

CITIZENSHIP/MEMBERSHIP ISSUE

How does the *Indian Act* and other First Nation citizenship codes address pressing issues like extinction, marriage, and adoption?

1. What is registration, band membership, and citizenship? Why do they matter?

Registration: The *Indian Act* defines who is a “Status Indian” and sets up a system of registration. Status Indians get Status benefits.

Band Membership: A band is a First Nation with reserve lands that operates under the *Indian Act*. The *Indian Act* rules for band membership and Status are the same.

Nation Citizenship: The *Indian Act*, s 10 allows bands and First Nations to create their own membership code or citizenship rules instead of following the *Indian Act*'s band membership rules. Citizenship can include references to culture, relationship with the land, identity and belonging

2. What are the *Indian Act* registration and membership rules?

Group 1: People who were already registered as Status before April 17, 1985.

Group 2: People who re-gained Status they had lost status before April 17, 1985, because of discriminatory government policies.

Group 3: Descendants of Groups 1 and 2 who were born after April 17, 1985. This group creates two classes of “Status Indians.” These rules are discriminatory and complicated.

Group 4: A “catch-all” group for people who are not Status under Groups 1-3 but become eligible as the government tries to fix the discriminatory rules.

3. What problems do the *Indian Act* rules create?

Extinction of Status: Overtime the two-class system in Group 3 will lead to the gradual extinction of people who have status.

Continuing discrimination against Indigenous Women: The government is reacting to court challenges with piecemeal solutions. Individuals who trace their Status to a female ancestor face discrimination in the two-class system Group 3 creates.

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	Indian Act	Fort Nelson First Nation	Fort William First Nation
Status Indian versus Band Member/ Citizenship	- The rules to be a Status Indian or a band member are the same.	- Strict Citizenship Code: A person could be a Status Indian but not a citizen.	- More inclusive Citizenship Code: A person could be a citizen but not a Status Indian.
Legislation	- Section 11 of the <i>Indian Act</i> outlines the rules for becoming a Band member. The rules on eligibility are the same for band membership and being a Status Indian. These are the default rules if Band's do not have their own Citizenship Codes (s 9(1)).	- Section 10 of the <i>Indian Act</i> outlines how bands can create their own Citizenship Codes. For Nelson First Nation has a valid citizenship code under section 10 that is recognized by the federal government.	- Section 10 of the <i>Indian Act</i> outlines how bands can create their own Citizenship Codes. Fort William First Nation has a valid citizenship code under section 10 that is recognized by the federal government.
Before & After 1985	- A person who was registered as a band member before April 17, 1985 automatically keep their membership. - In 1985, band membership and Indian Status became two separate systems. Bands were given the opportunity to create their own Citizenship Codes under s 10.	- A person who was a Band member before April 17, 1985 automatically keep their citizenship.	- A person who was a Band member before April 17, 1985 automatically keep their citizenship.
Marriage	- Status Indians that marry "out" to a member of another band or a non-Indigenous person do not lose their Indian Status or band membership. - A non-Indigenous person who marries "in" to a Status Indian cannot become Status Indian or band member.	- Citizens that marry "out" to a member of another band or a non-Indigenous person do not lose citizenship. - A person who marries "in" cannot become a citizen.	- Citizens that marry "out" to a member of another band or a non-Indigenous person do not lose citizenship. - A person who marries "in" can become a citizen. - No person automatically loses or gains citizenship in the Band as a result of marriage.
Divorce	- Divorce does not affect a person's Indian Status or band membership.	- A non-Indigenous person who became a band member through marriage prior to 1985, will lose their citizenship if the couple divorces.	- A non-Indigenous person who divorces their Indigenous citizen-spouse may keep their citizenship. - If the non-Indigenous person had probationary citizenship they lose their probationary citizenship unless (1) the couple have children together and the children reside with the probationary citizen parent, or (2) the person can demonstrate grounds for continued probationary citizenship status.
Children	Discriminatory "paper blood" system: - Children with 2 Status Indian parents have status. - Children with 1 Status Indian parent can only gain Status if they have two Status Indian grandparents. Implication: these rules ensure the population of Status Indians does not grow exponentially.	- Both parents must be citizens for the child to have automatic citizenship. - Children with only one citizen parent must apply for citizenship.	- Children with one citizen parent have automatically citizenship.
Adoption	- Children adopted "in" legally or by custom adoption are treated the same as other children (s 2(1)).	- Only children with Indigenous blood who are adopted "in" gain citizenship.	- All children adopted "in" gain citizenship.
Dual Citizenship (i.e. citizenship in 2 or more First Nations/bands)	- Dual citizenship is not permitted. - Persons who have 2 parents with band membership in 2 separate bands, cannot have membership in both bands. - A person is allowed to transfer their membership from one band to another band, if the admitting Band consents (s 12(b)).	- Dual citizenship is not permitted.	- Dual citizenship is permitted in a limited way. - A person who is registered as a member of another Band can apply to become a probationary citizen.