



FEMMES AUTOCHTONES DU QUÉBEC INC.
QUEBEC NATIVE WOMEN INC.

Brief by Quebec Native Women

As part of:

Reviewing the Implementation of the Act to Amend the Indian Act in Response to the Quebec Superior Court Decision in Descheneaux v. Canada (Attorney General)

Standing Senate Committee of Indigenous Peoples

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Introduction of Quebec Native Women

Quebec Native Women (hereafter QNW) is a bilingual, non-profit organization founded in 1974 as a community-based initiative. Since July 2009, QNW has had consultative status with the United Nations Economic and Social Council (ECOSOC). QNW is an organization representing women from the ten (10) First Nations of Quebec: Abenaki, Anishnabe, Atikamekw, Innu, Eeyou, Wendat, Wolastoqiyik Wahsipekuk, Mi'gmaq, Mohawk and Naskapi. We represent women from the communities, as well as urban Indigenous women. In 2015, QNW was recognized by the Department of Aboriginal and Northern Affairs Canada as an Indigenous Representative Organization (IRO). QNW's mission is to advocate for the human rights of Indigenous women and their families, both collectively and individually, and to represent the needs and priorities of its members to various levels of government, civil society and decision makers in all areas of activity that have an impact on the rights of Indigenous people.

QNW has contributed to restoring the balance between Indigenous and non-Indigenous women and men by giving a strong voice to the needs and priorities of women for more than 47 years. QNW brings the needs and priorities of its members to the attention of authorities and decision makers in all areas of our activities: health, youth, justice and public safety, women's shelters and the promotion of non-violence, human rights, international law, and employment and training. In this context, we play a role in education, raising of awareness and research, and we provide a structure for women to be active in their community.

1. Context

QNW was founded in 1974 by a group of Indigenous women who were seeking to have their rights to non-discrimination and equality respected. Gender-based discrimination against Indigenous women in relation to section 6 of the Indian Act (hereinafter referred to as the Act) is unfortunately still an issue today. Indigenous women and their children still face many barriers to being registered under the Act and to fully exercising their identity. To this day, an organization external to their own communities¹ controls and decides who is Indigenous and who is not. Consequently, many individuals are greatly affected by and do not have access to the services provided by their Band Councils, cannot live on their ancestral territories, cannot transmit their languages and cultures, etc. In this sense, Ms. Valérie Richer (Abenaki) mentions that the fact of not being registered is “as if I cannot have access to my culture”.

Since the first legislative amendment in 1985 with *Bill C-31*, concrete advances and registration procedures have not evolved at the same pace as needed and requested by Indigenous individuals and organizations. Administrative and bureaucratic processes are still a major obstacle to the complete eradication of gender-based discrimination, which has been recognized in numerous reports. Moreover, the decision of the UN Human Rights Committee in the case of *McIvor v. Canada*, CCPR/C/124/D/2020/2010, highlights that the Government of Canada has violated Articles 3 and 26, read in conjunction with Article 27 of the *International Covenant on Civil and Political Rights*. Although Canada claims that it has eliminated all traces of discrimination with Bill S-3, our organization can see the continuing impacts of the backlog in the registration process.

As a result, Indigenous women and their descendants cannot profit from their right to non-discrimination. Their right to identity guaranteed by Articles 2, 8, 9 and 33 of the *United Nations Declaration on the Rights of Indigenous Peoples*, and by the same token, to the same Articles of *Bill C-15, An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*, is also not respected. The latter Act has been part of Canadian law since June 16, 2021, and is

¹ It is important to mention that the creation of Indigenous communities (Band Councils) as we know them today is also a creation imposed by colonial assimilation policies. This comment does not refer to the communities and the traditional governance model as they were organized and structured before colonization.

therefore binding. There is no appreciable level of discrimination that a State can create through its archaic and assimilative laws.

This brief will not only present the impacts of *Bill S-3*, but will also present some of the testimonies received by Indigenous women who are trying to understand the registration system so that their children and grandchildren can be recognized.

2. Methodology

The testimonies that are part of this brief were collected in the context of the many requests QNWH receives regarding Indigenous registration. The requests are varied: requests for information, requests for referrals, requests for assistance in finding a lawyer to represent their case, etc. The individuals were consulted prior to being named in this brief and they all consented in writing to the release of their names. In a way, the fact that their names are in the brief is a way for them to have their individual claims heard.

3. Impacts of *Bill S-3*

3.1 Significant need for information sharing regarding the new registration arrangements

An information campaign was launched in 2021 by the Government of Canada in response to the 2019 amendments to *Bill S-3*, in response to significant demand from various Indigenous organizations. This campaign is a first concrete step by the government to inform Indigenous people of their new registration rights, but unfortunately it is not enough. There is still a great lack of information between what is disseminated and what actually reaches community members, whether they live in urban areas or in communities. The complexity of the laws means that the information is not accessible. The testimonies received show that everyone knows that *the Act* was recently changed, but does not know in concrete terms what the changes are and their impacts. Ms. Valérie Richer mentioned that "even for people who live in urban areas, it is very difficult to access information because the information capsules are not clear".

3.2 Slow pace of government regarding the registration process

The COVID-19 pandemic has had an impact on everyone's daily life. There is no doubt that the impacts have been and are still major. The registration system, the time it takes to process an application and the administrative and bureaucratic procedures associated with it have been considerably slowed down, if not completely stopped. No mechanism was put in place to ensure that registrations were processed at the same speed as before and the blame was always put on the pandemic, without providing any real solutions. According to the final Parliament report on the review of *Bill S-3* in December 2020, between 270,000 and 450,000 people were entitled to status as a result of the legislative changes made by the law. This significant delay has been exacerbated by the delays caused by the pandemic.

Combined with the complexity of the division of powers under sections 91 and 92 of the *Canadian Constitution*, the levels of government continue to toss the ball back and forth on Indigenous issues. The various federal departments also share responsibility for the registration and gender-based discrimination that Indigenous women have experienced and continue to experience. The question is: to whom should Indigenous women turn to ensure that their cases are actually dealt with without delay? There is also the fact that elections every four (4) years often result in changes of government, and therefore changes in the governmental policy agenda.

The testimonies received by Indigenous women clearly illustrate the problem of governmental inactivity and bureaucratic procedures in order to be registered. The processing times for applications are unending: Ms. Lise Malec (Innu) received a response regarding her grandson's application for registration eight (8) years after she made the request. Ms. Voïka Copeau (Innu), for her part, has been applying for her children for ten (10) years now. During this time, their children have been deprived of the rights that registration provides. Moreover, even if it is possible for the applicants to file a complaint and to contest the decision of Indigenous Services Canada (hereinafter ISC), this adds an additional bureaucratic step that does not encourage the women to continue their efforts to obtain justice.

3.3 Rigid procedures

Colonial policies of assimilation, such as Residential schools, have resulted in many broken Indigenous families. These are not only families destroyed in terms of loss of language, culture and Indigenous identity, but also losses in relation to family trees. The registration criteria require that individuals be able to trace their ancestry. Ms. Anne Archambault, former Grand Chief of the Wolastoqiyik Wamsipekwuk community from 1999 to 2004 and from 2008 to 2016, reports that it is very difficult to know who their ancestors are and that it is not their fault, but that of the government that imposed these colonial policies. She also mentions:

"What happens to those Indigenous people who have lost track of their ancestors, who don't know their names, who can't find them? According to the registration criteria imposed by ISC, does this mean that they cannot prove that they are Indigenous and that they will never acquire status, either for themselves or for their descendants?"

Ms. Archambault insists that the rigid procedures that must be met in order to be registered are a continuation of gender-based discrimination against Indigenous women and girls. For her, it is a perpetuation of assimilation towards Indigenous people.

The testimonies of Valérie Richer and Cindy Paillé Arseneault (Abenaki) also refer to the rigid registration procedures. They are faced with situations in which it is impossible to pass on the status of people born after April 1985. Mrs. Richer was born in December 1985 and her children cannot be registered. Her cousin was born before April 1985 and his children are recognized by *the Act*. Since they both have exactly the same conditions for registration, Mrs. Richer considers this situation to be discriminatory. Ms. Paillé Arseneault has two older sisters (all three are registered) who were born before April 1985. Her sisters' children are registered, but hers cannot be registered because she was born after April 1985. Considering that they all have the same parents, Ms. Paillée Arseneault and her child continue to experience discrimination in relation to section 6 of the *Indian Act*. For them, their situations refer to "the previous objective of the hidden discrimination of the *Indian Act*, aimed at assimilating Indigenous peoples, which continues to this day", because all persons born after April 1985 will not be able to transmit their status.

3.4 Inconsistency in registration issues

Our organization has received numerous testimonies illustrating the problem of coherence and the nonsense of the issues related to registration. On the one hand, Ms. Archambault reports the fact that the letter of refusal she received from ISC is not only informal, but very poorly structured and contradictory. For her, this letter is a representation of the government's attitude of infantilization and interference in Indigenous affairs. On the other hand, our organization has received testimonies regarding the nonsense of registration: Voïka Copeau knows people in her community who are fifth (5) generation and who have status, and her children, who have so-called pure maternal lineage, cannot be registered. Moreover, it was her Band Council who called her to inform her that her children could be registered, believing that the criteria for registration had been met. However, ISC refused her children's application for registration. To her, this does not make sense.

Other issues related to undeclared paternity and having unmarried parents are not consistent for the Indigenous women who contacted us. Regarding undeclared paternity, Ms. Lise Malec testified:

"I am 100% Innu and to see my grandchildren not registered breaks my heart. Unregistered paternity doesn't make sense, the impacts are huge. My daughter's father didn't want to sign, so paternity is not recognized. This has consequences for my grandchildren. I find it discriminatory that my sisters married a non-Indigenous man, that their children and grandchildren are recognized, but not mine."

With regard to having unmarried parents, Ms. Sakia Wabie Alarie (Anishnabe) reports:

"I experience injustice because I know people who take DNA tests and find out they have Indigenous genes, apply and get status. My mother is broken by Residential schools, and I can't register my children because my parents decided not to get married."

4. Recommendations

First, the significant lack of information sharing requires a national awareness campaign across Canada, in all provinces, in urban areas and in Indigenous communities. This campaign must be broad, accessible and inclusive, translated into the various Indigenous languages, so that everyone understands the implications of the legislative changes brought about by Bill S-3. Indigenous women and their descendants who need information about the registration procedures and criteria must know, once and for all, where to go to ensure that their applications are received. **To this end, QNW recommends that Indigenous navigators be responsible for such a national information campaign.** Hiring navigators not only creates a real connection with Indigenous communities and individuals, but also decolonizes the institutions and the interference that the State grants itself. These navigators would travel throughout the territory, particularly in the different communities and in urban areas, in order to inform and support Indigenous people in their registration process. This would consist of an addition to the regional offices of ISC, informal and colonial places, which are already in place. **Furthermore, QNW recommends that Indigenous women's organizations themselves receive funding so that they can also share information and assist applicants in their efforts.** Resources need to be allocated to the right place, i.e. information should not be from top to bottom, but rather from bottom to top. This is how information will really get to the people concerned, who are entitled and waiting to be registered.

Secondly, the registration system needs to be more transparent, more efficient, clearer and faster. The demand of Indigenous women is very clear: the registration system must be less restrictive and less complex. **QNW therefore recommends that the registration system be reviewed, in consultation with Indigenous women and girls, Indigenous organizations and experts.** This would allow for a registration process that is representative of the real needs of Indigenous women and girls and their descendants.

Finally, to address the issue of the complexity of the registration process, our organization recommends that there be real interdepartmental coordination. Currently, Indigenous registration is the responsibility of ISC, but the issue is directly related to Women and Gender Equality Canada, because of the discrimination experienced by Indigenous women and girls. While the various

departments are tossing the ball back and forth, no progress is being made on registration, and the backlog is growing.

5. Conclusion

In conclusion, QNW hopes that Minister Hajdu's promise to introduce a bill in the House of Commons to amend the registration provisions of the *Indian Act* will be truly representative of the realities and needs of communities and their members. This bill should not be an additional bureaucratic barrier and should address the issue properly. Indigenous women's expectations are very high, but their confidence in the institutions is very low. Voïka Copeau's question about the impact of this brief demonstrates this: "Will it make a difference if you table a brief in the Senate?"

Nia:wen, Migwetc, Tshinashkumitin, Wela'lin, Wli Wni, Tiawenhk, Merci, Thank you!