

What Every Non-Status Algonquin in Ontario Should Know But Your Leaders Didn't Tell You

About Your Inherent Rights

Main Entry: **inherent**

Part of Speech: *adjective*

Definition: basic

Synonyms: built in, characteristic, congenital, connate, constitutional, deep-rooted, deep-seated, (means the same as) distinctive, elementary, essential, fixed, fundamental, hereditary, immanent, implicit, inborn, inbred, inbuilt, indigenous, indispensable, individual, indwelling, ingrained, inherited, innate, inner, instinctive, integral, integrated, internal, intimate, intrinsic, inward, latent, native, natural, original, resident, subjective, unalienable

Antonyms:
(means the opposite) **acquired**

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Myth

We are lucky enough to be included in a land claim. If it wasn't for Pikwakanagan, (Algonquins of Golden Lake), being nice enough to include us our rights would never be recognized, like hunting in the park.

Fact

You are a descendent of this nation's original people. You are Aboriginal, and have inherent rights. Those negotiated agreements are nothing compared to the real right of having actual title to the land and resources. Don't let the crumbs distract you from the bigger picture. The non-status Algonquins potentially hold title to all of the territory beyond the reserve. The current hunting agreements clearly state that they do not guarantee any rights. Did your leaders tell you that? They knew.

Myth

But the government only recognizes status Indians. They are the only ones that can submit a claim.

Fact

The federal government administers reserves and status Indians...the Canadian Constitution recognizes all Indians. Non-status Algonquins always had the right to submit a claim to government since the changes to the Constitution Act of 1982. In fact the non-status Algonquins have always held the title to all of the territory except the Algonquins of Golden Lake Reserve. Aboriginal rights are not dependent on Indian Act registration. The protected rights in the Constitution apply to "**Aboriginal peoples**" which includes the Indian, Inuit and Métis peoples of Canada. The term Indian in the Constitution does not distinguish between status or non-status. Pikwakanagan initiated a claim. They have the right to initiate a claim regarding rights and resources of the reserve held for them, **that is all**. The non-status Algonquins hold title and rights to the rest of the territory.....**including the park**. We have the **inherent right**.....we inherited through our Algonquin ancestry. Land claim negotiations are based on the inherent rights policy, not on the amount of Indian-ness. If you can demonstrate that you meet the criteria and are of Algonquin ancestry you qualify, unless you allow someone else to acquire those rights.

The current process regarding the creation of the "Algonquins of Ontario" and their dominance of the treaty process has supported their acquiring expanded jurisdiction, territory, political power and title. Actions taken by non-status leaders, similar to those of resistance taken by the Kichesipirini Algonquin First Nation, ensure that inherent rights of their citizens are guaranteed and protected, first. Their identity is based on factual history and well-organized documentation. Unfortunately the local leaders did not organize things that way, did they?



Myth

Only status Indians with a reserve can file a land claim or negotiate self-government.

Fact

The Federal Interlocutor for Métis and Non-Status Indians has a mandate to enter into negotiations with Métis south of the sixtieth parallel and **Indian people who reside off a land base**, or reserve. In addition, we have the right to self-government. Ministers of other federal government departments have mandates to enter into **sectoral negotiations** in their respective areas of responsibility. Self-government proposals from Indian, Inuit and Métis groups should be directed accordingly. A Federal Steering Committee will co-ordinate implementation of the inherent right within the federal government and maintain an overview of all self-government activities across the federal government. The Government is also prepared, with provincial agreement, to protect rights in agreements **as constitutionally protected section 35 treaty rights**. Negotiation processes may be initiated by the Aboriginal groups themselves and will be tailored to reflect their particular circumstances and objectives. The Government is prepared to cost share with provinces the enumeration and the identification of Indian people living off a land base who may be covered by self-government arrangements. Under the federal policy, Aboriginal groups may negotiate self-government arrangements over a variety of subject matter, including government structure, land management, health care, child welfare, education, housing and economic development. Negotiations will be between Aboriginal groups, the federal government and, in areas affecting its jurisdiction and interests, the relevant provincial or territorial government. Where aboriginal lands and traditional activities were not addressed by treaties, the common law has recognized aboriginal rights and title. We never had be held hostage by the threat that if Pikwakanagan walked we had nothing. We have options. Did your leaders tell you that?

Myth

I am not Algonquin enough to qualify for anything. I don't even look Indian.

Fact

Your Algonquin rights are inherent political and legal rights; they are not racial issues. You inherited the rights because you are a descendent of the First People of the land. You deserve the right to be compensated because matters affecting your ancestors were not done legally and the responsibility has been passed on, as well as your right to compensation. It has nothing to with your physical appearance or race. It is a legal procedure.

Myth

I am of mixed Ancestry. Doesn't that mean I am Metis?

Fact

Metis identity is very different from claiming your rights as an Algonquin descendent. Many individuals of mixed ancestry, because of their Algonquin ancestry, although they identify with the Metis culture still qualify for treaty benefits. Some people are both.

Myth

But shouldn't the rights go to the registered Indians because they have status cards and can prove who they are.

Fact

Status Indians must have identification to prove that they qualify for the money their communities receive through the Indian Act. Many people have the incorrect idea that status implies some sort of "status" according to beneficiary criteria of this treaty or land claim. It should not. It might mean that they are more Indian race by blood...but that has no bearing on the legal rights concerning title to Algonquin territory and resources and treaty rights. Neither should all of the status Indians on the reserve qualify as Algonquin descent either...as many come from other areas.....so therefore they should not be

beneficiary...or at least not at the expense of actual descendents. In fact, it can actually be argued that status Indians have already been compensated in many ways. It costs more than 7 million dollars a year to support the approximately 400 people living on the Pikwakanagan reserve. They also have not had to pay most taxes and their health, dental and prescriptions are paid for. That is not counting the unknown amounts of grants that are paid into the reserve that they don't even have to report. All persons of Algonquin ancestry are expected to prove that ancestry. Access to that information should not be dependent on participation with the "Algonquins of Ontario" initiatives.

Myth

But we hear all the time in the media about how poor the people are on the reserve. We should make sure they get the most. The media never talks about the other Algonquins.

Fact

Issues of politics, corruption, administration issues, and social isolation cause most social problems on reserves. Money alone isn't going to fix those issues. A perfect example is the structure of the land claim table itself. The reserve which claims higher levels of social assistance and poverty is also costing seven times the amount to be represented at the table by insisting on 7 representatives for approximately 1,800 members and they have not considered allowing those paid positions to go to persons not otherwise employed. Most non-status, until recently lived in poverty ghettos, and until the 1960s most didn't even receive any forms of social assistance. They had to buy their own property, build their own houses and pay all of their own expenses. They did not have the hunting privileges. They experienced extreme poverty and many of the problems that go with poverty, increased health problems, higher death rates due to unsafe housing and work, higher suicide rates. They had no opportunity to education. They had to work in the most difficult and dangerous jobs, building the empires of those that took over their land. This land claim is about justice. Every family, each individual that has made it through this history deserves to be compensated. Those that have already been compensated in many ways should not dominate the process. These are your rights. Are your leaders promoting them? Current leaders of the non-status Algonquins have given away the rights to equality, free speech and equal representation to those Algonquins that are already receiving millions of dollars. The Algonquins of Pikwakanagan have been allowed to dominate the mainstream media giving the general public a misconception about the legitimacy of the issues. The federal government have helped them do that. Leadership of Kichesipirini Algonquin First Nation has insisted on maintaining the rights of their people. They have accessed and developed other media in an attempt to present the facts. They have remained independent of the controls associated with the Algonquins of Ontario. Is there a hidden agenda? We think so. There are some things we will not compromise on.....our rights is one, our traditional values of honesty, humility, respect, courage, wisdom, truth, and love are others.

Myth

My leader has done a great job because I can hunt in the park and we are at a negotiations table.

Fact

The negotiated hunting agreements have not confirmed your rights. The federal and provincial governments have agreed to negotiate because your rights have not been clearly defined yet through a treaty so rather than use up resources in court they have agreed to allow Algonquin representatives to administer organized hunts. Your rights are not yet secured legally. Your rights will be clearly determined with this treaty. Whoever gains self-government control will determine your rights. All non-status groups involved in the current negotiations have given up the right to decide your rights. They have given control to Pikwakanagan to dominate the process. Hagglng over moose tags is a smoke screen distracting you from the real issues of citizenship, clearly identified beneficiary, and defined rights.

All Aboriginal rights are based on proof of existing occupation and use of territory by a community prior to European contact and Confederacy. Pikwakanagan did not exist before September 7th, 1873, therefore

they are dependent on the inclusion of all other Algonquins to proceed with their claim of expanded territory and jurisdiction.

Yet Pikwakanagan controls the table; Pikwakanagan controls the hunt; and soon Pikwakanagan will control everything. Many leaders used hunting tags as a means of attracting Algonquins into the process, but you were not fully informed. The ANND/ANTC ANRs have agreed to forfeit your rights in exchange for their participation at the table. You are not guaranteed any rights except as an “Elector” to vote away your rights while agreeing to the expansion of Pikwakanagan into non-status territory. Good leaders would make sure that your rights are guaranteed throughout any process.

Remember, any of the ANND/ANTC groups could have applied for self-government first and secured your rights, guaranteed in the Constitution, before entering negotiations. Even if you become a beneficiary now it will probably be somehow limited, as everything else has been so far. Being at the table means you can lose your rights and the rights of your descendents.....forever. Unless they are guaranteed there are no guarantees. All that is guaranteed so far is who is at the table and that Pikwakanagan has expanded their jurisdiction unless they are stopped.

Myth

Pikwakanagan and the newly formed “Algonquins of Ontario” are acting on behalf of all our interests.

Fact

Pikwakanagan is currently involved in self-government negotiations with the Anishinabek Nation. The mandate states;

In 1995 the Anishinabek Grand Council directed the Union of Ontario Indians to enter negotiations with Canada for the restoration of Anishinabek jurisdiction. Currently, the Anishinabek Nation and Canada are negotiating agreements with respect to the exercise of law-making authority over governance and education. Our purpose in the negotiations is to achieve Canada’s recognition of the law-making authority of the Anishinabek that has always existed. **Restoration of Jurisdiction (ROJ) refers to the self-government negotiations with the federal government that will restore and reclaim the law-making authority of the Anishinabek Nation.** (<http://www.anishinabek.ca/ROJ/index.asp>).

These negotiations only represent status Indians registered under the Indian Act.

View <http://www.anishinabek.ca/ROJ/pdf/Initialled%20Governance%20Draft%20AIP%202005.PDF>

According to the initialled Agreement in Principle, signed July 19, 2005, by representatives of the federal government.

Important terms agreed to are;

Law-making powers for our First Nations to determine its citizenship meaning;

Each Participating First Nation has jurisdiction with respect to the determination of its citizenship.

A person who is a member of a Participating First Nation immediately prior to the coming into force of a citizenship law of a Participating First Nation enacted pursuant to the Final Agreement will become a Citizen of that Participating First Nation after the citizenship law comes into force.

A person who was eligible to become a.) member of the Participating First Nation **according to the membership provisions of the Indian Act** or according to the membership code of that Participating First Nation, immediately prior to the enactment of a citizenship law, will be deemed eligible for citizenship in the Participating First Nation, after a citizenship law comes into force.

Except as otherwise set out in the Final Agreement, in the event of a conflict between a federal

law and a Participating First Nation law enacted pursuant to the agreement the laws of the First Nation will prevail.

Each Participating First Nation has jurisdiction with respect to the management and operation of the Participating First Nation Government

Each Participating First Nation may make laws concerning the personal immunity from civil liability of employees, officers, elected officials and appointees of the Participating First Nation Government and its institutions for:

- a) the actions of the Participating First Nation Government and its institutions; and
 - b) actions carried out in the course of their duties, in the absence of dishonesty, gross negligence or malicious or wilful misconduct,
- subject to such laws also providing that the Participating First Nation Government, as employer, retains vicarious liability for the acts or omissions of employees, officers, elected officials and appointees of the Participating First Nation Government and its institutions covered by the immunity.

A Participating First Nation Government will remain accountable to its Citizens, (**status Algonquins**), for the exercise of any Jurisdiction or Authority it delegates.

Myth

If we don't like the way things have gone we can sue the government of Canada for not representing our rights.

Fact

As a participant in the current process you will have no such recourse. Read;

3.26 The Anishinabek Nation is not liable in respect of anything done or omitted to be done by Canada or any person or entity authorized to act on behalf of Canada which:

- a) is related to a subject matter set out in the Final Agreement and for which there has been no corresponding exercise of Jurisdiction or Authority by the Anishinabek Nation at the time of the act or omission or occurred before the Effective Date.

3.27 Canada will indemnify the Anishinabek Nation for any loss suffered by the Anishinabek Nation.

3.28 Canada is not liable in respect of anything done or omitted to be done by a Participating First Nation or the Anishinabek Nation or any person or entity authorized to act on behalf of a Participating First Nation or the Anishinabek Nation after a Participating First Nation or the Anishinabek Nation has exercised Jurisdiction or Authority in relation to a subject matter set out in the Final Agreement.

3.29 Anishinabek Nation will indemnify Canada for any loss suffered by Canada as a result of an act or omission described in section.

Myth

I have heard some of this mentioned about this but I really don't understand it. Is it really that important?

Fact

This is extremely important and will forever change our rights and relationship as Aboriginal people with the provincial and federal governments. The government has a fiduciary responsibility to thoroughly inform us about these matters. They have not. Neither have your leaders. Have you ever been given a fact sheet such as this? Have you ever been given printed detailed information regarding these matters? Have you ever been given written materials that direct you to the websites, or who to contact for further information, or how to appeal the process? There are legal obligations for the government to do this. There

are also legal and moral obligations for your leaders to have done so. Kichesipirini Algonquin First Nation has worked hard to fully inform the people and protect their long-term rightsyet they are being blocked from the negotiations table. We wonder why?

Myth

As long as I am told I become a beneficiary and member it doesn't matter if I am a citizen.

Fact

Don't be fooled. Don't be tricked by the offer of second-class short-term benefits like stumpage fees or training and jobs because without the long-term power associated with citizenship your short-term rights could be voted away by others. The new government will be able to apply for federal dollars to provide services to all members and citizens, but only citizens, status Indians, will be allowed to vote, while members can only participate. You will be dependent for all your Aboriginal services but not be able to exercise any real control. Is that worth negotiating away all of your rights? Are your leaders looking out for you? Or have they secured lucrative positions for themselves?

Due to competition associated with globalization forestry will be facing many challenges in the near future. There will not be the opportunities currently available associated with harvesting as more and more the work will become of highly specialized knowledge jobs, requiring university educations. Harvesting will move to third world countries with lower labour rates and warmer climates. Will we, as only members, have equal access to expensive education dollars? Have your leaders provided you with that information? They should have because it was made available to them. We wonder why they didn't?

Myth

But what about our new territory?

Fact

The only territory recognized in this agreement, as an "Elector" you are negotiating for, is a reserve, as defined under the Indian Act, of a Participating First Nation or lands set apart by Canada in the future as a reserve within the meaning of the Indian Act and sub-section 91(24) of the Constitution Act, 1867, for anyone of the Participating First Nations. You should be aware that part of the intent of these negotiations is for the expansion of the current reserve, as well as the development of satellite reserves, all under the control of band and council. Is that what you want? Is that what you were originally led to believe?

Myth

But we will get tax exemptions.

Fact

You might be exempted from federal or provincial taxes but you will be taxed. According to the structure of the current processes in place you will be taxed by a government that does not even recognize you as full fledged and equal citizens. They will decide how much you will be taxed, and how your taxes will be spent...but oh yeah, while others vote you will be allowed to participate in the decisions. Does that sound like a fair deal? Once you have voted away your territory as Electors for the "Algonquins of Ontario" you have no further guarantees. Have you been given the full picture?

Myth

Pikwakanagan hasn't signed anything yet. I don't think they are part of this.

Fact

Pikwakanagan is listed as a member of the southeastern region of the Anishiabek Nation. Their description of themselves insinuates that they are the sole representatives of Algonquin history and jurisdiction in Ontario. They don't even mention anyone else. Have they been open and transparent?

Myth

Maybe Pikwakanagan is involved in this but no one else is.

Fact

It is alleged that in 2002 Pikwakanagan and the ANND received self-government funding. The alleged amount is 300,000.00 dollars. How has that been spent? Will we ever know?

Myth

Maybe things won't be so bad. Let's give it a try.

Fact

Imagine living in a municipality where the mayor and council have an absolute veto over everything, whether you have a house or not, whether your plumbing gets fixed or not, whether you have access to transportation, whether your children can get funding for university, and whether you have a government job when such jobs are about the only ones available. Imagine your government is made up of people all closely related and they make certain only their friends and relatives get the best positions. Imagine further, that the system is set up to deliberately minimize citizen contact with other governments in terms of access to court services or civil liberty protections. Regrettably, this scenario is all too familiar on many reserves. From 2002-2004, the Department of Indian Affairs reported 984 allegations of criminal or complaints of non-criminal wrongdoing by their native government bodies or organizations. Sweeping powers with limited accountability have lead to mismanagement and corruption on reserves. Providing more powers with less accountability is not the answer. But that type of system is the status quo of the "Indian Industry" and it doesn't like to be rocked.

There are other ways. This treaty is an opportunity to explore other ways if we can allow others a chance to participate.

The last thing many status Algonquins would ever want to see is an expansion of the Indian Act band and council governance model expanded. It should be noted that during the Aboriginal Conference of the Charlotte Accord, 1992 referendum representatives for aboriginal women's groups, specifically status Indian women, rejected the Accord due to the uncertainties of self-government and concern of collective rights over-riding individual rights. They questioned whether the Charter of Rights and Freedoms would be maintained within self-government legislation. In addition, grassroots natives feared the enormous concentration of power that would result in the hands of their ambitious "leaders".

The Nisga'a Treaty of British Columbia is an example of a treaty that provides "self-government" powers that are akin to federal and provincial powers, but without the same controls. During negotiations and the subsequent signing of the Nisga'a Land Claims Agreement, both the federal and British Columbia provincial government lead Canadians to believe the Nisga'a level of government would be based on a municipal or local government model. This is not the case since other municipalities do not possess power over citizenship, culture, health services, children and family services, adoption, elementary, secondary and postsecondary education, cultural property, management of fishing resources and ownership of mineral and timber resources. To the contrary, the Nisga'a government has authority over all the above. Furthermore, there are 17 examples contained with the Nisga'a Treaty, similar to the Anishinabek agreement, that state in the event of an inconsistency between a particular Nisga'a law and federal or provincial law, the Nisga'a law or treaty prevails to the extent of the conflict. Meaning Nisga'a law supersedes federal or provincial law. Contrary to popular belief, the Nisga'a government is not subject to the *Charter of Rights and Freedoms*. Section 25 of the Charter expressly states that the guarantee of Charter rights shall not be construed so as to abrogate or derogate from any treaty rights that pertain to the aboriginal peoples of Canada, including any rights that may be acquired by way of land claims settlement. By doing so, Nisga'a laws would be immune from a Charter challenge. In other words, Nisga'a laws could discriminate between residents of Nisga'a land based on their race, religion, or gender and the victim of discrimination could not use the Charter to strike down the offence. Immunity from the Charter would also

enable the Nisga'a government to pass legislation, which violates freedom of expression, religion and association, and such laws could not be challenged in court as violating those fundamental rights.

Myth

Does politics really matter? I just want to hunt and fish. That is all I care about.

Fact

High standards of public governance are the essential foundation for achieving sustainable economic growth and social cohesion. Without high standards, there can be no confidence in the integrity of public institutions or indeed in the value of democratic processes in promoting and protecting the interests and well-being of citizens. Good governance and the fight against corruption should not be just new catchwords. They represent the keys for successful reform and for equitable and sustainable development. Poor governance now will mean disaster later and could be the most clever method of assimilation ever introduced. Remember the saying **“By Hook or By Crook?”**

Myth

Pikwakanagan has the right to negotiate self-government and they will do it without us anyways.

Fact

The Algonquins of Pikwakanagan would have to prove that they had exclusive use and occupation of the territory off the reserve before European contact, that they were a distinct society, and had their own governance for the entire territory. Can they prove that? Absolutely not. Remember, many of the original members of Pikwakanagan left their own territories and communities to settle the reserve and receive compensation. Can they make it appear that they acquired those rights from other Algonquins. Absolutely, through processes such as the establishment of the “Algonquins of Ontario”, and many are helping them do it. Their claims to Restoration of Jurisdiction are not based on fact, and their methods are not based on fairness. Do not let anyone acquire your rights without the full guarantee of the protection of those rights. Expect honest leaders who lead with integrity and your best interests first.

If leaders haven't made the protection of your rights their number one priority just what is their priority?

Do you want to be the generation of Algonquin men who traded our rights away forever for a few moose tags?

Is that the legacy you want to leave your children?

If you have any further questions please feel free to contact algonquincitizen@hotmail.com or kichesippi@hotmail.com

Please e-mail, make copies, and pass around. Get the word out and inform the people.

Links

The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government: http://www.ainc-inac.gc.ca/pr/pub/sg/plcy_e.html

Anishinabek Nation Self-governance: <http://www.anishinabek.ca/ROJ/index.asp>
<http://www.anishinabek.ca/ROJ/constitution.asp>

www.kichesippi@50megs

There are other ways.