
Proofing Exemption: Documenting Indigeneity at the Canada–US Border

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Abstract: Document exemption is a form of documentation built upon maintaining documentary regimes while seemingly obviating them. An inquiry into this exemption expands anthropological assumptions about documentation. This article discusses forms of exemption instituted for Indigenous residents of the Akwesasne Mohawk territory when they cross the Canada–US border. I show how customary, de facto exemption from providing travel documents to border officers represented a workable way for Akwesasne residents and border officers to enact seemingly incompatible visions of sovereignty. De jure exemption for Akwesasne residents from paying taxes on cross-border goods, while locally desirable, also shows how “proving” one’s status as can result in more state intrusion.

Keywords: documentation, borders, policing, indigeneity, border officers, Akwesasne

Résumé : L’exemption de documents est une forme de documentation basée sur le maintien de régimes documentaires tout en semblant les éviter. Aussi, une recherche sur l’exemption élargit nos présupposés anthropologiques au sujet de la documentation. Cet article porte sur des formes d’exemption instituées pour les résidents Autochtones du territoire Mohawk Akwesasne quand ils traversent la frontière entre le Canada et les États-Unis. L’exemption de facto et coutumière de ne pas avoir à présenter de documents de voyage aux douaniers représente une façon pratique pour les Akwesasne et les douaniers d’actualiser des visions incompatibles de la souveraineté. L’exemption de jure à ne pas avoir à payer d’impôt sur les biens de consommation transfrontaliers, bien que désirable au niveau local, montre également comment « prouver » son statut produit une plus grande intrusion de l’état.

Mots-clés : documentation, frontières, régulation, indigénéité, douaniers, Akwesasne

Introduction: Documentation and Its Discontents

Annelise Riles’s *Documents: Artifacts of Modern Knowledge* (2006) is a seminal text in the anthropological study of documents and document processes. She does not offer a singular theory of documents or document processes, but rather presents a series of attentions and orientations through which the anthropological gaze can make sense of documents. Riles refers to documents as “artifacts” (19), “an analytical category, and a methodological orientation” (7). In doing so, she deploys a tension between the noun and the verb of “document,” between documents as objects and processes. This tension is not a failure of analysis, but rather inherent in what makes documents so laden with possibilities for bureaucrats and law enforcement officers, as well as so interesting to and, perhaps, as Latour (cited in Riles 2006, 2) suggests, so despised by ethnographers.

Amidst these approaches – documents as artifacts, objects, categories, processes and orientations – there is always, at some point, a “thing.” This can be a physical object such as an ID card, or a report, or something that exists in digital space such as a computer file. It may be the “thingness” of documents that helps focus anthropologists’ attentions on them in the first place. But what about when someone refuses to provide any “thing” to support their claims? And a bureaucrat accepts this refusal (or does not ask in the first place)? In other words, what to make of situations in which people are exempt from providing a document? What to make of documentation practices that are defined by the absence of an artifact?

Exemption may not draw our attentions as easily as a physical document, yet it often reveals the limits and possibilities of documentation more broadly. Exemption can work only when a document is either unavailable or undesirable. Document exemption shows how intimacy and other knowledges can fill the space in which documents are absent. It can make otherwise untenable

regulations workable. Here, I consider what is at stake when exemption is institutionalised by custom and law. The site of this examination is the Akwesasne Mohawk Territory, a single Indigenous community straddling the borders of Canada and the United States. Since 2011, I have conducted multi-sited fieldwork with border officers and Akwesasronon (people of Akwesasne) in the form of archival research, interviews, courtroom observation, and a year of commuting that saw me cross the border (alone and with passengers from the community) at least four times a day – traversing the US Massena port of entry to the south, or Canada’s Cornwall port of entry to the north.

Exemption in Akwesasne

On a warm spring day in April 2013, I sat in my car with a friend from Akwesasne as we waited in line at Cornwall for well over an hour to traverse Canadian customs. While an hour’s wait may be normal along some border crossings, at Cornwall in the middle of a weekday it was far from typical. My friend and I spent the time speculating on what could have caused such a delay. When I joked that I thought everyone in Akwesasne (population circa fourteen thousand) was waiting on that line with us, she joked back, “There aren’t this many people in Akwesasne.” Such a long wait outside of rush hours and holidays was unknown. Frustrated and confused (the joking soon subsided), we finally approached the port and spoke with the officer.

The CBSA (Canada Border Services Agency) officer told us, apologetically, that the port of entry in Cornwall, Ontario, was implementing “universal compliance.” This obligated all cross-border travellers to provide CBSA-recognised identification, such as a US or Canadian passport. He seemed as tired as we did. When my friend was asked for her identity documents, she handed over an old Indian status card without complaint. The officer typed out her information, scanned my passport, and returning the ID, told us to have a nice day.

These delays were the result of the unexpected imposition of this requirement. Many travellers had not brought the appropriate ID, and others had brought outdated ID or status cards that, while legally recognised, could not be scanned by the computers and had to be manually typed into the system. This was an abrupt break to a customary, albeit unofficial, practice in which Akwesasronon (people of Akwesasne) were *de facto* (though never *de jure*) exempt from providing any form of ID when crossing the border. For many years, a traveller from the community could pull up in their car, roll down the window and answer questions – but not provide ID. And officers would allow them to proceed.

Most Canadians likely assume, as I had, that officers always ask for ID from all cross-border travellers. Yet for many years this was not the case at Cornwall. There, officers exercised flexibility in asking for ID from travellers from Akwesasne. Officers often refrained from seeking documentation, and when they did ask for ID, they exercised similar flexibility as to which documents they accepted. Akwesasronon were thus customarily exempt from the document requirements that have long been standard among other cross-border travellers.

The case of Akwesasne shows how practices of documentary exemption produce and operationalise a shared “intimacy” (Herzfeld 1997) between officers and travellers. Local knowledges and personal relations between Indigenous cross-border travellers and border officers made possible a policy of exempting those travellers from identification requirements, but in spaces where those knowledges were lacking, officers had to institutionalise “stereotypical” knowledge into their policing practices.

At the end of this article, I consider, for contrast, a different form of exemption for Akwesasne residents: exemption from paying duties on certain goods. Duty exemption, ostensibly designed to make life easier for Akwesasronon, has also complicated cross-border travel forcing Akwesasne residents to provide far more “proof” than non-First Nations travellers to claim those exemptions.

Geography

Akwesasne is one of several communities composing the Mohawk Nation, one of several nations making up the Haudenosaunee (Iroquois) Confederacy. Although it has sections in Canadian (Quebec and Ontario) and American (New York State) jurisdictions, its residents perceive themselves as belonging to a single community. Along some corridors within that community’s territory, one is forced to go physically through customs facilities to move from point A to point B. Consequently, Akwesasronon traverse the Cornwall port of entry frequently, accounting for roughly 70 per cent of cross-border traffic there. The fact that Akwesasne is a single community straddling the border is a simple one, but it produces complex nuances of policy and practice. It makes Akwesasne one of North America’s most complicated borderland territories.

My focus on Akwesasne’s peculiar political geography is not an accidental one. Several Indigenous populations have traditional territories that straddle both sides of the Canada–US border (CBC News 2011), but Akwesasne is the only singular contiguous cross-border community

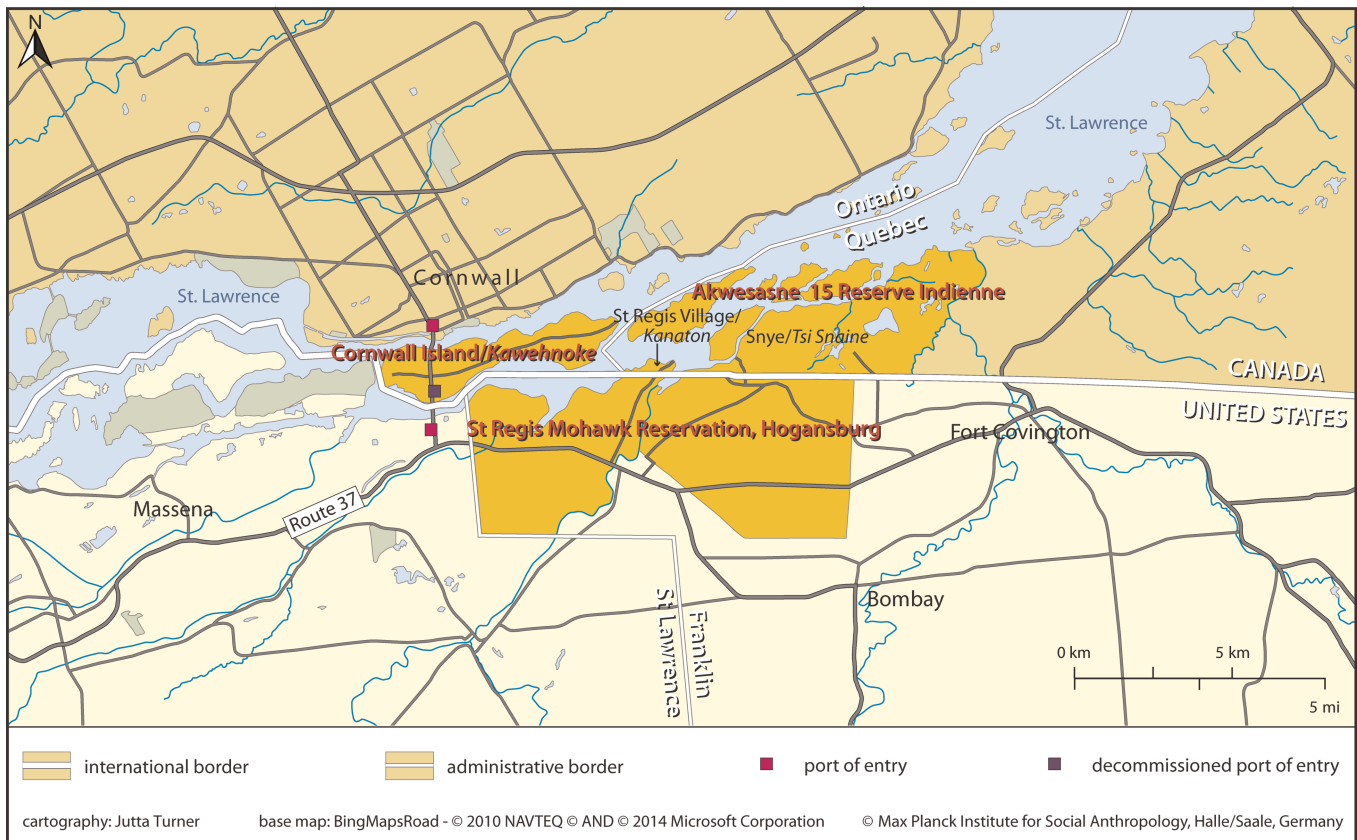


Figure 1: Map of Akwesasne Mohawk Territory and vicinity

to do so. Indigenous peoples and ethnic minorities are frequently located at the physical (and conceptual) borderlands of modern nation-states (Barth 1969). This produces situations of cross-border mobility by minority populations living along such borderlands, and does so in ways that turn this mobility into an international human rights issue (Diamant-Rink 2009).

When borders cut across communities like Akwesasne, certain key issues arise. The above map (Figure 1) shows some of the ways in which the border cuts across the community, and serves as a useful reference for later sections of this paper. My goal here is not to offer a comprehensive overview of the territory, but to indicate how Akwesasne residents (and, to a lesser extent, border officers) understand the region. This understanding is one of several things that brings them together and sets them apart from outsiders. It is not necessary for the reader to “grok” (or understand on an intuitive basis) Akwesasne’s political geography to appreciate the fact that the community’s frequency of travel, set against the backdrop of a long-standing history of “refusing” the border (discussed in the next section), produced the circumstances in which document exemptions were desirable and feasible.

Documentation

Before discussing the role of an absence of ID in cross-border travel, it is useful to discuss the documents that are available for Akwesasne residents when crossing the border.

A survey conducted by the Mohawk Council of Akwesasne in 2012 listed 11 forms of ID available to Mohawk cross-border travellers, asking which 3 documents they most used when crossing the border. By 2013, when document requirements became far more rigid, many of these documents were no longer accepted by officers. I list them here, in order of frequency of use:

1. Status card issued by the Mohawk Council of Akwesasne: Accepted as certification of Indian status in Canada, these documents cannot be scanned by document scanners.
2. Saint Regis Mohawk Tribal enrollment card: these documents, issued by Akwesasne’s US-recognised governing body, are accepted by the United States, but not by Canada.
3. Canadian passport: These documents are acceptable and can be scanned.

4. Ontario driver's licence: only enhanced driver's licences are considered legally acceptable when driving to Canada, although non-enhanced driver's licences can be scanned by computers to speed up data entry by officers.
5. United States passport: These documents can be used for cross-border travel, but they do not establish a legal right to reside or work in Canada.
6. INAC (Indigenous and Northern Affairs Canada) – issued status card (digital): These are status cards issued by the federal government of Canada rather than the Mohawk Council. They are considered valid for international travel (and tacitly accepted by the United States until the new cards discussed below become more common). Older cards cannot be scanned by computers at the booth.
7. INAC-issued enhanced status card: These are the new versions of federally created status cards designed to match the security requirements of US border enforcement. They are also acceptable when entering Canada.
8. Haudenosaunee Red Card: These documents are produced by the traditional Haudenosaunee government, of which Akwesasne is a member, and are not considered legally acceptable when entering Canada.
9. Enhanced New York State driver's licence: These are treated in the same way as a US passport.
10. Quebec driver's licence: These are treated in the same way as an Ontario licence.
11. Haudenosaunee passport: While these are the most well-known symbol of Haudenosaunee border crossing, they are not legally accepted when entering Canada. It is worth noting that less than 1 per cent of respondents listed the passport among their top three documents.

Several respondents commented that they preferred to use their Red Card or Haudenosaunee passport if they were accepted. "I do not provide ID" was not listed among the options in the above survey, although, as I show below, the practice of not providing ID was common enough to inform relations between officers and travellers for many years.

Refusing Documentation and Documenting Refusal

Given the numerous "official" documents available to Akwesasne residents, why would they choose not to provide one? According to dominant narratives of Mohawk border crossing, the border is "a site not of transgression but for the activation and articulation of their *rights*" (Simpson 2014, 116, emphasis in original). An

important part of how identity is enacted on the ground is through locals' distinctive approach to sovereignty – a "Nike" (or "just do it") approach, under which sovereignty is not something possessed, but something done. When crossing the border, this means refusing to provide Canada- or US-recognised ID, and in so doing, travelling as if mobility rights are an established legal fact, often daring officers to suggest otherwise. While such refusal is by no means universal, it is ubiquitous enough to have shaped common Mohawk attitudes toward the border, and officers' approaches to local enforcement.

It is within this broader context that many in Akwesasne refused to produce identification when traversing the Cornwall port of entry. Audra Simpson's *Mohawk Interruptus* (2014) offers a comprehensive and convincing analysis of the role of cross-border travel in affirming and producing "refusal" (Simpson 2014) of settler colonialism's embrace.

As Simpson demonstrates, it is when interacting with an officer that travellers are often required to make a substantive claim about their political identity. Thus, the means by which a Mohawk traveller engages with, or chooses not to engage with, an officer, is an enactment of their broader sovereignty and identity. Simpson's emphasis here is on the choice Mohawks make to employ travel documents produced by the Haudenosaunee confederacy, such as a Red Card, Haudenosaunee passport, or status cards, and to travel "as Mohawk" rather than as an "American" or "Canadian." She remarks, "The criteria for recognition laid out by the state may render the right to exercise the Haudenosaunee right a *claim*, and a *claim* that is difficult to prove or to maintain without the proper *identification* and *proof*, but still, they *try*" (2014, 114, emphasis in original).

Although she does not directly engage with Yael Navaro-Yashin's (2007) theorisation of the emotional significance that non-state documents can hold, Simpson (2014, 2) shares Navaro-Yashin's notion that "affects [are] retained, carried, and effected by documents as they are produced, exchanged, transformed, and transacted among their users." It is possible to identify numerous parallels in this affective enactment of sovereignty through the production of documents by non-recognised governing bodies of both Turkish Cyprus and the Haudenosaunee Confederacy. Simpson emphasises persons' use of documents such as Red Cards or status cards as a way to cross the border in accordance with their principles. This practice meshes with observable practices in Akwesasne, as I saw early on in my fieldwork, when an elderly man proudly took out a worn and folded Red

Card (made by the Mohawk Nation). The care with which he unfolded and presented the document said much about its role in transforming his political beliefs into a physical object to treasure and preserve. Documents, thus, can be “read” by both their bearers and external observers, not simply as paperwork, but as the objectification of closely held beliefs and identities.

Prior to the CBSA’s new policy, many Akwesasronon employed no documentation at all, and with similar effects. Although people could not physically hold onto the absence of a passport as they could some other sort of document, the practice of refusing identification was itself something they tried to maintain. Many in Akwesasne were proud to reject identification, recognising the significance of such a refusal in the broader schema of their identities as sovereign peoples. The absence of documentation can, therefore, carry many of the same properties of a document itself.

Simpson draws on interviews and an auto-ethnography of border crossings in which officers are mostly unfamiliar with Indigenous cross-border travellers and their rights, in cases where cross-border mobility is an everyday concern, such as in (for example) Akwesasne. The case of cross-border mobility in Cornwall, where an estimated 70 per cent of travellers are Mohawks from Akwesasne, both expands and complicates her discussion. There, what is at stake with refusal is different when it becomes a daily concern rather than a weekly, or a monthly, one. Furthermore, the ways in which refusal is accepted or rejected differ when officers are well accustomed to processing Mohawk travellers.

In this region, the border typically represents a banal, but not benign (see Billig 1995), manifestation of the nation-state, as Akwesasronon may traverse the borderline and/or the port of entry up to a dozen times a day. Convenience is a more important factor when considering how someone approaches the border. While some Akwesasronon spoke of their choice to travel on a status card because they didn’t identify as either Canadian or American, others told me they preferred the status card because it fit easily in their wallet and they could show it to toll booth operators to avoid paying bridge fees. Others mentioned they preferred to use a Canadian passport because it made their numerous crossings proceed smoothly. The case of document exemption in Akwesasne both complements and complicates the existent literature on Haudenosaunee border crossing and the policing of Indigenous peoples.

Documenting Exemption

It is an epistemological challenge to explore and discuss an unofficial policy that, by its nature, involves a lack of

documentation. The exemption of Akwesasronon from providing identification was never a formal policy of the CBSA. Indeed, it is likely that if the CBSA ever tried to formalise such a policy, it would have failed. My own comfort in writing about it stems from the fact that this policy, which never officially existed, now truly no longer exists.

For many years, a border officer stationed at the Cornwall port of entry could reasonably expect some, but not all, Mohawk cross-border travellers to refuse to present documentation at the port of entry. Furthermore, a traveller from Akwesasne could reasonably expect many, though certainly not all, border officers, to allow them to proceed without requiring documentation. Even if this practice accounted for a minority of exchanges between border officers and Akwesasne residents, it was significant enough to inform their relationships. This practice is also worth exploring as a way of examining the means by which an unofficial policy of documentary exemption played out in practice.

I spoke with one woman from Kahnawake who shared her story of a visit to one of her cousins in Akwesasne. During her stay, she and her cousin drove across the port of entry, and her cousin told her not to take out her passport. She was confused, but when she asked for clarification, her cousin simply repeated, “Don’t take out your passport,” and surprised her by rolling down the window and answering the officer’s questions without providing any ID at all. She and her cousin were told to “have a nice day” and allowed to continue on their way.

I felt similarly surprised in 2012, returning from a late-night birthday party while sitting in the back of a full sedan. I was the only non-Akwesasronon in the vehicle: a CBSA officer waved us through without asking for identification. The officer asked us what we had been up to, and the driver responded that we were coming from a party. The officer replied, “Have a good night,” and we continued in the car. In hundreds of times traversing the border, this was the first and only instance in which I had crossed without providing ID.

In several of those crossings, I was giving friends from the community a ride. Typically, they handed me a status card or other form of documentation, which I bundled with my own when providing it to the officer. However, several friends and colleagues preferred not to provide ID, doing so only when explicitly asked to by the officer. I could sense tension in those moments, as the officer looked to my passenger, and then to me, and then back to them, before asking for their ID.

Over time, I learned that it had been the customary practice of many Mohawk cross-border travellers to refrain from providing identification to CBSA officers

unless explicitly asked to do so. When asked, some travellers would hand over a state-acknowledged travel document without complaint, or they would argue with officers, asking, “Why do you need to see my ID?” Others would hand over documents that were not legally compliant with CBSA requirements, but were nevertheless tacitly accepted at the port, such as a driver’s licence or a Saint Regis Mohawk Tribe card. Still others would hand over whatever documentation was available at the moment. My favourite story was that of a woman who handed over her BJ’s discount club (similar to Costco) card.

While, by the end of my fieldwork, my friends and colleagues spoke openly about not providing ID, officers were reluctant to talk about it. Several made sure to tell me “I always asked for ID” to distinguish themselves from their colleagues. This hesitancy was, I believe, caused by officers’ fear of suffering adverse professional or legal consequences if they refrained from IDing First Nations travellers. These consequences could have ranged from loss of their jobs to arrest. It was this same fear of legal reprimand that led officers to push for a legal sanction to exempt Akwesasne residents from certain duty restrictions.

Intimacy and Anxiety

I saw such concerns manifest in the cross-examination of a retired CBSA officer at a 2014 session of the Ontario Human Rights Commission, *Davis v. Canada Border Services*. The officer was serving as a witness for a Mohawk woman claiming discrimination by the CBSA. He began crying when the CBSA’s lawyer started asking him about how rigidly he checked IDs of people coming from the reserve. People watching the trial (myself included) were struck by the sight of a tough-looking border officer crying on the stand while being cross-examined by his former employers.

Below, I offer a transcription that I conducted *in situ* during the trial, as recording devices were forbidden. I also include the prelude to that line of questioning, which speaks to the officer’s familiarity and, I will later argue, “intimacy” with the community.

Judge: She [the complainant] did not acknowledge the CBSA facilities?

Border services officer (BSO): Correct. In my opinion, she was a traditionalist that did not recognise barriers. The land barriers, borders, restrictions on first nations people. She had a traditional view on how things transpired, and should have. She knew what I was allowed to do, and what I wasn’t allowed to do . . . Over the years, we’d probably had ten or less

interactions that were more in depth than normal, but nothing violent. Nothing abusive towards me. I think I was well respected in the community, and I always treated them well, and they always treated me well . . . If I have a bad interaction with them in the morning, it’s still going to be there, so I try to deal with things when they come up, so when I see them later in the day, it’s already dealt with.

CBSA attorney: Judging from what you’ve said, you seem like an easy-going guy. And that was the way you dealt with your responsibilities at the port. You were probably more relaxed than other officers. With regard to asking for ID . . . [witness is quietly starting to cry].

At this point, the judge ordered a court recess. When the examination recommenced, this line of questioning was dropped.

The exchange highlights the place of “cultural intimacy” in the long-standing relationship between border officers and Akwesasronon – “the recognition of those aspects of a cultural identity that are considered a source of external embarrassment but that nevertheless provide insiders with their assurance of common sociality, the familiarity with the bases of power that may at one moment assure the disenfranchised a degree of creative irreverence and at the next moment reinforce the effectiveness of intimidation”¹ (Herzfeld 1997, 3). I suspect it was fear of discovery, more than embarrassment, that drove the officer to tears.

Intimacy is not the same as affection, as any veteran of an argumentative Thanksgiving dinner may attest. Indeed, the intimacy shared by officers and Akwesasronon was as likely to engender personal animosity as friendship. In Akwesasne, intimacy can be found in either antagonism or friendship, as this exchange suggests:

Me: I’m looking for more officers to interview.

Akwesasne resident: You should talk to “Red,” the officer with red hair.

Me: Oh, the one they call “Ginger”?

Resident: No, Ginger’s awful! Red’s the friendly one.

One officer was liked, the other detested, but both were known, nicknamed and familiar.

It may seem counter-intuitive to use the term “intimacy” to describe a relationship between border officers and Indigenous peoples in Canada. However, there is a precedent for such an argument in borderland studies. This is the “paradox of borders,” the fact that “borders create political, social, and cultural distinctions, but

simultaneously imply the existence of (new) networks and systems of interaction across them” (Baud and Van Schendel 1997, 216; but see also Tägil et al. 1977, 14). In other words, the imposition of a border to divide a population immediately gives them something in common – the border itself. Officers may be added to this equation, as they come to share the border with the communities whose mobility they restrict. This intimate sharing enabled customary enforcement practices to work for as long as they did.

Indicating Exemption

CBSA officers exercise discretion in accordance with “a multiplicity of indicators,” a phrase I heard them use on several occasions (compare with Pratt 2010). Multiple factors are taken into consideration when they rapidly judge how best to process a traveller. When, in the absence of documentation, they must determine whether or not a traveller is Akwesasronon, they use four main indicators: (1) use of the Akwesasne Residents’ Lane, commonly called the “Indian Lane”; (2) the act of refusal itself, the fact that the traveller did not volunteer documentation; (3) familiarity, either first- or second-hand with the traveller; (4) preconceived, often racialised, notions about the appearance and mannerisms of Indigenous peoples. In employing these indicators, officers used their tradecraft in processing travellers, even when operating outside the conventional boundaries of their position.

The available indicators frequently expanded once an officer spoke with a traveller. Through a conversation, a traveller might demonstrate familiarity with the area or Mohawk culture, or connections to the officer themselves. Yet many travellers were also reluctant to enter into an extended conversation with an officer. Some felt that any questions other than the standard “where are you coming from?” (or “what are you bringing?”) were inappropriate or offensive. Others simply wanted to proceed on their way and resented having to talk to officers any more than they had to. I spoke with one Akwesasne resident who took pride in never saying anything other than “fuck you” (as he told me, “What’s your name? Fuck you. Where are you coming from? Fuck you . . .”), though he made sure to hand over whichever document officers requested.

The easiest indicator that someone was from Akwesasne was their use of a residents-only lane, commonly called the “Indian Lane,” which existed at the port until its relocation in 2009. The lane expedited travel of the roughly 70 per cent of cross-border travellers coming from Akwesasne. Yet use of the lane was, in itself, insufficient to determine whether people using it were

from the community. On high traffic days, non-residents would sometimes knowingly, or unknowingly, use the lane. Alternatively, during periods of high congestion, Akwesasne residents would sometimes choose a different lane.

As I remarked above, both officers and travellers recognised the importance of keeping this practice under the public radar. Consequently, the mere act of refusing to provide ID demonstrated a level of intimacy with local border enforcement practices. This often served as another indicator that the traveller was from Akwesasne.

A friend laughed as he told me of an interaction he had with an officer that highlighted the ways in which local knowledge (by Akwesasne residents) could be taken as a sign of their identities. As he pulled up to the booth and rolled down his window, he saw a new officer in training, with a senior officer standing behind them. The junior officer, looking down, noticed that my friend had not presented a passport, status card or other document. He held out his hand as my friend continued to look at him without moving. After shaking his outstretched hand in exasperation, the officer told my friend, “You’re supposed to give me your passport,” to which my friend replied, “You haven’t asked me for it.” The junior officer was frustrated, even more so when his training officer told him, “He’s right, you have to ask him for it.” The officer looked over at my friend and said, “May I see your passport,” at which point my friend promptly took his out and handed it to the officer with a smile. After a cursory glance through the pages, a scan and a sigh, the officer said, “Have a nice day,” as my friend continued along his way.

Perhaps the simplest way for an officer to tell if someone was from the community was simply knowing that person from previous interactions. This was certainly the case for “frequent flyers,” those who regularly went back and forth through the port. Retired officers I interviewed discussed playing hockey with community members, grabbing lunch on the reserve and trading goods with residents. While some Akwesasronon and officers were indifferent to each other at best, and antagonistic at worst, there were also friendships and a few marriages between border officers and local residents. At a bare minimum, people came to recognise each other and used that knowledge to determine the extent to which scrutiny was necessary.

There was also the assistance provided by a Mohawk security force in the port facility. While this force was originally created to help combat overnight vandalism of the port in the 1970s, its officers proved invaluable in helping de-escalate conflicts between officers and

Akwesasronon and helping identify travellers from the community. They could be called to verify whether a person was being honest when they claimed to be from Akwesasne, and to de-escalate potential conflicts between officers and travellers.

For many years, first-hand and second-hand familiarity was the easiest way to identify travellers, although such intimacy became increasingly difficult from the late 1990s onward. This period saw a depersonalisation of local border work (Kalman 2016). Furthermore, new generations of officers hired in the late 1990s increasingly saw themselves as law enforcement officers rather than tax collectors, and less actively fostered ties with Akwesasne. This was visible in several human rights complaints that arose in the early 2000s and in the relocation of the port of entry. I find that while some intimacy persists, as officers and Akwesasronon still must navigate each other and the border on a regular basis, it has become far less visible since the early 2000s. Before that time it was an active facet of enforcement and the everyday lives of officers.

After the early years of this century, the operationalising of racialised knowledge became the most visible and controversial means by which officers identified Indigenous travellers. I asked a former officer how he determined whether a traveller was Indigenous

BSO (retired): This is, I should turn your machine off, but no.² Again this is maybe, I am being very stereotypical, but of course it's by looks, their talking. When they speak, they have, to a degree ... a bit of a grunt to their speak, to their speak, their speech, or maybe they don't even want to look at you, some of them. ... And a lot of them come through and they do have this attitude, and you are looking for an attitude, and again could it be what? Could it be nervousness, on your part, with the authority, perhaps? Some people are into that. Could it be that you've got something to hide? That's where we have to know the difference between something to hide, you being nervous or ... you know? And again, I'm not saying that's their fault.

Appearance, voice and attitude, as well as a traveller's reticence to speak with that officer, were a few of the indicators that could contribute, in multiple ways, to the determination that a traveller was from Akwesasne.

The relationships between physical appearance and Aboriginal identity are complex across Aboriginal communities, and especially so among Mohawks, who were historically far more cosmopolitan than homogenous. The Mohawk Nation has a long history of adopting members from both Indigenous and settler populations, and this is reflected in their physical appearance. Many

in Akwesasne have features conventionally associated with Anglo-Canadians, such as blonde hair, fair skin and light-coloured eyes. The politics and micro-politics of appearance in the community is a topic worth more thoughtful and detailed consideration than I can provide here (but see Deer 2008). Nevertheless, it is telling that an Indigenous online legal assistance website for border crossing into the United States remarked: "Appearance can make a difference: our research shows that if you 'look Indian,' the INS officer may require less documentation" (American Indian Law Alliance 2003). Officers, seeking indicators of Indigenous status (or, conversely, indicators that someone is not Indigenous), found appearance a useful yet problematic metric. As one younger officer told me in a moment of candour and exasperation, "Some of the Mohawks are fucking redheads."

This facet of border work in Cornwall does not neatly fall into paradigms of racial profiling in policing. Tanovich (2006, 13; cited in Helleiner 2012, 111) defines profiling as "heightened scrutiny based solely or in part on race, ethnicity, Aboriginality, place of origin, ancestry, or religion or on stereotypes associated with any of these factors rather than on objectively reasonable grounds to suspect that the individual is implicated in criminal activity." As indicators employed in Canadian border work, factors of race, ethnicity and Aboriginality and the stereotypes associated with them certainly fall into his framework. Certainly, officers targeted Akwesasronon and other First Nations with heightened scrutiny and suspicion for tobacco "smuggling" with the rise of the unregulated cigarette trade, "buttlegging," in the 1990s (Simpson 2008), which fits neatly into this definition of profiling.

Yet document exemption is not so much about heightened scrutiny as it is about different scrutiny. It involves a different set of expectations for travellers engendered by officers' cursory analyses of features associated with race and ethnicity. The identification and targeting of Aboriginal cross-border travellers for different enforcement can be only partially (and in my view, inadequately) explained as "profiling." It is worth reminding the reader here that these practices were designed to expedite travel rather than impede it, and accommodate refusal to produce documents at the border rather than forbid it. Indeed, many in Akwesasne suggested that they preferred a regime in which they were exempt from providing documentation by virtue of their Aboriginality, even if the determining factors of that exemption included stereotypes associated with that Aboriginality.

This practice became increasingly difficult to perform as a result of relations between the port and the

community becoming depersonalised. When intimacy waned, as it did from the 1990s onwards, the indicator most easily available to customs officers was the stereotypical features associated with Indigenous peoples in general, and Mohawks in particular. The officer I quoted above recognised something that the Mohawk government in Akwesasne has argued for decades – the fact that “there is [now] very little interaction between native people and customs officers.”

Exemption from Duty Charges

I now turn from the *de facto* practice of not seeking documentation from travellers from Akwesasne and toward their *de jure* exemption from duty charges on personal and community goods. This exemption legally enshrined another long-standing customary practice of border officers that of permitting Akwesasne to traverse the border without paying taxes on certain goods, a practice that was established to facilitate their mobility and ease everyday life. Unlike document exemption, duty exemption is enshrined in Canadian law. Consequently, it set the stage for a legal requirement that Akwesasne provide more, rather than less, ID to fully exercise their sovereign rights when crossing the border.

Customs exemptions for Akwesasne residents are recognised by the Akwesasne Residents Remission Order, an order in council registered in 1991.³ Akwesasne residents are entitled, under this order, to bring personal and community goods across the border without paying duty on those goods. Officers told me that they lobbied their administration for the order, as they were no longer willing to refrain from charging duties without any legal backing. It may seem odd that officers would have lobbied for an official recognition of duty exemption, but not one of document exemption after all, failure to document a traveller is, today, seen as far worse than failure to charge taxes.

It would have been difficult to create a legal statute exempting some cross-border travellers from documentation requirements, but it was simple to exempt those travellers from duty requirements, as long as they could prove eligibility. The remission order has been largely successful in easing Akwesasne residents' uncertainties, as to whether they'll be charged duty on goods when crossing the border. Yet it also adds a wrinkle to how documentation plays out at the border.

Many status-card-holding members live off reserve, either nearby or much farther away. Consequently, their possession of status does not necessarily indicate permanent residency. Officers, to determine eligibility for duty exemption, have to ask a traveller more questions than

documents can answer. I spoke with one woman whose son, though Akwesasne, was charged taxes on personal goods when he said he resided elsewhere for college. Despite the fact that the remission order sought to firmly place customary exemption practices into legal statute, documents ostensibly designed to indicate eligibility are, in practice, insufficient.

If, as was the case for many years, an Akwesasne resident could prove that they are from Akwesasne without any identification, then their eligibility under the remission order could be assumed. However, once officers required documents to prove one's eligibility under the remission order, things became complicated.

Bridging Document Compliance

On 2 April 2013, the CBSA enacted a universal compliance verification initiative that mandated all cross-border travellers to produce documents compliant with the Western Hemisphere Travel Initiative (WHTI) and with Canada's bilateral “Beyond the Border” agreement with the United States. This meant that only passports, enhanced driver's licences, or status cards (only those distributed by the Canada-recognised Mohawk Council of Akwesasne [MCA] or INAC) would be accepted for cross-border travel. Officers were obligated to either scan these documents or manually enter the appropriate information into computer systems. This abrupt change in the rules had an immediate and profound impact on the mobility of Akwesasne, as many arrived at the port of entry unprepared to provide one of the pieces of identification newly required by the CBSA. Those that held a status card produced by the MCA had to wait while officers entered their information by hand, which slowed the flow of traffic for everyone waiting behind them.

On 14 April 2014, the MCA posted a FAQ in Akwesasne's local newspaper, *Indian Time*. Among the questions was “What forms of Identification are accepted at all CBSA ports?” The answer:

All travelers, Akwesasne Mohawk members included, should be prepared to show one of the forms of identification listed below:

- a current certificate of Indian status
- a Canadian or American-Issued Passport
- an Enhanced Driver's License (EDL)

MCA acknowledges and supports individuals' right to use any of the Akwesasne Membership ID's; however, using the Band or Aboriginal Affairs and Northern Development Canada (formally [sic] INAC) cards will expedite your border crossing. When using a Mohawk Nation Red Card, Haudenosaunee Passport,

or St. Regis Tribal Card, you can expect to be asked for another form of ID for more questions from CBSA Officers regarding your place of birth and/or residency.

An MCA newsletter in May 2013 posted a notice about the new requirements, not bothering to conceal its disapproval of the CBSA's abrupt decision. It remarked:

Although US Customs and Border Protection implemented the same identification requirement in 2009 after a lengthy community education process, officials from CBSA headquarters handed down the order last week with absolutely no warning to the traveling public. CBSA did not share news of the policy change with Akwesasne officials until it was already in effect ... MCA has made an urgent request for meetings with CBSA officials to discuss the implementation of a transition period, which would allow time for community members to apply for proper Indian status cards for their entire families. It would also give CBSA time to educate the traveling public on the new requirement.

Numerous residents complained that they were now being asked for an increasing number of documents. They were especially frustrated when officers asked for additional documents beyond the status card. Even though status cards are legally accepted for entry to Canada, their data have to be entered manually, which takes more time.

A discussion on "How's the Bridge," an online forum created by Akwesasronon to discuss the border, highlighted this dissatisfaction. One forum user noted CBSA's claim that "asking for license along with status cards" would "speed up the process," and asked, rhetorically, "Invasion of privacy anyone?" Another resident responded to this point, saying, "It goes a lot faster, all they have to do is swipe it ... I'm not sticking up for CBSA but I give it to them to avoid the hassle and limit the time it takes to get through though ... that's just me though." The original poster replied, "I probably would've attempted to speed up the process but [the officer's] language made it seem mandatory, which I don't agree with. I'm down with speeding up the process as long as they don't step outside their boundaries/powers." The final word came from another community member: "I used my license once and they asked if I had any other ID to prove I was Canadian. The girl working said anyone can get an Ontario license and if I didn't prove I was Canadian, they could refuse to let me in." This final commenter assumed, as many had, that because officers were asking for licences, they would be accepted, in themselves, as ID.

Ultimately, in their efforts to recognize the distinct rights of Akwesasronon as exempt from duty under the remission order, Border Officers may end up asking for more, rather than less, documentation from those travellers. Status cards are acceptable for both cross-border travel and proving membership in Akwesasne, but they cannot be scanned. Passports can be scanned, but they are tied to US or Canadian citizenship, are not held by all cross-border travellers, and do not, in themselves, prove eligibility under the remission order.

Conclusion

Exemption from document requirements is built upon trust that the exempted person is whom they claim to be. Akwesasronon are not the only Commonwealth citizens to have travelled without a passport. The Queen of England is exempt from carrying a passport on the grounds that United Kingdom passports are produced on her authority. She can likely prove her exemption with a crown, coterie and corgis. The Mohawks of Akwesasne do this with a silent stare, and knowing they can refuse. In this sense, "documentation" occurred without a physical document, but via numerous things – appearance, social cues and the minutiae of interaction – which filled the absence of paperwork. A look could say, and did say, more than a passport could have done or said.

Document exemption meant something to Akwesasronon, not just because they could cross the border more easily, but because they could cross that border with the absence of a document. I use the phrase "with the absence of a document" advisedly; it emphasises the fact that it was this absence that people held onto with affective appreciation and whose loss they lamented.

Although documentation at the border hinges upon what officers do, it also hinges upon what officers do not do. For many years, officers did not ask for, or require, ID from those whom they determined were Mohawk travellers from Akwesasne. These determinations were not guesses, but informed decisions based on a "multiplicity of indicators." Officers employed their tradecraft in this endeavour, and in doing so drew on first-hand knowledge that included multiple forms of intimacy with Akwesasronon. Intimacy offers a useful analytic through which to consider how a system of exemption that seemingly subverts the expectations of a document-reliant bureaucracy was not only workable, but locally desirable.

Today, Canada still recognises the rights of Akwesasronon to traverse the border using IDs specific to Indigenous peoples in Canada and to exemption from

paying duties. Yet the burden of proving those rights often results in greater, rather than lesser, documentary intrusion for residents. This suggests a broader aspect of documentation as it relates to Indigenous peoples: to prove a right ostensibly tied to being outside the state, one must often display state-made documents to state-employed agents.

Regardless of how exemption from documentation fits into current paradigms, it shows that documentary practices are not divorced from local conditions. At the end of the day, documentation at borders involves one person requesting information and ID and another person deciding how to respond. The minutiae of face-to-face interactions matter, as do whatever personal histories may exist between the actors involved. Officers are always paying attention to this, even when there are no physical documents to pay attention to. How documentation (and here, I include exemption from documentation) plays out on the ground is not simply a matter of documents that “work,” but a question of how officers and travellers work with (and without) both documents and one another.

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Notes

- 1 It is worth noting that Navaro-Yashin (2007, 81) also cites Herzfeld. Whereas she looks at the ways in which “make-believe papers” highlight intimacy amongst users, I am here arguing that these papers also produce and indicate intimacy between the users and the people with whom they are used.
- 2 I held up the microphone and was waved to proceed by the interviewee.
- 3 SOR/91–412.

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