

# BLOOD QUANTUM



Blood Quantum is an historical concept that continues to regulate Indigenous identity based on a person's percentage of "Indian Blood".

## A BRIEF HISTORY

Blood quantum is not rooted in Indigenous legal or political orders. Instead it stems from British common law where it was used to determine inheritance. Its move to regulating Indigenous identity can be traced through chattel slavery with the intention of guarding wealth from mixed-race populations.

**1785**

First codified in Virginia in its settler colonial form. It was used to restrict African Americans from participating in public office, testifying in court proceedings, among other restrictions intended to maintain colonial power structures.

**1866**

Around 100 years later, blood quantum re-emerged in order to define Indian blood. In the United States, Indian blood quantum was present in treaty negotiations and statutes, thus playing a large role in the history of America's dealing with tribal nations.

**1985**

Indian and Northern Affairs published a booklet offering guidance to First Nations considering taking control over their membership through Section 10. The booklet suggested "blood degree" as a criterion for Bands' membership codes.

**1996**

In their *Final Report*, the Royal Commission on Aboriginal Peoples argued against the use of blood quantum as a determinant for First Nation band membership. They found its use to be unconstitutional and a barrier for future self-governing nations.

**Present**

## QUICK FACTS

### The Indian Act and Section 10

Although the *Indian Act* does not explicitly use the term "blood quantum", the *Act's* section on status is argued to use a notional form of the concept. As of 2002, 26 Bands who had opted for control over membership under section 10 had included a minimum blood requirement in their membership codes. The *Act* did not require them to do so.

### Biological and social concepts

The idea of "Indian blood" has come to mean different things to different people. From a biological perspective, the concept is understood as tracing biological purity, or authenticity. While through a social perspective, "Indian blood" has been used to claim those who belong through kinship. It is not rigid, but fluid.

### Indigenous scholars

Some Indigenous scholars have pointed to positive benefits of blood quantum for membership, identity and belonging. The ability for blood quantum to establish genealogical ties may enable bands to reclaim those who were taken through residential schools and the 60s Scoop, for example.

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This fact sheet draws on the works of Paul Spruhan [Paul Spruhan, "A Legal History of Blood Quantum in Federal Indian Law to 1935," *South Dakota Law Review*, 2006, 4.]; Bonita Lawrence [Bonita Lawrence, "Real" Indians and Others: *Mixed-Blood Urban Native Peoples and Indigenous Nationhood* (Vancouver: UBC Press, 2004), 67-68.]; Pamela Palmater [Pamela Palmater, *Beyond Blood: Rethinking Indigenous Identity* (Saskatoon: Purich Publishing, 2011), 145.]; Stewart Clatworthy [Stewart Clatworthy, "Indian Registration, Membership and Population Change in First Nations Communities" (Winnipeg: Four Directions Project Consultants, 2005), 5, <http://publications.gc.ca/collections/Collection/R2-430-2005E.pdf>.]; Veldon Coburn [Veldon Coburn, "A Genealogy of Contemporary Indianness: A Foucauldian Analysis of Identity and Society in Anti-Colonization Politics" (Unpublished dissertation, Kingston, Queen's University, 2019), 10, 110-14, <http://hdl.handle.net/1974/26197>.]; Eva Marie Garouette [Eva Marie Garouette, *Real Indians: Identity and the Survival of Native America* (Berkeley: University of California Press, 2003), 126.]; and Morris Manyfingers Jr. [Morris Manyfingers Jr., "Determination of Indian Band Membership: An Examination of Political Will," *Canadian Journal of Native Studies* VI, no. 1 (1986): 71.].