ACTING INDIAN Reflections on Status, Citizenship & Belonging

SEPTEMBER 2026 • A YELLOWHEAD INSTITUTE SPECIAL REPORT

This resource is from the
Yellowhead Special Report,
Acting Indian: Reflections
on Status, Citizenship
& Belonging.

The Second-Generation Cut-Off Status and Exclusion

THE SECOND-GENERATION CUT-OFF was introduced through the 1985 amendments to the Indian Act, also known as Bill C-31. While those amendments removed some of the sex-based discrimination in the Indian Act, it also created new forms of discrimination. The second-generation cut-off effectively denies status to any children who do not have full status parents. A child may have First Nations ancestry, be connected to their community, and maintain familial and cultural relationships but still lose legal recognition under the Indian Act because of who their parents or grandparents are. As debate grows around new amendments, many are advocating for the removal of the second-generation cut-off.

How Does it Work?

Bill C-31 Canada established two broad categories of Indian status:
6 (1) status
• A person registered under section 6 (1) (and its sub-sections) can pass status to their child,
regardless of whether the other parent has status.
6 (2) status
• A person registered under section 6 (2) may only pass on status to children if the other parent is a 6 (1) Indian.
If the other parent is also 6 (2) or has no status at all, their child will not be eligible for status.
This created a hierarchical system among First Nations people where the ability to pass on status depends not only on ancestry, but also on the legal status of parents and grandparents. Children with only one parent entitled to 6 (2) status are treated differently than those with one parent entitled to 6 (1) status or those with two parents entitled to status.

The Carey Price Example
The experience of the Price family illustrates how the second-generation cut-off can affect families differently based on the year someone was born. This regulation was introduced in 1985. Individuals born before the legislation date are impacted differently to those who were born later. Former Ulkatcho First Nation Chief, Lynda Price, and her son, former Montreal Canadiens goalie, Carey Price, provided testimony about how the Indian Act’s rules impacted their family.
The Price family’s history was shaped first by sex discrimination in the Indian Act. Before 1985, First Nations women who married non-Indian men lost their status, while First Nations men who married non-Indian women did not lose theirs. In fact, those non-Indian women gained status.

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Status and Exclusion

Carey Price was born in 1987, and therefore holds 6 (2) status. Because his partner is non-status, their children are not eligible for status. In contrast, his first cousin was born before April 17, 1985, received 6 (1) status, and can pass status along
to her children, regardless of the other parent’s status.

The result is that two cousins with the same ancestry and family history are treated differently under the Indian Act solely because of their dates of birth, demonstrating how the second-generation cut-off continues to compound earlier sex discrimination by severing legal recognition across generations through arbitrary legislative distinctions, rather than kinship practices.

Maternal Line Disadvantage

Recognized in the McIvor, Descheneaux, and Matson cases, women and people descended though the maternal line are disproportionately disadvantaged by the second-generation cut-off because the Indian Act carried forward the preferential treatment of men.

Disproportionate Damages

There is also a bias against women with unknown or unstated paternity, survivors of violence, and young mothers. Furthermore, the second-generation cut-off works against Two-Spirit and LGBTQ2S+ families and kinship networks (including adoption) and reflects the Indian Act’s failure to consider the realities of Indigenous families, continuing to exclude people from legal recognition based on colonial assumptions about gender, family, and belonging.

Unknown or Unstated Paternity

The two-parent rule creates particular barriers where a child’s father is unknown, cannot be identified, or is not named. A mother’s identity is generally documented through pregnancy, birth, and health-care records, while a father’s identity can be concealed, unacknowledged, or impossible to establish.

Survivors of Violence

A mother may deliberately avoid identifying a father because disclosure could expose her or her child to violence, or for other valid reasons,such as conception involve rape, incest, or other forms of violence, or where the father simply does not want to be identified.

Young Mothers

Unstated paternity is more common among younger mothers. This may be due to safety concerns and complicated circumstances surrounding conception, rather than a lack of knowledge about registration requirements.

Two-Spirit and 2SLGBTQ+ Families

The two-parent framework assumes a heterosexual and cis-normative family structure with distinct mother and father roles. This disproportionately affects 2SLGBTQ+ people whose family structures may not fit those categories.

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