 1869–70 in the Red River Colony. In 1811 the Earl of Selkirk was granted 300,000 km² of land in the Winnipeg Basin by The Hudson Bay Company. An advance party was sent from Scotland to Hudson Bay in July 1811 and arrived on the Red River on 29 August 1812. A second group joined them in October. Through mixed marriages this soon became the Red River Colony, a colony of farmers and hunters. The Métis mounted a resistance to confederation and declared a provisional government to negotiate terms for entering Confederation. The uprising led to the creation of the province of Manitoba, and the emergence of Métis leader Louis Riel — a hero to his people and many in Quebec, but an outlaw in the eyes of the Canadian government. He was executed in 1885 at the age of 41 as a traitor in Regina, North West Territories. The Metis left Manitoba as their legacy.

Riel and his lieutenant Gabriel Dumont were childhood heroes of mine. As a pre-schooler I was taken to see the historic battle site of Batoche, fought from 9–12 May 1885, now in central Saskatchewan, 40 miles southwest of Prince Albert. It was the last major action of the North-West Resistance. Under the leadership of Louis Riel, Métis and their First Nations allies were defeated by government troops. For details of the Riel Rebellion see the Canadian Encyclopaedia web site:

<https://www.thecanadianencyclopedia.ca/en/article/red-river-rebellion>