

Working Effectively with Aboriginal Peoples®



GUIDE TO TERMINOLOGY

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Indigenous Corporate Training Inc.

Guide to Terminology – Working Effectively with Aboriginal Peoples®

Cover photo banner:

Photos depict the stages of effective Aboriginal consultation and engagement that move a relationship from protest to awareness, and if engagement and consultation is done well, to agreement.

čəsnaʔəm - Musqueam Marpole Village Site protest signs

Bob Joseph delivering a Working Effectively with Aboriginal Peoples™ cross cultural awareness workshop

Chief Keith Matthew, Simpcw First Nation and David Hodge, President and Director, Commerce Resources Corp. signing a Mineral Exploration Agreement

Gwa'wina or First Nations Raven Image designed by William Wasden

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Working Effectively with Aboriginal Peoples™

Guide to Terminology

At Working Effectively with Aboriginal Peoples™ our goal is to assist people in their quest to learn more about Aboriginal Peoples in Canada, to break down barriers, to dispel long-held myths, and to build a foundation of understanding and respect that will lead to a better world for all of us. There is no doubt about it, the history of Aboriginal Peoples since European contact is dark, complicated, fraught with conflict, misunderstanding, and legendary mistreatment and disrespect. But, it is through a keen and committed interest by people like you to understand the history and influences that impact today's Aboriginal People that will contribute to a better world tomorrow for everyone.

One of the fundamental steps in this goal is to provide a Glossary of Terms that forms the foundation of understanding and communication.

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Understanding the evolving world of definitions and terminology is a good place to start. With that in mind, we have compiled this Glossary of Terms as a handy reference.

One area of confusion is the use of capitalization. Why are Aboriginal, First Nation, Indigenous, Inuit and Metis capitalized sometimes and other times not? The use of capital letters is an editorial and personal preference. At *Working Effectively with Aboriginal Peoples*™ it is our editorial preference to capitalize the various referring nouns. We do so out of respect and consistency with how other segments of the population are referenced - “English”, “French”, “Spanish” etc. Mainstream print media tends to not capitalize so when we include a quote, we keep the quote true to the source’s editorial guidelines.

We hope you find this Guide to Terminology useful.

Bob & Cindy Joseph,
Indigenous Corporate Training Inc.

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Aboriginal Consultation: The Crown has a legal duty to engage in meaningful consultation whenever it has reason to believe that its policies or actions, directly or indirectly, might infringe upon actual or claimed Aboriginal interests, rights or title.

Aboriginal Interest: A broad term referring to the range of rights and entitlements that may arise from long use and occupation of traditional territories by Aboriginal people. Application of common law, statute law, treaty provisions, and the Constitutional protection provided to “... the existing aboriginal and treaty rights of the Aboriginal people of Canada” by section 35 of *The Constitution Act, 1982*, to the facts of the particular case, determines the scope of “Aboriginal interest”.

Aboriginal people/persons: More than one Aboriginal person.

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Aboriginal people: Entire body of Aboriginal persons in Canada.

Aboriginal Peoples: Defined in the *Constitution Act, 1982* to include all Indigenous people of Canada - Status Indians, Non-Status Indians, Métis and Inuit people.

Aboriginal Rights:

- practices, traditions or customs which are integral to the distinctive culture of an Aboriginal society and were practiced prior to European contact, meaning they were rooted in the pre-contact society;
- must be practiced for a substantial period of time to have formed an integral part of the particular Aboriginal society's culture;
- must be an activity that is a central, defining feature which is independently significant to the Aboriginal society;
- must be distinctive, meaning it must be distinguishing and characteristic of that culture;
- must be given priority over all other land uses, after conservation measures;
- must meet a continuity requirement, meaning that the Aboriginal society must demonstrate that the connection with the land in its customs and laws has continued to the present day;
- may be the exercise in a modern form of an activity that existed prior to European contact;

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- may be regulated by government, but only by legislation explicitly directed at a compelling and substantial objective such as the conservation and management of natural resources;
- do not include an activity that solely exists because of the influence of European contact; and
- do not include aspects of Aboriginal society that are true of every society such as eating to survive.

Aboriginal Title: In general, “Aboriginal title” refers to the rights of Aboriginal Peoples to the occupation, use and enjoyment of their land and its resources. The classic legal definition was provided by the Supreme Court of Canada in ***Delgamuukw v. British Columbia*** [2]:

“... aboriginal title encompasses the right to exclusive use and occupation of land; second, aboriginal title encompasses the right to choose to what uses land can be put, subject to the ultimate limit that those uses cannot destroy the ability of the land to sustain future generations of Aboriginal Peoples; and third, that lands held pursuant to aboriginal title have an inescapable economic component.”

Band: The *Indian Act* defines “Band”, in part, as a body of Indians for whose use and benefit in common, lands have been set apart. Each Band has its own governing Band Council, usually consisting of a Chief and several councilors. The members of the Band

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usually share common values, traditions and practices rooted in their language and ancestral heritage. Today, many Bands prefer to be known as First Nations. Capitalize “Band” when it is part of a specific band, such as Osoyoos Indian Band, otherwise, use lowercase.

Band Council or First Nation Council: The Band’s governing body. Community members choose the Chief and councilors by election under section 74 of the *Indian Act*, or through traditional custom. The Band Council’s powers vary with each band.

Chief: There are two classifications of Chief:

- **Band Chief:** A person elected by Band members to govern for a specified term. Under the specifications of the *Indian Act*, First Nations must have an election every two years.
- **Hereditary Chief:** A Hereditary Chief is a leader who has power passed down from one generation to the next along blood lines or other cultural protocols, similar to European royalty.

Chinook Jargon: Describes a language that was loosely based on the Chinook Peoples language. It developed as a trade language so that communication could take place between people who spoke different languages. It appeared in the 19th century from the Columbia River area and spread out into Washington, Oregon, British Columbia, and Alaska.

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Elder: Elders are recognized because they have earned the respect of their community through wisdom, harmony and balance of their actions in their teachings. Elders try to instill respect in their community members for the natural world and that the earth is their mother.

Enfranchisement: The process involved in giving up one's status as an Indian; predominate during era of Indian assimilation practices. In 1985, this practice was terminated by Bill C-31.

Extinguishment: The history of extinguishment of title has its roots in old or historic treaties which contained the words “cede, release, surrender” of their rights, title and privileges to the lands included within the limits of that particular treaty.

Fiduciary obligation: A legal duty described by the Supreme Court as the obligation of one party to look after the well-being of another. Canada has fiduciary obligations to Aboriginal people, meaning that Canada must consult and negotiate with Aboriginal people whenever their interests are concerned.

First Nation: A term that came into common usage in the 1970s to replace the term “Indian band”, which many, not all, found offensive. The term “First Nation” has been adopted to replace the word "Band" in the name of many communities, and can refer to a single Band, many Bands, an Aboriginal governing body, organized and established by an Aboriginal

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community, or an Aboriginal community as a whole. First Nation is not applied to Inuit or Métis, who are distinct and separate.

First Peoples: Another, less frequently used collective term to describe the original peoples in Canada.

Impacts and Benefits Agreements (IBAs): A broad term used to describe various contractual commitments related to development of land or resources subject to Aboriginal rights. IBAs usually impose negotiated limits on a project’s impacts on the environment, on fish and wildlife, on the land and First Nations traditional use and enjoyment of same; and IBAs usually define a range of negotiated economic and preferential benefits to flow to the First Nation(s) whose lands are to be impacted by the development.

Indian: The origin of the term “Indian” dates back to Christopher Columbus, who mistakenly thought he had reached the East Indies, so referred to the people in the lands he visited as “indios” which is Spanish for Indian. Usage of the term has fallen out of favour to the point it is considered by many to be derogatory and has largely been replaced by Aboriginal Peoples.

Usage: Indian is still used in the following situations:

- *in direct quotations*
- *when citing titles of books, works of art, etc.*

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- in discussions of history where necessary for clarity and accuracy
- in discussions of some legal/constitutional matters requiring precision in terminology
- in discussions of rights and benefits provided on the basis of "Indian" status
- in statistical information collected using these categories (e.g., the Census)" Strategic Alliance for Broadcasters for Aboriginal Reflection

Indian Act: The *Indian Act* is federal legislation that regulates Indians and reserves and sets out certain federal government powers and responsibilities toward First Nations and their reserved lands. The first *Indian Act* was passed in 1876, although there were a number of pre-Confederation and post-Confederation enactments with respect to Indians and reserves prior to 1876. Since then, it has undergone numerous amendments, revisions and re-enactments. Aboriginal Affairs and Northern Development Canada administers the *Indian Act*.

Indigenous Peoples: The definition of "indigenous" is "native to the area" – so, in terms of Aboriginal people, they are indigenous to North America. As a collective term, it should be capitalized "Indigenous Peoples".

a) "Peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their

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own customs or traditions or by special laws or regulations;”

b) “Peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.” ILO 169, a respected international convention

Inherent Rights: Pre-existing rights that a person is born with into their nation; officially recognized by Canada under section 35 of the Constitution Act, 1982: Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and their resources.

Inuit: Aboriginal people in northern Canada, living mainly in Nunavut, Northwest Territories, northern Quebec and Labrador. Ontario has a very small Inuit population. Inuit are not covered by the *Indian Act*. The federal government has entered into several major land claim settlements with Inuit. *Usage: The word “Inuit” means “the people” in the Inuit language and is used when Inuit are referring to themselves as a culture. Inuit is also the plural form of “Inuk”. Avoid using the term “Inuit people” or “the Inuit*

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people” as that is redundant - "Inuit" is the preferred form.

Land Claims: In 1973, the federal government recognized two broad classes of claims — comprehensive and specific.

- **Comprehensive Claims:**

Comprehensive claims are based on the assessment that there may be continuing Aboriginal rights to lands and natural resources. These kinds of claims come up in those parts of Canada where Aboriginal title has not previously been dealt with by treaty and other legal means. While each claim is unique, frequently these claims include such things as land title, fishing, trapping, and resource rights and financial compensation – hence the “comprehensive”;

- **Specific Claims:**

Specific claims declare grievances over Canada’s alleged failures to discharge specific obligations to First Nations groups.

Land claim agreement: A term used by the federal government to refer to a negotiated settlement with a First Nation on lands, land usage, and other rights.

Métis: People of mixed Aboriginal and European ancestry. The Métis National Council adopted the following definition of “Métis” in 2002: *“Métis” means a person who self-identifies as Métis, is distinct from other Aboriginal peoples, is of historic*

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Métis Nation Ancestry and who is accepted by the Métis Nation.”

Nation: People united by common descent, history, culture and language associated with a particular territory.

Native: Another outdated collective term referring to Indians (status and Non-status), Métis, and Inuit but has largely been replaced by Aboriginal.

Oral History: It has been suggested that if a culture didn't have a written language, then it was considered primitive. Aboriginal Peoples of North America have relied on oral histories, as opposed to written languages, since the dawn of time. History is frequently passed to future generations through stories, songs and oral communications.

Reserve: Defined by the *Indian Act* as “... tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band.” A result of the definition of reserve land in the *Indian Act* is that reserve land cannot be privately owned by the Band or Band members. “Reservation” is an American term.

Scrip: Certificates redeemable for land or money issued to Métis during the late 19th and early 20th centuries. Métis would have to apply for the scrip in order to qualify; it was a system designed to extinguish Métis Aboriginal title.

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Self-determination: A major objective of Aboriginal Peoples, country-wide, is to gain control over who can become members. Currently, bands are required to maintain a registry with many of the rules governing membership mandated by the *Indian Act*. As we move into the future, the desire is for communities to decide who their members are, and not be directed by a bureaucrat in Ottawa. Self-determination is the right to decide who your people are.

Self-government: Long before Europeans arrived in Canada, First Peoples were self-governing. In 1876, when the *Indian Act* went into effect, traditional governance systems were dismantled and alien regulations were imposed in their place. When we take a look at the day-to-day operations of a band we see that all the actions of the band are directed in accordance with the *Indian Act*. This is a huge problem for bands, and their politicians, because it means that while they are elected by their people they are accountable to the department of Aboriginal Affairs and Northern Development of Canada. Their preference would be to change to a system where the governing leaders are elected and accountable to their people. Such models do exist and the communities with self-government agreements have done well in terms of the nation building process.

Self-reliance: A key objective of Aboriginal Peoples. They want the ability to participate in the political in

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the political, and more importantly, the economic mainstream without having to rely on federal funding to meet their community needs. In addition to business opportunities, they also want to get into the realm of taxes, royalties and revenue sharing on land developments which are viewed as key to the self-reliance puzzle.

Surrender: A formal agreement that confirms the conditions and terms when a First Nation exchanges part of its territory for equitable compensation.

Socio-Economic Participation Agreement (SEPA): A synonym for Impacts and Benefits Agreement.

Traditional Ecological Knowledge (TEK): “TEK” broadly describes systems for understanding one’s environment, based on detailed personal observation and experience, and informed by generations of elders. TEK is recognized and used around the world as an important environmental assessment tool.

Traditional Territory: The geographic area identified by a First Nation to be the area of land which they and/or their ancestors traditionally occupied or used.

Treaty: An agreement between government and a First Nation that defines the rights of Aboriginal Peoples with respect to lands and resources over a

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specified area, and may also define the self-government authority of a First Nation. Modern treaties, once ratified, become part of the law of the land.

Treaty Rights: Rights specified in a treaty. Rights to hunt and fish in traditional territory and to use and occupy reserves are typical treaty rights. This concept can have different meanings depending upon the context and perspective of the user. Treaty rights are constitutionally recognized and affirmed; the terms of treaties take precedence over the other laws and policies in Canada.

Treaty settlement land: The area of land that is part of a treaty and is therefore owned and managed by the First Nation that negotiated the Treaty.

Tribal Council: Not defined under the *Indian Act*, a Tribal Council usually represents a group of bands to facilitate the administration and delivery of local services to their members.

Usufructuary Rights: Communal or community rights to share in the use of property. This concept has been used by the courts in attempting to distinguish between Crown title and Aboriginal title.

Thank you for your interest! Hopefully you feel more comfortable in your personal and professional capacity, and in your day-to-day interactions with Aboriginal Peoples.

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About the Authors:

Bob Joseph is the founder of Indigenous Corporate Training Inc. He has provided training and assisted individuals and organizations in building Indigenous or Aboriginal relations since 1994. His Canadian clients include all levels of government, Fortune 500 companies, financial institutions, including the World Bank, small and medium sized corporate enterprises, and Aboriginal Peoples. He has worked internationally for clients in the United States, Guatemala, Peru, and New Caledonia in the South Pacific. In 2006, Bob helped facilitate a worldwide Indigenous Peoples' Roundtable in Switzerland which included participants from the United Nations, Australia, New Zealand, North, Central and South America, Africa, and the Philippines.

As a former associate professor at Royal Roads University in Victoria, B.C., he designed and delivered programs on Aboriginal relations. In addition, he is routinely a guest lecturer at other academic institutions. Bob is a certified Master Trainer, who in May of 2001, was profiled in an annual feature called, "Training: the New Guard 2001" by the American Society of Training and Development in their prestigious Magazine, "T + D". Bob was one of nine trainers selected for the feature from over 70,000 members from more than 100 countries and 15,000 organizations.

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Bob is the author and co-author of several books and resources relating to working with Aboriginal or Indigenous Peoples.

Bob is an Aboriginal person, or more specifically, a status Indian, and is a member of the Gwawaenuk Nation. The Gwawaenuk is one of the many Kwakwaka'wakw tribes located between Comox and Port Hardy on Vancouver Island and the adjacent mainland of British Columbia. He is an initiated member of the Hamatsa Society, and the son of a hereditary Chief, and will one day, in accordance with strict cultural laws, become a hereditary Chief.

Cynthia F. Joseph is an integral part of the Indigenous Corporate Training Inc. team. She is the co-author of our books and is the main developer of the on-line training programs.

Cynthia received her Bachelor of Laws degree from the University of British Columbia in 1990 and was called to the bar in 1991. She maintained a general law practice working first on the North Shore of Vancouver, then on Bowen Island, downtown Vancouver, and Burnaby to retire from law in Port Coquitlam.

While maintaining a legal practice Cynthia began using her experiences as a faculty member at Capilano University in the highly recognized Paralegal Program. The combination of her legal degree and her experience providing instruction in class, and in an on-line format while a member of the Capilano faculty

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have been invaluable in developing the on-line training programs that we offer at www.ictonline.ca. Cynthia's research skills and educational background ensure that our Working Effectively with Aboriginal Peoples™ books and training remain up to date and reliable.

Additional Information:

At Indigenous Corporate Training Inc. (ICT) we are committed to provide a broad range of performance improvement training services geared specifically to helping individuals and organizations work effectively with Aboriginal Peoples.

The Working Effectively with Aboriginal Peoples® training has been delivered to Fortune 500 companies, financial institutions, including the World Bank, small and medium sized corporate enterprises and through all levels of governments across Canada. It has also been delivered in North and South America and Switzerland.

3 Great Courses:

Our courses are derived from decades of personal and professional knowledge, experience, and from workshop participant evaluations. We strive every day to deliver quality, effective and practical courses - it is

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both a professional and personal commitment to offer the very best on-site training.

1) Aboriginal Cultural Awareness® This is the one that started it all. It's available in half day or full day versions. We also have regional versions too.

2) Working Effectively with Aboriginal Peoples® We took our signature Aboriginal awareness training program to a whole new level when we developed Working Effectively with Aboriginal Peoples®. Extensive field testing with Aboriginal and non-Aboriginal Peoples confirmed that effective training should help individuals and organizations work more effectively with Aboriginal Peoples rather than just raise awareness. In this course our goal is to help participants get beyond Aboriginal awareness to learn practical skills and tools that can be applied everywhere.

3) Aboriginal Consultation & Engagement™ In response to repeated requests from a great many people who took our Working Effectively with Aboriginal Peoples® and were inspired to learn more, we developed Aboriginal Consultation & Engagement™. It's the perfect and logical next step for ICT to offer an advanced level of training to those who desire to turn their knowledge into valuable consultation and engagement skills.

On line training:

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Working Effectively with Aboriginal Peoples® is on line! Want a private session or blending of on line and on site just for your team? No problem. We do that too.

Our Services:

Want something designed from scratch or how about customizing what we have? We can do the following:

- *Needs analysis*

We work with clients to design a needs analysis system; including questionnaires and surveys, to begin the process of analyzing performance and determining causes.

- *Instructional Design*

We utilize a tried, proven and easy to understand design cycle that includes a project planning phase allowing you maximum input into the design process to create materials that meet participant and organizational needs.

- *Delivery*

ICT trainers have the credentials and experience to deliver programs that are designed in the business context and are delivered in a professional and non-confrontational manner.

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- *Evaluation*

Decision makers want to know if performance improvement enhancements are working. Learners also contribute and we provide services to measure current or future program impact at the participant and organizational level.

Free weekly newsletter:

If you would like additional information, and opportunities to learn and share ideas with others why not subscribe to our free newsletter at www.ictinc.ca?

Contact us:

ICT has a well-established track record of excellence and a respected reputation as the leading provider of effective and practical cultural awareness training services in the country. Our affordable, trademarked, and copyrighted courses have been offered right across Canada and internationally.

If you are interested in an on-site or customized training session, please contact us to discuss your options.

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Our website is a good place to start so please visit www.ictinc.ca and check out our services and courses.

If you require more information, please send us an email at info@ictinc.c

Or, give us a call at toll free 1.888.986.4055