

OUR LAND IS OUR FUTURE

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May 26, 2017

The Senate of Canada
Ottawa, ON
K1A 0A4

RE: Sex based discrimination in the *Indian Act*

Dear Senators:

On May 17, 2017, Bill S-3 was amended in the Senate Committee on Aboriginal Peoples in order to remove the long-standing discriminatory treatment of Indian women and their descendants in the status provisions of the *Indian Act*, and more particularly, to remove the sex-based distinction between 6(1)(a) and 6(1)(c) status. We write to you today to ask you to support the Senate Committee's amendment, which will assist Indian women and their descendants, and all Indigenous peoples, to move forward.

The Union of BC Indian Chiefs (UBCIC) mandate is to work towards the implementation, exercise and recognition of our inherent Title, Rights and Treaty Rights and to protect our Lands and Waters, through the exercise and implementation of our own laws and jurisdiction. The UBCIC strengthens Indigenous Nations to assert and implement their Aboriginal Title, Rights, Treaty Rights and Right of Self Determination as Peoples. The UBCIC works collectively amongst Indigenous Nations in BC and to act as an advocacy body to provide a cohesive voice (regionally, nationally and internally) in support of Indigenous Nations and communities, and to promote and protect each Nation's exercise of Sovereignty within their traditional territories.

Mandated by Resolution 2011-13, "Principles for UBCIC Exploratory Process on First Nations Citizenship", UBCIC cannot accept any legislative amendments to the *Indian Act* that continue to perpetuate sexual discrimination against descendants of Indigenous women. First Nations must have the ability to maintain and protect the legal/legislative status and existence of its present and future citizens. Please find attached our December 6, 2010, position paper which advocates for the removal of the 1951 cut-off, and other effects of the sex-based hierarchy.

In 2008 UBCIC intervened in the constitutional case of *McIvor v. Canada* in the British Columbia Court of Appeal. In 2010 UBCIC participated in the Parliamentary review process for Bill C-3. Additionally, UBCIC has submitted materials to the United Nations Human Rights Committee in both December of 2011 and June of 2016 in support of the petition of Sharon McIvor and Jacob Grismer. Ms. McIvor's petition asserts that Canada stands in violation of the *International Covenant on Civil and Political Rights* because the *Indian Act* continues to treat Indian women and their descendants differently and less advantageously than Indian men and their descendants. Further, in March of 2016 the UBCIC supported Mr. Jeremy Matson's Petition to the Committee on the Elimination of Discrimination against Women (CEDAW) calling for a CEDAW General Recommendation to Canada to call for a comprehensive national strategy to promote the equality of Indigenous women and their descendants in regards to "Indian Status" under Bill C-3 of the *Indian Act*.

In light of Canada's long history of piecemeal reform and the damage of this ongoing discrimination, Canada must now move to eliminate the sex-based hierarchy between 6(1)(a) and 6(1)(c) in the status registration regime. The UBCIC's position has been, and remains, that the only effective remedy to the ongoing sex discrimination is to place Indian women and their descendants born prior to April 17, 1985 on the same footing as Indian men and their descendants born prior to April 17, 1985, so that they are all entitled to registration under s.6(1)(a) of the *Indian Act*.

Therefore the UBCIC supports the following amendment made in the Senate Committee on Aboriginal Peoples, and commends the members of that Committee for reaching this stage. We understand that this amendment has come to be called "6(1)(a) all the way".

That Bill S-3, in Clause 1, be amended by adding:

(a.1) that person was born prior to April 17, 1985 and is a direct descendant of the person referred to in paragraph (a) or of a person referred to in paragraph 11(1) (a), (b), (c), (d), (e) or (f) as they read immediately prior to April 17, 1985.

(a.2) The purpose of this provision is to entitle to registration under s. 6(1)(a) those persons who were previously not entitled to registration under s. 6(1)(a) as a result of the preferential treatment accorded to Indian men over Indian women born prior to April 17, 1985, and to patrilineal descendants over matrilineal descendants, born prior to April 17, 1985.

It is our position that there is no impediment to Canada immediately and finally eliminating the sex discrimination in the status provisions; this amendment provides the means to remove the central inequity in the regime. The time for talk and consultation about whether to continue Indian Act sex discrimination is long past.

The sex discrimination in the Indian Act has been, and continues to be, a tool of forced assimilation. The continued top down approach for deciding and approving status under the *Indian Act* has no direct involvement of Indigenous peoples. Contrary to the right of self-determination affirmed throughout the *American Declaration on the Rights of Indigenous Peoples* and the *United Nations Declaration on the Rights of Indigenous Peoples*, especially Article 3 of the latter, Indigenous Affairs cannot determine who citizens of Indigenous Nations are. Under Article 8 of the *United Nations Declaration on the Rights of Indigenous Peoples*, which Canada has endorsed without qualification and has committed to fully implement, Indigenous peoples have the right not to be subjected to forced assimilation. To respect that right, Indian women and their descendants born prior to April 17, 1985 must have the same entitlement to

6(1)(a) status as Indian men and their descendants. We also note that under Article 22(2), States are obligated to take measures to ensure that Indigenous women and children are protected from discrimination. We believe that this requires States, including Canada, to eliminate their own legislated sex discrimination against Indigenous women.

Consultation is required with First Nations about many practical issues regarding resources and about how to move to a new nation-to-nation relationship. But the sex discrimination maintained by the Government of Canada for more than 100 years must be removed in order that these talks can take place with Nations that have been made whole, and in which women are equal partners and participants.

We urge you to support the "6(1)(a) all the way" amendment to Bill S-3.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Robert Chamberlin
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

CC: Assembly of First Nations National Chief Perry Bellegarde
Assembly of First Nations Women's Council Chair Grand Chief Denise Stonefish