



UNKNOWN OR UNSTATED PARENTAGE

LEGAL AFFAIRS
AND JUSTICE





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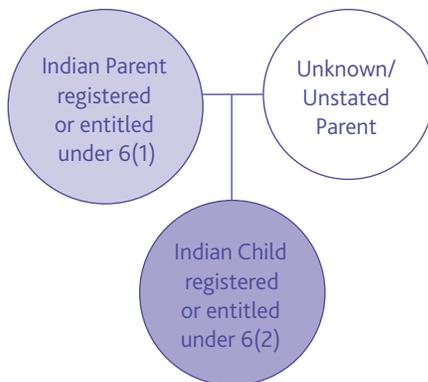
What is unknown and unstated parentage?

Under the *Indian Act*, the registration of an individual is based on ancestry and the status of both parents. When a person applies for Indian status, there may be situations where the parent, grandparent, or other ancestor of that person is unknown or unstated on birth documents. These types of situations could negatively affect a person's ability to be registered as a status Indian. The Policy on Unknown or Unstated Parentage has recently been revised.

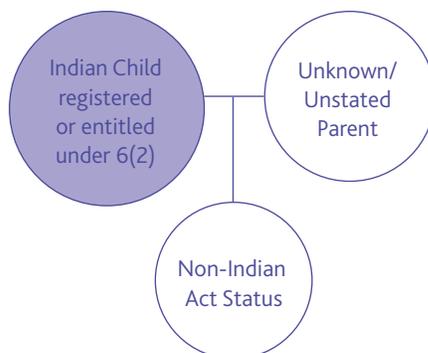
Unknown Parentage is when an Indian status applicant does not know, is unable, or is unwilling to provide information about a parent, grandparent, or ancestor.

Unstated Parentage is when the parent, grandparent or ancestor is known but is not named on their birth certificate.

In the case of an unknown or unstated parent, an individual with one parent registered as a 6(1) would only be eligible to be registered as a 6(2) Indian.



If an individual has one parent, who is registered under section 6(2), and the other parent is unknown or unstated, then they would not be eligible to be registered under the *Indian Act*.



Why is the issue of unknown or unstated parentage important?

An individual may be entitled to be registered under 6(1) of the *Indian Act* if both of their parents are Status Indians (6(1) or 6(2)). If one parent is not listed on a child's birth certificate, that child may be limited to register as a 6(2). It may also be that this child would not be entitled to register at all as a Status Indian.

How has the *Gehl* decision influenced registration for people with an unknown or unstated parent?

In the *Gehl* decision, the Ontario Court of Appeal ruled that the Indian Registrar's current policy, with respect to unstated or unknown parentage, is unreasonable. The Court ruled that the Registrar's policy unfairly requires applicants to state the name of a parent in situations where the applicant is not willing to do so, or the applicant is unable to do so because they do not know. This is particularly unfair to women, who cannot, or will not, name the biological father of their child at birth.

The court also ruled that requiring an applicant to identify a status parent was unreasonable in part because the *Indian Act* itself does have this requirement.

How is the unknown or unstated parentage issue being addressed?

In response to the *Gehl* decision, a new provision was added to the *Indian Act* through Bill S-3 to address the issue of unstated and unknown parentage. This new provision is now in force. It provides flexibility for applicants to present various forms of evidence. It requires the Indian Registrar to draw from any credible evidence and make every reasonable inference in favour of applicants in finding out eligibility for registration in situations of an unknown or unstated parent, grandparent or other ancestor. The new policy matches with Bill S-3. It seeks to address cases of difficulties related to evidence around unknown or unstated parentage. It provides the following rules to be applied by the Indian Registrar when considering applications for registration in situations of unknown or unstated parentage:

- Flexibility in the types of evidence that can be submitted.
- Balance of probabilities of having a parent, grandparent or ancestor entitled to Indian status.