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September 22, 2025

Standing Senate Committee on Indigenous Peoples
The Senate of Canada
Ottawa, Ontario, K1A 0A4
c/o Sebastian Payet, Clerk

Via Email Only: appa@sen.parl.gc.ca

RE: Submission on Bill S-2, *An Act to Amend the Indian Act (new registration amendments)*

To the Standing Senate Committee on Indigenous Peoples,

I am writing with respect to BC Assembly of First Nations (“**BCAFN**”) Resolutions 01/2023 *Ending Sex-Based Discrimination in the Indian Act in Alignment with the UN Declaration* and 07(g)/2019 *Immediate Implementation of Bill S-3 and the Removal of Sex-Based Discrimination from the Indian Act* (attached) and to provide a submission to the Standing Senate Committee on Indigenous Peoples on the upcoming parliamentary discussion on Bill S-2, *An Act to Amend the Indian Act (new registration amendments)* (“**Bill S-2**”).

The BCAFN Chiefs-in-Assembly have directed the BCAFN to advocate for the end of sex discrimination, including full implementation of the proposed bills that have come forward, including Bill S-3, and now Bill S-2. However, Canada has the obligation to take these amendments further by ensuring that the Indian Act’s membership provisions are in alignment with the *United Nations Declaration on the Rights of Indigenous Peoples* (“**UN Declaration**”), which states:

- **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



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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.

Canada has affirmed the UN Declaration through the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14 (“**UN Declaration Act**”) Per Section 5 of the UN Declaration Act, “[t]he Government of Canada must, in consultation and cooperation with Indigenous peoples, take all measures necessary to ensure that the laws of Canada are consistent with the Declaration.”

In summary, our key recommendations are to remove the division of Section 6(1) and 6(2) of the Indian Act, recall and remove the bar to compensation from all current and previous amendments, provide compensation to affected individuals, families and bands, including policies to expand reserve and treaty lands and increase related funding, fund and resource Indigenous Services Canada (“**ISC**”) to better service First Nations individuals and communities by issuing timely Indian Status cards, implement and exceed the recommendations in the *Make It Stop: Ending the remaining discrimination in Indian registration* interim report (“**Interim Report**”), and once Bill S-2 has passed into legislation, initiate an extensive process for alignment of the Indian Act with the UN Declaration, going above and beyond what is provided in the UN Declaration Act Action Plan.

1. Resolution 07(g)/2019 Immediate Implementation of Bill S-3 and the Removal of Sex-Based Discrimination from the Indian Act

The Chiefs-in-Assembly, by BCAFN Resolution 07(g)/2019, called for the implementation of Bill S-3 that would ensure the removal of all sex-based discrimination within the Indian Act, without delay, and would grant the opportunity for Indigenous peoples to develop, in full partnership, the necessary mechanisms, reparations, and processes by which we can recognize the full rights of all Indigenous women and their descendants. Neither of those calls for action was completed by Canada. Even if Bill S-2 passes as it is now, the harmful and discriminatory effects of the history of sex discrimination since the 19th century by Canada would not be eliminated; sex discrimination remains under the division of Section 6(1) and 6(2) levels of Indian Status, and the thousands of people and families affected by these harmful provisions have been actively prevented by the bar to compensation embedded in every amendment since 1985.

The solution to eliminating sex-based discrimination from the Indian Act also means eliminating discrimination - full stop - from the Indian Act, including removing the provisions that prohibit compensation claims for those who experienced, and continue to experience the harmful and violent impacts of being removed from their communities, the inability to access membership and Indian Status with their communities and re-establish family and kinship ties, and the other

benefits that come with holding an Indian Status card (tax implications, access to housing, and health and education opportunities, for example). The bar to compensation also prevents bands from expanding their resources to specifically welcome these people's home.

With Bill S-2, Canada has the opportunity to right these wrongs and finally eliminate sex discrimination from the Indian Act by removing the Section 6(1) and 6(2) provisions that call for a hierarchical policy of Indian Status that is not aligned with First Nations' historical membership provisions. Canada also has the ability to remove the bar to compensation to allow affected peoples and bands to receive compensation for the historical and ongoing harms they face.

2. Resolution 01/2023 Ending Sex-Based Discrimination in the Indian Act in Alignment with the UN Declaration

The Chiefs-in-Assembly, by Resolution 01/2023, directed the BCAFN Regional Chief to support and advocate for the implementation of the recommendations in the Interim Report, published by the Standing Senate Committee on Aboriginal Peoples and called on Canada to ensure that any amendments to the Indian Act are consistent with the UN Declaration and meet the requirement of FPIC.

As an example, Recommendation 2 includes a process to address the backlog of Indian Status applications as a result of the amendments over the last 40 years. ISC recently submitted to the BC Supreme Court in the *Nicholas v Attorney General (Canada)*¹ (“**Nicholas**”) case that they have effectively paused applications that *could* be affected by Bill S-2, and they would like to defer the implementation of the Nicholas decision for another year. At that time, ISC projected that 6,200 new registrants would be enrolling as a result of Bill S-2. As it stands, before Bill S-2 (previously Bill C-38), new applicants were already waiting up to 2 years for approval. For a government department responsible for issuing government identification, this is wholly unacceptable and speaks to the persistent underfunding and crude attitude towards First Nations peoples. For example, Canada issued 4.5 to 4.7 million passports from 2023-2024, which is a form of government identification which arguably requires a much higher degree of security and scrutiny, and barring the effects of COVID-19, have never paused applications to address the minor backlog that ISC has identified.

The Chiefs-in-Assembly fully support the recommendations in the Interim Report including, but not limited to, providing full access to genealogical records and public awareness campaigns, significant speeding up the process of issuing Indian Status cards to address backlog issues and barriers to individuals accessing their rights, repealing the divisions of Section 6(1) and 6(2) and transitioning everyone to one type of Indian Status that does not include an arbitrary hierarchy of Status, new legislation to address enfranchisement, repeal discriminatory provisions of the Indian Act, repeal provisions that bar compensation for affected individuals, and provide an apology and

¹ *Nicholas v Attorney General (Canada)*, 2025 BCSC 1596.



compensation to affected individuals and families for the harms they have caused by the historical and ongoing harms of the membership provisions and bar to compensation in the Indian Act.

Since Resolution 01/2023 was passed, Canada has released the UN Declaration Act Action Plan. In the Action Plan, Canada identified that UN Declaration Articles 6, 7, 9, 17, 33, 35 and 36 applies to the First Nations' Action Plan Measures (7 to 10) that relate to gender inequities in the Indian Act, but it must be reiterated that the UN Declaration must be read as a whole, and we cannot pick and choose which articles apply on this broad and overarching issue that has harmed First Nations families and communities for well over a century. For instance, Article 5 of the UN Declaration states that,

“Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”

A barrier to membership by the colonial state, and a bar to compensation as a result of that harm, prohibits the ability of Indigenous peoples to participate in and maintain and strengthen their distinct, political, legal, economic, social and cultural institutions. Each Article should be read in tandem with the issue of gender discrimination and the various harms that arise from this colonial interference.

In the Action Plan, Canada states they will take action, in consultation and collaboration with First Nations, to support the implementation of Bill C-38 (now Bill S-2) to address discrimination in registration provisions, work on a process of reform of registration and band membership issues and make these processes “more consistent” with the UN Declaration until clear consensus is achieved, and that they will consult with First Nations and other Indigenous groups (women, girls, 2SLGBTQI+, Elders and Treaty groups) to co-develop alternatives to Indian Act registration and membership.

Although ISC reached out to communities to engage on discussions to reform the registration provisions of the Indian Act as a direct result of the Nicholas decision, we have yet to see the results of those engagements. As far as we know, there has been no targeted engagement with First Nations to begin work on aligning the Indian Act with the UN Declaration. I am well aware that the Action Plan states that Canada will be moving away from the Indian Act, but Canada must keep in mind that this is not something that all First Nations are calling for, and extensive consultation will be required to begin those discussions.

In the interim, on the issue of sex discrimination, Canada must be cognizant of the Articles of the UN Declaration for alignment with the Indian Act. As an example, here are a few Articles that speak directly to this issue:

- **Article 2:** Discriminatory membership provisions such as those in the Indian Act only apply to Indians in Canada. No other group of people has to conduct the type of genealogical

research that we do to determine our rights to band membership. In order to gain citizenship to another country, one only needs one parent to attain dual citizenship in Canada and that other country. This is not possible for First Nations, and aligns with the Interim Report's recommendation to eradicate the division of Section 6(1) and 6(2) and give all registrants equal status based on a one-parent rule;

- **Article 3:** This includes the right to determine who our band members are and how they attain membership with bands. A possible issue here is that bands may discriminate against new members, but this is mainly a funding issue that Canada can easily resolve;
- **Article 8:** The colonially enforced and targeted membership provisions and introduction of Section 6(2) has contributed to assimilation and destruction of culture of First Nations by eroding members entitlement to band membership and introducing financial strains on bands without providing any form of reparation or additions to reserve to be able to accommodate new and welcomed home members; and
- **Article 10:** By implementing these exclusionary and discriminatory membership provisions for over a century, Indigenous peoples, particularly First Nations women and their descendants, have been forcibly removed from their communities, lands and territories by virtue of having their Indian Status removed, or labelling their children under Section 6(2), thereby ensuring they are among the last generation to have Indian Status in their families.

Reviewed in the context of historical and ongoing sex discrimination, we can see that sex discrimination has significantly contributed to the assimilation and colonization of First Nations peoples in Canada. Bill C-31's Section 6(1) and 6(2) of the Indian Act is planned obsolescence, and we are seeing these effects in real-time with Canada themselves releasing statistics that, on average, 30% of First Nations members are under Section 6(2).

Recommendations:

1. Remove sex discrimination from the Indian Act, including the division of Section 6(1) and 6(2), which perpetuates further division and discrimination resulting from historical and ongoing enforcement of the Indian Act.
2. Recall and remove the bar to compensation from Bill S-2, Bill S-3, Bill C-3, and Bill C-31.
3. Provide compensation to affected individuals, families and bands, including policies to expand reserve and treaty lands and increase housing, education and healthcare funding to accommodate the homecoming of affected members. Individuals and families must be put in the position they would have been had they not been excluded from their communities.
4. Fund and resource ISC to better service First Nations individuals and communities in the issuance of Indian Status cards, upholding the commitments to Canada's constitutional obligations to First Nations peoples.

5. Implement and exceed the recommendations in the Interim Report.
6. Following the implementation of Bill S-2, initiate an extensive and elaborate process for alignment of the Indian Act with the UN Declaration, going above and beyond what is provided in the UN Declaration Act's Action Plan.

The First Nations Chiefs-in-Assembly and I look forward to the next parliamentary session and the outcome of Bill S-2 and future achievement of Indian Act alignment with the UN Declaration.

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BCAFN Women's Representative Cheryl Rule

Attachments: Resolution 13/2019 *Immediate Implementation of Bill S-3 and the Removal of Sex-Based Discrimination from the Indian Act*

Resolution 01/2023 *Ending Sex-Based Discrimination in the Indian Act in Alignment with the UN Declaration*



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BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY
Nicola Valley Institute of Technology, Merritt, BC
March 7 & 8, 2019

Resolution 07(g)/2019

SUBJECT: IMMEDIATE IMPLEMENTATION OF BILL S-3 AND THE REMOVAL OF SEX-BASED DISCRIMINATION FROM THE *INDIAN ACT*

MOVED BY:

SECONDED BY:

DECISION:

WHEREAS:

- A. Indigenous women are the foundations of our cultures, our communities, and our governments. The discrimination against Indigenous women has been a colonial tool of forced assimilation used to destabilize our communities through the inevitable reduction of our membership rolls, undermining our ability to maintain and protect the legal status and existence of our present and future citizens, and threatening our connection to our land base, our Title and Rights, our cultures, languages, knowledges and our resources;
- B. the discrimination against Indigenous women and their descendants through an imposed sex-based hierarchy was first introduced by the 1985 *Indian Act* in section 6(1)(a) and section 6(1)(c) and has since been continued and left unchallenged by the amendments of 2011 and 2017;
- C. on January 11, 2019, the UN Human Rights Committee released its decision on a petition filed by Sharon McIvor and Jacob Grismer. The UN Committee ruled that Canada is actively discriminating against First Nations women and their descendants by refusing to grant full 6(1)(a) status, on the same terms as First Nations men and their descendants;
- D. the committee called on Canada to ensure that section 6(1)(a) of the 1985 *Indian Act* be interpreted to allow the registration of all persons who were previously not entitled to be registered under section

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Terry Teegee, BC Regional Chief

6(1)(a) solely as a result of the preferential treatment accorded to Indian men over Indian women born prior to 17 April 1985 and to patrilineal descendants over matrilineal descendants born prior to 17 April 1985; and to also take steps to address the residual discrimination within First Nations communities arising from the legal discrimination based on sex in the *Indian Act*. Additionally, the committee made clear that Canada is under the obligation to take steps to avoid similar violations in the future;

- E. the *United Nations Declaration on the Rights of Indigenous Peoples*, which the Governments of British Columbia and Canada have adopted without qualification and have committed to implement, affirms:
- Article 8 (1):** Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture;
- (2):** States shall provide effective mechanisms for prevention of and redress for:
- a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - b) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
 - c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
 - d) Any form of forced assimilation or integration;
 - e) Any form of propaganda designed to promote or incite racial or ethnical discrimination directed against them;
- F. in June 2017, the Senate of Canada amended Bill S-3, a bill to respond to the *Descheneaux* decision, in a way that would have eliminated the sex discrimination, fully and finally, from the *Indian Act*. The Government rejected the Senate's amendment, but nonetheless, in October 2017, the Government of Canada agreed to include provisions that would entitle First Nations women and their descendants to full 6(1)(a) status on the same footing as First Nations men and their descendants (ss. 2.1, 3.1 and 3.2);
- G. problematically, the provisions of Bill S-3 do not come into force until an unspecified date that the Government may decide, by Order-in-Council, to enact them;
- H. Canada has the immediate responsibility to remove all instances of sexual discrimination from Canadian legislation, policies and practices;
- I. Canada must be held accountable to provide the necessary reparations to those it has discriminated against and to provide the necessary resources to those Indigenous communities who will be welcoming back their previously denied members; and
- J. the recognition of the rights of Indigenous women and their descendants is not disputable and is our collective responsibility.

THEREFORE BE IT RESOLVED THAT:

1. The BCAFN Chiefs-in-Assembly fully supports Bill S-3, *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux v. Canada*;

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2. the BCAFN Chiefs-in-Assembly directs the Regional Chief to call on the government of Canada to immediately action, through an Order-in-Council, the provisions of Bill S-3 to remove all sex-based discrimination within the *Indian Act* without delay; and
3. the BCAFN Chiefs-in-Assembly directs the Regional Chief to call on Canada to provide Indigenous peoples the opportunity to engage with Canada, as full partners, in developing the necessary mechanisms, reparations and processes by which we can recognize the full rights of all Indigenous women and their descendants.

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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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Terry Teegee, BC Regional Chief

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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Terry Teegee, BC Regional Chief

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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Terry Teegee, BC Regional Chief

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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A handwritten signature in blue ink, appearing to read 'Terry Teegee', is written over a horizontal line.

Terry Teegee, BC Regional Chief