

The term “non-status Indians” refers to persons who in ethnic terms can be identified as indigenous people but who for various reasons are not entitled to be registered under the *Indian Act*. It is not clear whether federal jurisdiction under s. 91(24) of the *Constitution Act, 1867* extends to these people despite their exclusion from the *Indian Act*.

A 1981 decision of the U.N. Human Rights Committee, (*Lovelace v. Canada*) held that a woman without status under the *Indian Act* was nevertheless an Indian in the ethnic sense because of her ties to the reserve on which she was raised. Provisions of the *Indian Act* barring her from the reserve because of her loss of status were held to be in contravention of her rights as a minority under Article 27 of the International Covenant on Civil and Political Rights. This suggests a new category of persons who despite their lack of status under the *Indian Act*, may have rights under international law in respect to their indigenous culture and identify.

The term “Metis” is sometimes used interchangeably with “non-status Indian” to denote an indigenous person without status under the *Indian Act*. Historically it refers to persons of mixed indigenous and non-indigenous ancestry in the prairie provinces, who developed a cultural identity distinct from “Indians” and Europeans but which was still indigenous. Metis living in what are now the prairie provinces were regarded as possessing Indian title under federal legislation and were given land and money grants in place of treaty rights. Some people identifying as Metis today, are descendants of the people who were entitled to receive these grants; others are simply persons of mixed indigenous and non-indigenous ancestry who prefer this designation.

THE ASSEMBLY OF FIRST NATIONS

The AFN represents the 450,000 people with status under the *Indian Act*. Approximately 270,000 status Indians reside on reserve. At its broadest, the AFN’s constituency would include treaty Indians, newly registered and reinstated Indians, status Indians living off-reserve as well as those on reserve.