



May 31, 2017

VIA EMAIL ONLY

Rt. Hon. Justin Trudeau, P.C., M.P.
Prime Minister's Office
Langevin Block 80 Wellington Street
Ottawa, Ontario K1A 0A3

Hon. Carolyn Bennett, P.C., M.P.
Minister of Indigenous Affairs and Northern
Development
10 Wellington St.
Gatineau, Quebec K1A 0H4

Hon. Jody Wilson-Raybould, P.C., M.P.
Minister of Justice and Attorney General
Department of Justice Canada
284 Wellington Street
Ottawa, Ontario K1A 0H8

Dear Prime Minister Trudeau,
Dear Minister Bennett,
Dear Minister Wilson-Raybould,

RE: Bill S-3 and Eliminating Sex-based Inequities in Indian Act Registration

I am writing on behalf of my community to add our voice to those of the many other organizations that are asking you to support the amendment to Bill S-3, *An Act to amend the Indian Act (elimination of sex-based inequities in registration)*, that was adopted by the Senate Committee on Aboriginal Peoples (APPA) on May 17, 2017.

As you must know, Bill S-3 is the result of the victory by three members of our community: Stéphane Descheneaux, Susan Yantha and Tammy Yantha. In a case that they brought with our support, the Québec Superior Court ruled in August 2015 that the registration rules discriminate against them on the basis of sex and in violation of their right to equality under section 15 of the *Canadian Charter of Rights and Freedoms*.

From the beginning, the *Descheneaux* case has been the case of all the Abenaki. We appreciate the fact that after the last election, your government chose not to appeal the decision. If you are now seeking a nation-to-nation relationship with us, we believe you must take into account the fact that we wish to see all sex-based discrimination eliminated from the registration rules, as the APPA's amendment would do.

I want to reiterate what I said on December 1, 2016, when, at my request, I finally met with the Assistant Deputy Minister of Indigenous Affairs and Northern Development and the Registrar of Indians to discuss Bill S-3: the issue is status rules under your *Indian Act* and the federal government's obligation is to rectify the problems in your system under your *Charter*. This is entirely separate from our community's own power to determine who our members are, which

we already do.

For as long as you restrict your funding of my community to the members who have status – as you do now – our collective rights and the members’ individual right to equality under the status rules cannot be separated from each other.

This APPA amendment will have the effect of entitling First Nations women and their descendants born prior to April 17, 1985 to s. 6(1)(a) status on an equal footing with First Nations men and their descendants born prior to April 17, 1985. This amendment is crucial because it will have the effect of removing the core of the sex discrimination that has existed in the status provisions since 1869.

The Abenaki have opposed the “married out rule” – depriving a woman of status if she married a man without status – since before the *Indian Act* was amended to eliminate the rule. At their request, the Abenaki of Wôlinak were exempted from the rule before the late Prime Minister Pierre Trudeau introduced the *Charter* in 1982 and the Abenaki of Odanak were exempted before the amendments were adopted in 1985 in an incomplete attempt to respect the *Charter*. In fact, in 1847, the Bagot Commission on Indian Affairs in Upper and Lower Canada reported that in Odanak, there was “no difference whatever... in the habits and ways of living” between the children of “white men who marry Indian women” and the others.

Like many of the other organizations that are signatories to other versions of this letter, the Abenaki participated in the hearings before the APPA concerning Bill S-3 and in meetings with officials from Indigenous and Northern Affairs Canada regarding ongoing discrimination in the *Indian Act*’s registration provisions, both in relation to gender and other prohibited grounds.

The Abenaki were a party to the *McIvor* appeal; the Abenaki told Parliament that the amendments in Bill C-3 did not solve sex discrimination in the registration rules; the Abenaki successfully challenged the Bill C-3 amendments in the *Deschenaux* and *Yantha* case.

In our submissions and testimony on Bill S-3, we made it clear that without the APPA’s amendments, it would not even eliminate all sex-based inequity in the *Indian Act* registration provisions, but that the time has come to do just that.

Bill S-3 represents your opportunity to give equal treatment to all the victims of the discrimination that took status away from women before 1985 and demonstrate the commitment you have made to equality for women, human rights, and a new nation-to-nation relationship with our people.

In peace and friendship,



Chief Richard O'Bomsawin
Council of the Abenaki of Odanak