



REGISTRATION AND THE CANADA- UNITED STATES BORDER

LEGAL AFFAIRS
AND JUSTICE





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What is the issue?

The Canada-United States border affects First Nations' daily movements, traditional practices, economic opportunities, and their family and cultural ties with Native Americans from the United States. In fact, a number of Nations such as the Ojibway, Blackfoot, and Mohawk have been split by the border. A federal Minister's Special Representative (MSR) was responsible for holding consultations on the subject of border crossing in 2017. In addition, the MSR was joined by many concerned First Nations communities across Canada, from Yukon to New Brunswick.

The Minister's Special Representative's consultations with more than 100 First Nations informed the final report. The report identified 7 key groups of border crossing challenges. This included the following issues:

- registration;
- mobility rights;
- membership;
- the Jay Treaty;
- identity;
- immigration laws;
- identity documents;
- the experience of crossing the border at ports of entry, which are administered by the Canada Border Services Agency (CBSA).

Registration, the Status Card and the Border

Entry into Canada

The Immigration Act has been a part of Canadian laws since 1976. That Act directly states that those First Nations peoples, who are registered under the Indian Act, have a right to entry to Canada. In addition, it does not matter if these First Nations people are Canadian citizens or not.

According to the section 19 of the Immigration and Refugee Protection Act, those persons, who can satisfy a Canada Border Services Agency officer that they are registered Indians, may (re-enter) and stay in Canada. The Secure Certificate of Indian Status (SCIS) and the Certificate of Indian Status (CIS) are the documents that the CBSA accepts to decide if a person has a right to enter Canada because they have a registered Indian status.

Entry into the United States

The United States (US) directly recognizes a right of entry to the US – for the purposes of employment and residence – to "American Indians born in Canada." However, this right is not absolute. It depends on an individual being able to demonstrate that, under the terms of the US law, this individual must "possess at least 50 per centum of blood of the American Indian race".

From the administrative point of view, the United States accepts the Secure Certificate of Indian Status and the Certificate of Indian Status, which are issued by Indigenous Services Canada in partnership with First Nations. The US accepts them as documents that registered Indians from Canada may present to enter the US by land or by sea.

Band Membership, First Nations Citizenship and the Border

As noted in the MSR's report, Canada's immigration laws and the Indian Act can be challengeable for communities with close family, cultural and historical ties with Native American Tribes in neighboring US states. For example:

- Native Americans with family and/or cultural connections to First Nations in Canada, but who are neither Canadian citizens nor registered Indians under the terms of the Indian Act, must go through the immigration process in order to be able to live permanently in Canada.
- Community members who are not registered Indians are not eligible for a Secure Certificate of Indian Status or a Certificate of Indian Status.
- Identity documents created by communities may not be accepted as ID for border crossing purposes.
- To visit relatives, or to attend cultural events in Canada, Native Americans with a criminal record may be denied entry.
- Regulations may not allow for individuals to be listed as members of communities in both Canada and the United States.