



BC ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY
March 9-10, 2023
Hybrid - In person & online via Zoom

Resolution 01/2023

SUBJECT: ENDING SEX-BASED DISCRIMINATION IN THE INDIAN ACT IN ALIGNMENT WITH THE UN DECLARATION

MOVED BY: CHIEF LYNDA PRICE, ULKATCHO FIRST NATION

SECONDED BY: CHIEF SHARLEEN GALE, FORT NELSON FIRST NATION

DECISION: CARRIED

WHEREAS:

- A. Indigenous women are the foundation of our cultures, our communities, and our governments, yet the discrimination against Indigenous women has been used as a colonial tool to destabilize our communities through the inevitable reduction of our membership rolls, the undermining of our ability to maintain and protect the legal status and existence of our present and future citizens, and the threatening of our connection to our land base, our Title and Rights, our cultures, languages, knowledges and our resources;
- B. Indigenous women and their descendants who have now become entitled to Indian registration through amendments to the *Indian Act* continue to face unreasonable delays in becoming registered which constitutes ongoing discrimination and a denial of their rights;
- C. The United Nations Declaration on the Rights of Indigenous Peoples, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., committed to implement, affirms:

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Article 8: Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture ... States shall provide effective mechanisms for prevention of, and redress for ... Any form of forced assimilation or integration ...

Article 9: Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right;

Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions; and

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

- D. By Resolution 2010-03 the BCAFN Chiefs-in-Assembly stated that First Nations have the inherent right and jurisdiction to determine citizenship;
- E. By Resolution 2019-07(g) the BCAFN Chiefs-in-Assembly called upon Canada to immediately end sex-based discrimination in the *Indian Act*;
- F. Despite numerous amendments to the *Indian Act*, ongoing sex-based discrimination against First Nations women and their descendants persists in law and practice;
- G. The federal Senate Standing Committee on Indigenous Peoples (then the Senate Standing Committee on Aboriginal Peoples) report, *Make It Stop: Ending the remaining discrimination in Indian registration* released in June 2022 makes 9 recommendations to address ongoing sex-based discrimination in the *Indian Act* and make reparations;
- H. On December 14, 2022 Bill C-38 *An Act to amend the Indian Act* was introduced to the legislature, which responds to issues regarding:
 - a. enfranchisement
 - b. deregistration

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c. acquired rights to natal band membership

- I. It is unclear to what extent Canada has met its obligations to consult and cooperate with First Nations regarding the proposed legislation;
- J. In October 2022 the Indian Act Sex Discrimination Working Group, composed of Sharon McIvor; Jeannette Corbiere Lavell, C.M.; Dr. Lynn Gehl; Cora McGuire-Cyrette, Executive Director, Ontario Native Women's Association; Marjolaine Étienne, President, Quebec Native Women's Association/Femmes Autochtones du Québec; Chief Judy Wilson, Secretary-Treasurer, Union of B.C. Indian Chiefs; Dr. Pamela Palmater, Chair in Indigenous Governance, Metropolitan University; Dr. Gwen Brodsky; Mary Eberts, O.C.; and Shelagh Day, C.M., Canadian Feminist Alliance for International Action prepared a Briefing Note on ISC Proposed Amendment to the Indian Act, which included the following conclusions and recommendations:

The Working Group supports:

- 1. the proposed amendment to cure the discrimination against women and their descendants caused by enfranchisement provisions; and*
- 2. the proposed amendment to facilitate reconnection of women with their natal bands*

The Working Group urgently recommends:

- 1. removal of bars to compensation for discrimination caused by the status provisions of the Indian Act;*
- 2. the removal of section 6(2) of the Indian Act;*
- 3. clarification that removal of 6(2) will remedy discrimination caused by pre and post 1985 marriage and birth cut-off dates and by the unknown and unstated paternity provisions; and*
- 4. clarification that women are not barred from eligibility for Indian status because they took scrip or married a person who took scrip.*

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly fully supports the recommendations of *Make It Stop: Ending the remaining discrimination in Indian registration* and directs the Regional Chief to advocate for the implementation of these recommendations;
2. The BCAFN Chiefs-in-Assembly fully supports the conclusions and recommendations of the Indian Act Sex Discrimination Working Group, and directs the Regional Chief to advocate for

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the implementation of these recommendations; and

3. The BCAFN Chiefs-in-Assembly calls on Canada to ensure that any amendments to the Indian Act (1985) are consistent with the Indigenous and human rights affirmed in the UN Declaration and meet the requirement of Free, Prior, and Informed Consent.

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