

**Racialization of Poverty:
Indigenous Women, the Indian Act and Systemic Oppression
REASONS FOR RESISTANCE**

By Andrea Stratford



**Prepared for
Vancouver Status of Women's Racialization of Poverty Project
December 2007**

ACKNOWLEDGEMENTS

The Vancouver Status of Women would like to respectfully recognize that our work and organizing takes place on Coast Salish Territories, lands which remain under colonial control. VSW also understands that the rights of non-Indigenous Peoples are deeply interconnected with the rights of Indigenous Peoples. Therefore, it is imperative that non-Indigenous Peoples living in Canada demonstrate solidarity against colonial, patriarchal, and capitalist structures and policies which continue to displace, steal, and oppress Indigenous Peoples.

Vancouver Status of Women would like to acknowledge Andrea Stratford's deep commitment and contributions to the Racialization of Poverty Project, as well as to the political struggles of social justice. We also thank Status of Women Canada and the Canadian Race Relations Foundation for supporting the Feminization and Racialization of Poverty Project.

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“My experience with Vancouver Status of Women’s Racialization of Poverty Project has been a great learning experience for me and has contributed to my analysis and my work. I would like to thank the women on the Indigenous Advisory Committee who gave a great deal of very helpful informative advice. These women are Deanna Reder, Laverne Gervais, and Gloria Laroque. I would also like to express my gratitude to the following members of the Feminist Working Group for their editorial input and perspective on the work: Deanna Reder, María Escolán, Cecily Nicholson, Benita Bunjun, and Harsha Walia. Thank you to Benita Bunjun for her support in the work and with the Advisory. It has been a pleasure to be supported by all who have been involved in this work!”



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The Vancouver Status of Women is a non-profit, feminist, community-based organization with a vision of freedom and self-determination for all through responsible, socially just, healthy and joyful communities both locally and globally. VSW's mandate is to work with women to ensure our full participation in the social, economic, and political life of our communities

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“In some countries, the government points a gun at peoples’ heads to control them, in Canada, the administration uses another system of mind control on its ‘subjects’”
- Andrea Stratford

“Control of Native People in Canada has thus been maintained largely through the creation of an extremely repressive body of colonial law known as the Indian Act...”
- Bonita Lawrence

Introduction

The Indian Act worked and continues to serve as a weapon to oppress and assimilate Indigenous people in an effort to steal Indigenous territories, control resources, and build the Canadian nation-state. Without question, the *Indian Act* remains the primary legislation responsible for the cultural genocide and impoverishment of Indigenous¹ peoples in the occupied ancestral lands of what is now called Canada. It is the cumulative historical effects of the Indian Act as well as archaic sections unchanged in the act that have led to Indigenous women’s pervasive marginalization and poverty. According to various reports, Indigenous women are the poorest of the poor in Canada.

For example, according to a 2002 UN Platform for Action Committee website,

In Canada, 42.7% of Aboriginal women live in poverty double the percentage of non-Aboriginal women and significantly more than the number of Aboriginal men. The average annual income of an Aboriginal woman is \$13,300, compared to \$19,350 for a non-Aboriginal woman and \$18,200 for an Aboriginal man. As well as being overrepresented among the poor, the economic contributions Aboriginal women do make are often minimized and ignored. (Women and the economy)²

Indeed, Indigenous women’s poverty is ubiquitous in this society. The legacy of historical oppression of Indian Act legislation as well various actions of the Canadian government have propelled the economic, political and social discrimination Aboriginal women face on the basis of race, gender and culture. Indigenous women have suffered a loss of land, culture, children, citizenship, and traditional roles. According to various reports, Indigenous women have bared the brunt of colonization and are hard hit by systemic oppression. As recent as May of 2006, the United Nations Committee on Economic Social and Cultural Rights, in its concluding observations, noted:

Concern that the long-standing issues of discrimination against First Nations women and their children, in matters relating to Indian status, band membership, and matrimonial real property on reserve lands have still not been resolved. The Committee notes that such discrimination has had a negative impact on the enjoyment of economic, social and cultural rights of some First Nations women and their children under the Covenant. (UN CESCR)

Currently, membership, matrimonial property rights, and human rights are outstanding issues that Indigenous women are confronting and continue to confront. Today, and for the past thirty years, Indigenous women remain on the forefront of the struggles against gender discrimination in the Indian Act and the oppression inherent in other provincial and Canadian legislation. It is the hope of many

¹ The words Indigenous, Aboriginal, First Nations, Indian, and Native are all words used interchangeably to describe the Original inhabitants of the occupied ancestral lands of what is now called Canada. Uses of the words are dependent upon the context and location of the content being discussed.

² For more on statistics of Aboriginal women and girl’s poverty and violence, visit: http://www.criaw-icref.ca/indexFrame_e.htm

Indigenous women, that our rights and respected roles be recognized and practiced and that the oppression we face be acknowledged and resisted by all members of our communities.

A close look at the church, the Indian Act, Bill C-31, Matrimonial Property Laws, and Section 67 of the Canadian Human Rights Act will reveal how the Canadian government has instituted poverty among First Nations women.

Traditional Roles of Indigenous Women

As part of the colonial empire-building project in Canada, it was necessary for colonizers to create legal principles in order to justify colonial assertion of title in the state. European colonizers needed to establish that the land was unoccupied and unorganized in order to prove that the Original owners of the land were illegitimate. Removing women from the land was a key part of this project, since women in many Indigenous societies were the caretakers of the territories, or maintained a strong relationship with the land. Understanding Indigenous women's roles prior to colonization and today helps to identify the tenor and impetus behind gender discrimination in the Indian Act.

Not all Indigenous societies living prior to invasion were matrilineal, or entirely egalitarian but most Indigenous peoples talk about the high value women held in their communities. Each nation has its own worldview, governing structures, spiritual practices and knowledge bases, and these structures, practices and knowledges are fluid. However, it is clear that no Indigenous nation in Canada viewed women as unworthy or as property in the same fashion as the European people that invaded Indigenous lands and lives. It is generally understood that most nations secured the status of women as crucial members of the community (Anderson 59). A report undertaken by the Status of Women Canada, called Aboriginal Women in Canada: Strategic Research Directions for Policy Development, imparts historical evidence suggesting that Aboriginal women held central power in areas of family and marriage, politics, decision making and ceremonial life (Stout and Kipling 14). Anderson explains the shock Europeans displayed while observing the strong positions Native women held in their respective societies (Anderson 58). She recounts history explaining, "it was not long before [Europeans] realized that, in order to dominate the land and the people that were occupying it, they needed to disempower the women" (Anderson 59).

In many Indigenous communities, a women's economic role was significant. For example, in Hodinohso:ni societies, stored food was a indicator of wealth, and was entirely controlled by women (Anderson 60) The people recognized that the strength of the community was only as strong as the work of the women (Anderson 60). Because she maintained control over stored food, a Hodinohso:ni woman could prevent or hinder war parties by holding back food supplies (Anderson 60).

In Choctaw society men hunted the animal but it was the women's job to store and distribute the meat as she saw fit. Kim Anderson, Cree/Métis author of A Recognition of Being, notes how white settlers were stunned by the amount of control Indigenous women had over food – a product they saw as high-value commodity (Anderson 60). Stölo /Métis writer, Lee Maracle contends that women determined what was essential to the survival of the nation and the excess was given to men for trading (Maracle in Anderson 61).

Indigenous women's political and social roles were also esteemed. For example, women in most BC Northwest Coast Native societies had and in some ways continue to hold authority and decision making power over the land, fishing holes, berry grounds, and sacred sites. Gitxsan elder and artist Judith Morgan, who is the author and illustrator of Celebration describes how the Gitxsan Nation is a matriarchal society with the crests' and property following down the mother's line (Morgan 3). Gitxsan

women owned territories and mountains and continue to hold Sigidim hanuk (Chief's) names. Morgan explains, "she controlled her territory and was responsible for teaching her children the many trails over the mountains" (Morgan 2).

The social organization of Hodinohso:ni societies also has its foundation on a matrilineal system (Jacobs and Eberts 10). The identity of the children's clan and nations are based on that of the mother's (10). The women were the caretakers of the home and also held the responsibility of the land (10).

Women's principal roles were represented in the home, family and on the land in many Indigenous societies. In First Nations Women and Governance: a Study of Custom and Innovation among Lake Babine Nation (LBN) Women, the authors maintain that LBN (a Carrier community) traditional governance arises from the authority of the hereditary chiefs of the four matrilineal clans (Fiske, Newell and George 72). For eons, the hereditary chief's lines have passed within an extended family unit through matrilineal descent. Hereditary Chiefs, many whom are women, would manage the ancestral lands of the First Nation and held responsibility for the social and economic well being of their people (73). Currently, about half of the heredity chiefs are female, but all of the chiefs of the four clans are male (73).

In most Native societies, gender roles were specific, but these social roles could change to accommodate the needs of the community. Coast Salish men, for example, were known as the "life takers", and women were known as the "life givers". While women were responsible for the rivers, lakes and the lands, men were hunters, fishers and warriors. However, women would, in times of need, take on male roles to support the community and likewise men would assume women's roles when required. Although women, in some nations, were a part of warrior societies, many women stood behind the men warriors, not because their strength was not valued, but because their strength as life givers was highly valued (Anderson 60). Today, however, things have changed and in many urban centres and rural communities Indigenous women have had to presume the role of warriors and providers. In particular, Indigenous women respond and challenge the new oppressed role that has been imposed on them by colonizers and the settler society.

Some Indigenous women, as many of us observe, continue to hold roles as community leaders, heads of the household, and transmitters of traditional knowledge (Stout and Kipling 1). However, the ten-year analysis of policy-orientated literature on Aboriginal women, written by Madeleine Dion Stout and Gregory Kipling, reveals contradictions, explaining how colonization has marred Indigenous women's positions and changed almost every aspect of "Indian" life (Stout and Kipling 1). Their report points out that:

While the roots of this contradictory position can be traced to the structural determination of colonialism and patriarchy, the legacy of this marginalization continues to thrive to this day, in the form of poverty, ill health, sexual and physical abuse, and the silencing of Aboriginal women's voices in debates over self-government, land claims and the Canadian Charter of Rights and Freedoms. (Stout and Kipling 1)

The process of colonization and its burden of racist and sexist policy served to degrade, uproot and marginalize Aboriginal women. Most devastating is that many First Nations men and women have internalized the Eurocentric male devaluation of Indigenous women, which has had a profound affect on

women's roles and our exclusion from contemporary First Nations leadership and governing structures (Sayers and MacDonald 10).³

While it is clear that Indigenous women were recognized as central figures in traditional social, economic and political life, some state politicians have suggested that Indian society was traditionally discriminatory against women. Kathleen Jamieson and Bonita Lawrence have both pointed out the different perspectives of "traditional" and how they have been used at different times to justify the stagnancy of the Indian Act. In fact, according to Jamieson, there have been arguments that sections of the Indian Act, in particular the sections that discriminate against Indigenous women, represent traditional values. For example, in 1978, Marc Lalonde, then Minister Responsible for the Status of Women defended sexism in the Indian Act, claiming that "discrimination against women is a scandal but imposing the cultural standards of white society would be another scandal" (Jamieson 1987:35). The "two scandals" line of reasoning argued that removing discrimination from the Indian Act would be disrespecting Indigenous cultures (that government officials alleged were, in some cases, traditionally discriminatory against women). Unfortunately some Indigenous scholars and leaders have also taken up the argument of gender discrimination as a traditional practice. Thus, it is important to re-learn history from a non-Eurocentric perspective and analysis and recognize decolonized Indigenous worldviews (Sayers and MacDonald 10).

The state imposition of colonial attitudes and behaviours on Indigenous people helped shape changes in women's political and economic roles. The transformation and disintegration of women's roles was required in order for the colonizer to exploit the land base and the people. Bonita Lawrence has written that colonizers needed to remove women, who were often culturally responsible for land use and ownership, from their traditional roles, so that settler society could access the land more easily (Lawrence 46). In many circumstances, men were the only members able to participate in treaty negotiations pertaining to land and resources (46). This new change in gender roles would have devastated an Indigenous nation's social and political institution as well as the household and community structure and later their land.

A foreign economic system and Euro-Canadian hegemony demanded that Indigenous families become nuclear units (opposed to communal) with the woman dependent on the man for purchased goods, rather than the family cooperating in a traditional land based economy (Anderson 64). In the relative value capitalist system, poverty among Indigenous people became the norm and the socio-economic status of women plummeted.

³ For more information on First Nations male dominated leadership and women's struggle to break the mould, see First Nations Women, Governance and the Indian Act: A collection of Policy Research Reports by Judith F. Sayers, Kelly Macdonald, Jo-Anne Fiske, Melonie Newell, Evelyn George and Wendy Cornet.

Historical Effects of the Church and State Policies

General public discourse on Indigenous women today has been less than flattering. In fact one does not have to dig deep to find acute derogatory fictions lurking in many Canadian minds. Brutal stereotypes of Indigenous women lead to abuses, violence, rapes, and murders. Negative images of Indigenous women fabricated partly by the Canadian church and state (and partly by the society that was under its tutelage) facilitated colonization and fostered the Eurocentric patriarchy that Canada embraced. A close look at a timeline of how “Indian” identity was formulated by the Canadian state and how the Indian Act (d)evolved in Canada, will reveal an unwavering colonial objective to gain access to Indian lands. In particular, how the church and statutory female subjugation developed and intensified from the beginning of Canada as a colony.

The Indian Act, which was adopted by the Parliament of Canada in 1876, predetermined a large number of diverse Indigenous nations as simply “Indians”, and began the regulation of “Indian” identity. The act robbed Indigenous people of their identities and rights as Indigenous people; placed control of the lands in government and settler hands; turned Indians into minors; and prohibited Indigenous ceremonies, dances and traditional political institutions (Rights and Democracy).

A patriarchal vision of the family legislated by the Indian act and inflicted by missionaries propelled systemic discrimination inherent in Indigenous women’s lives. Native societies, many that were matrilineal, with the genealogical decent traced through the mother’s line, became subject the patriarchy of European customs, laws and religions (Lawrence 51).

European settlers, through the process of colonization, deliberately and deeply fragmented Indigenous families. In “Real” Indians and Others, Lawrence, explains how huge holes were ripped through traditional life, the clan and kinship systems and Indigenous governing structures (Lawrence 51). For one hundred years the children, grandchildren and great grandchildren of Indigenous women suffered and continue to experience extreme poverty as a result of dislocation, isolation, and disenfranchisement as ordained through the Indian Act. It is the same Canadian government that initiated the racist and sexist legislation that continues an open assault on the lives of Indigenous women today.

In 1850, the first law on “Indians” was passed, giving the soon to be federal government of Canada, the executive authority to define who and who was not an Indian (Lawrence 50). According to the act, this legislation aimed to “protect the property of Indians” and pronounced the act applicable to “Indians and those who were intermarried with Indians” (Lawrence 32).

By defining Indigenous people’s identity in racial terms (who was and who was not an “Indian” as stipulated by an Indian “status” card) colonizers believed that “Indians” could be assimilated and controlled. Constructed identities and imposed relationships of a colonized subject and a colonial citizen have historically produced a number of cultural, political, and social hierarchies that facilitated white supremacy and dominance over Indigenous people. This was particularly important in empire building in the state, which included gaining access to, and control over lands. Reorganizing the family and community structure, by shaping the role of men as dominating women, was key (Lawrence 46). The church undoubtedly played a significant role in transfiguring women as valued community members, to subordinate subjects.

Kathleen Jamieson writes, “Christianizing Indians could not be indivisible from civilizing Indians” (Jamieson 1982:19). Indeed, missionaries played a fundamental role in shaping state identities. The villages that missionaries set up attempted to eradicate the social and political importance of Indigenous women and modify their behaviour to fit with Christian ideals of women, property and sexuality

(Jamieson, 1987:40). Winona Stevenson, author of Colonialism and First Nations Women in Canada states that, "Missionaries provided the state with misinformation about the lives and conditions of Aboriginal people in order to justify the colonial enterprise and the sanctioned wholesale attack on Aboriginal cultures" (Stevenson 66). Missionaries, in this sense, provided the ideological rationale behind the subjugation of Indigenous people and had direct input into the development of federal Indian policy, especially in their disregard for Indigenous women (Stevenson 66).

In Tsimshian society, from 1857-1887, the missionaries at Metkatla , disgusted at the women's independence and political power, began to circumscribe women's lives by restricting contact with the women's relatives, making sure they were confined in the home with their husbands and excluding them from cultural institutions (Jamieson 1987:40). William Duncan, who ran the mission, ensured that Tsimshian women were highly scrutinized, surveilled and controlled by the all-male elected council (Jamieson 1987:40).

Missionaries worked in conjunction with the state to construct negative images of Indigenous women in order to create Eurocentric policy and public discourse that viewed women as subordinate to men. Sarah Carter, writes in Categories and Terrains of Exclusion: Constructing the "Indian Women" in the Early Settlement Era in Western Canada, that "the Canadian state adopted increasingly segregationist policies toward the Aboriginal people of the West, and central to these policies were images of Aboriginal women as dissolute, dangerous and sinister (Carter 148). The images of women as immoral, as bad wives, negligent parents and sexually deviant were imposed on Aboriginal women to deflect criticism from the behaviour (in their mistreatment of Aboriginal women) of government officials and the North West Mounted Police (NWMP) (Carter 148). Carter also points out that Indian Affairs officials used the fabrication of pejorative depictions of Native men and women to offer an explanation of many Native communities' immense poverty and lack of housing, when their situation was undoubtedly a result of severe colonial policies (Carter 150).⁴

In 1869, the first act to incorporate sex-based discrimination provisions on membership and political rights was passed (Jamieson 1987:6). The Gradual Enfranchisement Act, stipulated a number of other oppressive measures, specifically Section 6, which ordered the removal of Indian status from Native women who married a non-Native man, and forced Native women to become members of their husband's Indian bands upon marriage (Lawrence 33, Jamieson 1978:29). Lawrence raises an important aspect of enfranchisement. She says, "On a daily basis, enfranchisement provided formidable opportunities for Indian agents to control resistance in Native communities, by pushing for the enfranchisement (and therefore the removal from their communities) of anybody empowered by education or a secure income" (Lawrence 32).

The Gradual Enfranchisement Act removed inheritance rights from Indigenous wives and enfranchised these rights with their husbands'. Traditional forms of Indigenous governance, many that were either matrilineal or depended profoundly on women, were undermined, outlawed and replaced while municipal-style elected band governance systems were enacted and enforced (Lawrence 32). Women, under this legislation were officially excluded from participating in local bands and were denied the right to participate in reserve land-surrender decisions (RCAP 1996). One male-Chief and one-male counsellor was expected to be elected for each one hundred band members. Women were completely barred from voting or running in the elections (Stevenson 67).

⁴ For more information of the NWMP and their views and conduct with Aboriginal women, see Carters reading, as listed in the bibliography.

The resistance to the gender discrimination in the 1869 act was almost immediate. According to Jamieson,

In 1872, the Grand Council of Ontario and Quebec Indians sent a strong letter to the Minister at Ottawa protesting among other things section 6 of the 1869 act in the following unmistakable terms: 'They [the members of the grand council] also desire amendments to Section 6 of the Act of 1869 so that Indian women may have the privilege of marrying when and whom they please; without subjecting themselves to exclusion from their tribes and the consequent loss of property and rights they may have by virtue of their being members of any particular tribe. (Jamieson 1978: 30-31)

The objectives of the Chiefs fell on deaf ears and their appeal to have gender discrimination and exclusion removed from the Indian Act was ignored (Jamieson 1978:30). The pleas of a number of other Nations, with similar concerns about the legislation and stringent regulation on Indian identity (especially on that of women), were also disregarded (Stevenson 68).

The severe legislation had a profound impact not only on Indigenous women but also on the community, traditional institutions and cultural identities as a whole. For example, since traditional hereditary leadership was/is traced through the female line and it was women who selected or “dehorned” male leaders in the Six Nations community, the imposition of male-dominated elective systems led to the breakdown of the Longhouse system (Stevenson 68). Stevenson explains that, “the long-term effect of this provision was to reduce the number of status Indians the government was responsible for, impose the European patrilineage system, and elevate the power and authority of men at the expense of women” (Stevenson 68). The 1869 legislation was directed at eastern nations of Canada, and in 1880, modifications to the Indian act targeted Indigenous women in the western provinces in the same way.

Systemic Removal of Indigenous Women from their Lands: Section 12(l)(b)

Section 12(1)(b) was the start of the most acute gender discrimination in the Indian Act. Through the infamous section involuntary enfranchisement came into effect with a new vigour (Huntley and Blaney 8).

To demonstrate the obsession colonialists had with a women’s racialized identity, Lawrence explains how women who lost their status (through marriage), prior to 1951, were no longer legally Indian but were issued “red ticket” identity cards that demarcated that they had access to full rights as enfranchised women. “Red ticket” women were also entitled to treaty monies and recognized as affiliated with their own band, and sometimes even able to live on reserve (Lawrence 50).

In 1951, however, a woman who lost her status through marriage had to relinquish her rights and identity as an “Indian” immediately. This year marked a hallmark for Indigenous people and indicated a lessening of restrictions (such as the removal of the Potlatch ban and laws on ceremonies, as well as gaining the right to vote), however, for Indigenous women it meant the heightening of oppression (Lawrence 53). It was in this year that Indian women who lost their status through marriage were subjected to compulsory enfranchisement, (or **disenfranchisement** - as many Indigenous people understand the process of as), through section 12(l)(b) of the Indian Act. Under this section, a woman who married outside her community would be forced to disassociate from her community and immediately cease to be “Indian” through her loss of status (Lawrence 53). Additionally, she would lose her home on reserve, property she might have inherited, and access to any rights a status Indian woman had.

Women who were forced to enfranchise through the Indian Act lost all their rights as “Indians” but were still not accepted as “citizens” of a Canadian state that was saturated in racism, sexism and a hardening anti-Indian sentiment (Jamieson 1987:6). Further, section 12(1)(a)(iv), known as the “double mother clause”, stipulated that an “Indian born of a marriage entered into after September 4th, 1951 lost entitlement to registration at the age of 21 years if his/her mother and paternal grandmother were not entitled to registration as Indians before marriages” (Indian Registration and Band Lists Directorate 16).

Between 1876 and 1985, over 25,000 Indians lost their Indian status, and between 1955 and 1985, 16,980 people lost their status, 72% of who were women (Holmes 8). Indian Act legislation dealing with membership and status negatively affected women as well as men, although section 12(1)(b) has impacted women to a sharper degree.

In, “Indian Women and the Law in Canada: Citizens Minus”, Jamieson documents the Indian Act and identity legislation in Canada. She talks about the material, cultural and psychological effects of Section 12(1)(b):

The women, on marriage, must leave her parent's home on the reserve. She may not own property on the reserve and must dispose of any property she does hold. She may be prevented from inheriting property left to her. She cannot take any further part in band business. Her children are not recognized as Indian, and therefore denied access to cultural and social amenities of the Indian community. And most punitive of all, she may be prevented from returning to live with her family on the reserve, even if she is in dire need, very ill, a widow, divorced or separated. Finally, her body may not be buried on the reserve with her [ancestors].
(Jamieson 1978:1)

The discrimination and penalties wrought on women who “married out” has led to long-term effects on Indigenous women including homelessness, prostitution, poverty, cultural genocide, loss of family connection, and apprehension of their children. It cannot be stressed enough the devastating consequences of legislated Indigenous child apprehensions by the state. Today, the number of Indigenous children in foster care and group homes is higher than the total number of children EVER in residential school.

Shirley Bear of the Tobique Women’s Group, who was involved in the struggle to address inequality in the Indian Act, has talked about the level of women’s homelessness on reserves that resulted from section 12(1)(b). Some women, she recounts, returned to the reserve only to find that they were no longer Indian and no longer able to live in their home community. Men were able to kick women out of the house as the act gave men sole ownership of property (Bear 206). In response to the high number of Indigenous women being displaced from their homes as a result of the section of the Indian Act, the Tobique women began to speak out and fight the legislation. In 1977, the women occupied the Negoot Gook (Tobique) band office to protest the inadequate housing on their reserve (Bear). In the same year, Sandra Lovelace filed a complaint against Canada at the United Nations Human Rights Committee in Geneva - the focus of the complaint being section 12(1)(b) (Bear 210). Lovelace is an Indigenous woman who had married a non-Native man, moved off reserve and had a son (Barker 139). When she divorced and returned to the reserve with her son, she soon discovered that she was no longer entitled to status, nor rights to housing and therefore had to sleep in a tent in her home community in the middle of winter (Bear 208).

The phenomenon of Indigenous women (who “married out”) becoming Indian “squatters” on their own lands, at the time, was starkly contrasted by the ability of white women who had “married in” (Lawrence 36). While an Indigenous woman and her children whom had lost their status would be evicted or jailed

for simply fishing in their home territories, a white woman who married an status Indian man would enjoy her “Indian” status and her and her child would receive the benefit of living on the land and learning the husband’s culture (Lawrence 36). The fight to address the injustices of the Indian Act was, sadly, also marked with repression.

Kathleen Jamieson has observed and documented the way in which the plight to address gender discrimination in the Indian Act has been approached by male-dominated Native organizations. She explains that from 1969-1982, although the National Indian Brotherhood (NIB)- which would later become the Assembly of First Nations (AFN), claimed to represent men and women, the male-run Indian organization took a clear discriminatory approach when responding to Indigenous women’s resistance to gender discrimination in the Indian Act (Jamieson 1987:33). In 1971, when Jeanette Lavell and Yvonne Bedard charged that section 12(1)(b) violated the 1960 Canadian Bill of Rights, the provincial brotherhoods united in their opposition against the women’s claims (Jamieson 1986:33, RCAP 1996). First Nations leaders accused the women of being a part of a colonial process (that the Indigenous women were adamantly fighting against) and damned them for being “women’s libbers” (137). Joanne Barker, author of Gender, Sovereignty, and the Discourse of Rights in Native Women’s Activism, relays:

As the NIB and band governments continued on in their advisory roles with Parliament and DIAND while lobbying against Lavell and Bedard, the exclusion of women and their concerns from national politics and discussions of Indian sovereignty was represented as normal and necessary for the survival of Indian Rights. (Barker 137)

Lavell and Bedard were heard before the Supreme Court of Canada in January 1973, but the Native Council of Canada, on behalf of the National Indian Brotherhood intervened against them. Partially resulting from the NIB intervention, the court ruled that the Indian Act did not discriminate against Indian women who married non-Indian men (Holmes 5). According to Joan Holmes, writer of Bill C-31 Equality or Disparity? The Effects of the New Indian Act On Native Women, the case represented a huge loss for those fighting for equality but a great win for those defending the Indian Act (Holmes 5).

While both women lost in the supreme court, in Berdard’s case, the judge noted that the entire “Indian Act might be inoperative because it violated the Bill of Rights” (Jamieson 1978:2). However, many Indian leaders believed their rights were threatened by the persistence of women’s resistance of the act (Jamieson 1978: 2). It was these legal cases as well as the threat of the White Paper that led to a united front against the “untouchable” nature of the Indian Act (Jamieson 1978:2). Indian leaders were determined to force the government to address the injustices, and a key strategy was to use the Indian act as lever to retain their “sacred rights” (Jamieson 1978:2). At this time, the Indian Act was theoretically transformed by the NIB and the band councils, from a “legal instrument of oppression”, (which it had been considered from its inception), to an “embodiment of and guarantor for sacred rights” (Jamieson 1978:2, Barker 137). It was under these circumstances that the general friendly rapport or the “relationship” between the current Canadian government and the National Indian Brotherhoods was established and during which the joint Cabinet/NIB Committee was formed (Jamieson 1978:3).

Although, the discrimination in the Indian Act violates fundamental human rights, Indigenous women that spoke about sex-discrimination in the act were seen as threatening the “human rights” of Indians as a whole (Jamieson 1978:3).

The effects of such legislation have been far reaching. Mohawk scholar and lawyer, Patricia Monture-Angus asserts that section 12(1)(b) is a significant source, if not the primary source, of the opposition

that occurs between Aboriginal men and women. (Monture-Angus 182). Monture-Angus talks openly about her views on the Indian Act, Aboriginal Organizations and “the two genders”. She says:

It does not belong to us but is found in the continued failure of the federal government to implement a full recognition of the inherent right to self-government. Unfortunately there are those Aboriginal people who embrace our oppression in such a way that we blame each other rather than the oppressive state institutions and structures who have authored our situation.(Monture-Angus 182)

In 1980, the Minister of Indian Affairs declared a moratorium on section 12 (1)(b) and section 12(1)(a)(iv) (“the double mother clause”) (Jamieson 1987:25). An Aboriginal women’s group, Indian Rights for Indian Women (IRIW), expressed their concerns with the moratorium, in particular, how the discretion to suspend the clause was left up to male-run bands (Jamieson 1987:25, Ouellette 30). Further, under the moratorium rules, women who had already lost their status under section 12(1)(b) would not be reinstated (get their status back).

Given the environment of tension around the Indian Act and the reality that many bands already faced financial difficulty supporting band members on reserve, it was no surprise that many bands opted out of freezing section 12(1)(b). By March 1982, only 48 of the 576 bands had taken advantage of the moratorium. However, in the same month of the announcement, a total of 198 bands had already applied to have the “double mother clause” suspended (most likely reflecting that the clause applied also to males) and by 1982, 273 bands suspended the section. The government announced that those who had lost their status under this clause would automatically be reinstated (Jamieson 1987:25).

Continued Oppression and Resistance: Bill C-31 1985

The moratorium, like all aspects of the Canadian government, failed Indigenous women. Having exhausted domestic avenues for change, Indigenous women turned to international forums (Huntley and Blaney 8). Sandra Lovelace (the woman who was forced to sleep in a tent after losing her Indian status) took her case to the United Nations and argued that section 12(1)(b) was in violation of Article 27 of the International Covenant on Civil and Political Rights (Huntley and Blaney 8). In a huge embarrassment to Canada, the UN determined that the Indian Act had denied Lovelace her cultural rights in view of the fact that she was barred from living in her community, and in 1982, she won her case (Huntley and Blaney 8). Following the UN decision, in December of 1981, the Canadian government announced its intent to amend the discriminatory sections of the Indian act, upon consultation with Indians (Holmes 6).

After much struggle, deliberation and debate, in 1985, Bill C-31, An Act to Amend the Indian Act, was passed (Holmes 7). The Department of Indian Affairs (DIA) Minister, David Crombie, announced three fundamental principles of the bill as:

- 1) Removing gender discrimination;
- 2) Restoring status and membership rights to eligible individuals and;
- 3) Recognizing band control over membership (Huntley and Blaney 9).

According to Audrey Huntley and Fay Blaney, authors of Bill C-31:Its impact, implications and Recommendations for Change in British Columbia, “although women can now marry who they please without forfeiting their “Indian” status, residual sexist discrimination is still at work in the legislation” (Huntley and Blaney 10). Instead of removing gender discrimination, Bill C-31 actually created a new class of Indians. Women who had lost their status when they married became “6(1)’s or “Persons

Entitled to Indian Status”, while their children, with only one registered Indian parent, became “6(2)” or “One-Parent Entitlement to Status”.

To demonstrate the stronghold (and absurdness) of Canada’s control over Indian identity regulation, the method for conceiving who was a 6(1) or a 6(2) Indian can be explained by the following formula:

$6(1) + 6(1) = 6(1)$

$6(1) + 6(2) = 6(1)$

$6(2) + 6(2) = 6(1)$

$6(1) + \text{non-Indian} = 6(2)$

$6(2) + \text{non-Indian} = \text{non-Indian}$

Under this formula, Indians will only be able to pass on their Indian status to their descendents if their partner, the other parent, is also a status Indian (Holmes 22). A Native woman who lost her status through marrying a non-Native man before 1985, who is now reinstated under section 6(1) can pass Indian status to her children but not necessarily to her grandchildren (Aboriginal Women 2003). But an Indian man, who was not affected by 12(1)(b), will have decedents who are 6(1) no matter what.

Huntley and Blaney provide the story of an Indigenous woman who confronted the residual discrimination resulting through Bill C-31. The Indigenous woman, Sharon, lost her status through section 12(1)(b), but her sister-in-law, a non-Native woman, gained status when she married Sharon’s brother (Huntley and Blaney 10). Under Bill C-31, Sharon became a “6(1)”, and her children were reinstated under section 6(2). Sharon’s grandchildren therefore may not have status unless the person who married Sharon’s child (a 6(2)) is a status Indian also. Individuals with one non-status parent and one parent entitled to registration under section 6(2) are not permitted to register (Furi and Wherret 2003). As a result of this provision, known as the “second generation cut-off rule,” status would be terminated after two successive generations of intermarriage between Indians and non-Indians. Sharon’s brother’s children however became 6(1)’s and gained full status rights (Huntley and Blaney 10).

The real controversy is as time passes by it is likely that more and more status people will have kids with non-status people and eventually, unless status Indians are careful only to reproduce with other status Indians, there are going to be significant numbers of people from the community who will no longer be Status Indians.

This doesn't mean that the community members are not Indians per se. It is very possible, that Sharon married a Métis man – Dave, while Sharon’s brother’s wife -Marsha is Swedish. Maybe Sharon and Dave spoke Cree to their children, and their child’s husband is a non-status Gitksan man who never had status in the first place. Now according to this story Sharon’s grandchild is brought up in an Indigenous family with Indigenous grandparents. However, according to the state the grandchild is a non-Indian and not eligible for what should be his inheritance.

In Canadian Aboriginal Women: Legal Discrimination, it is pointed out that for women who had children out of wedlock the situation was even more problematic (Rights and Democracy 206). According to the fact sheet:

If the biological father refused to legally recognize his child, Bill C-31 assumed that the child was not a status Indian. The reality in many Aboriginal communities was that many children were born of single mothers and absent fathers. In these cases, the children were raised by

their mother and members of the community who transmitted their Aboriginal language and culture. And yet their status was not legally recognized. (Rights and Democracy 206)

It is easy to see when either reviewing the legislation or trying to navigate the system in order to be reinstated that Native women's identity is still highly regulated, bureaucratized and confusing. The state still maintains control over Indigenous people's identity.

Crombie's second principle of Bill C-31 - "Restoring status and membership rights to eligible individuals", also proved complicated and difficult. The process of simply applying for reinstatement for many Indigenous women has been a strenuous process that has not always ended with a satisfactory conclusion. In some cases women have had to wait up to twelve years in order to gain their status back (Huntley and Blaney 20). Status applicants must be able to document their own loss of status or prove their relationship to family members who lost their status, which is not always easy considering the amount of identity legislation imposed on Indigenous women and the transition and poverty some Indigenous women have experienced (Huntley and Blaney 20). Huntley and Blaney interviewed a number of women and heard some of the gruelling stories regarding the lengths some women were expected to go to demonstrate who they are, some whom may be 'full-blood' Indigenous. In some cases, the women could not provide ancestry because the records and archives were inaccessible (Huntley and Blaney 21). In one case, the church had held responsibility of the records but had lost them all (21).

In addition, even if a woman was able to prove her ancestry and show how her identity had been modified by the Indian Act many bands were simply unable to take on new members to their band. One of the most overt failures of the new legislation in dealing with membership is the inability for bands to accommodate Indigenous women. The new legislation created an excess of new members whose communities might not be able to support due to an already poor standard of living on the reserve. The government only provides support for those members who have met the criteria of federal policy. Further, some women who have been accepted as band members through Bill C-31 have not been able to access the rights and benefits that are formally associated with it. A band member *officially* has the right to live on his or her band's reserve, vote in band elections, seek election as band chief or councillor, own and inherit property, be buried on the reserve, have a share of income from band resources such as timber dues, sale of surrender lands, and oil and gas revenues (Holmes 18). However, a band member is only eligible for on-reserve housing, health services, welfare and education assistance, to the extent that these services are available (Holmes 18).

Hence band control over membership, as Crombie's last modification to the act included, did not guarantee band autonomy on membership and was not as straightforward as pre-supposed. Control over Indian status is still held by the Crown under Bill C-31, hence bands still continue to be severely restricted in developing membership codes- codes that are still dictated by the Indian Act (Huntley and Blaney 27).

Although allotting bands more control over membership is generally viewed, in principle, as a positive change of the act, some bands have adopted membership codes that disenfranchise and perpetuate discrimination (Aboriginal Women). Despite the fact that some women who were re-instated and automatically placed on band lists (hence qualifying as electors under the Indian act), some band council resolutions and residency by-laws have prevented women from taking part in the development of membership codes (Holmes 33). In addition, some Bill C-31 reinstatees are denied the right to participate in self-government and treaty negotiations (Aboriginal Women). Regardless of their fiduciary responsibility to Indian people, in the name of "self-determination" the government has refused to take action to prevent discrimination by bands against Aboriginal women (Aboriginal Women).

As of June 1995, the amended act permitted for the reinstatement of 95,429 persons, 57% of whom were women (Aboriginal Women in Canada). From 1995 to 2005, over 130,000 people were reinstated (Rights and Democracy 2006). However, problems with gender discrimination, restoration of status and membership and band control over membership remained unsolved. By 2004, approximately 127,000 individuals regained their status, but 106,000 were denied re-instatement (Lawrence 64).

Bill C-31 has wrought many consequences. On a social level, the legislation furthered social divisions involving the dubbing of women with Indian status as “legit” members of the community or “real” Indians. Often times it is the women and their children who experience the brunt of this attitude. Those women returning to reserves have found it difficult going back or becoming accepted members of the community for numerous and complex reasons resulting from the imposition of heavy identity regulations on Indian people. Further, Indigenous women have described the difficulty and confusion in trying to relay to their children who they are. The implementation of non-Indigenous standards of citizenship has caused confusion and raised concerns among many Indigenous people.

There is no question that Bill C-31 has created additional problems for Indigenous women and their children. Some Indigenous people regard Bill C-31 (not the prior provisions of the Indian Act) to be the root of the problem (Lawrence 69). Lawrence ties it all together:

Identity legislation in the Indian Act has functioned so completely- and yet so invisibly- along gender lines that at present the rewriting of Indian identity under Bill c-31 in ways that target men as well as women are viewed as intense violations of sovereignty, while the gendered violations of sovereignty that occurred in successive Indian Acts since 1969 have been virtually normalized as the problems of Individual women. (Lawrence 69)

Twenty years after the bill was created, the Canadian government has still not addressed the discrimination and oppression it legislated. In a press release written by the AFN on June 28th 2005, National Chief Phil Fontaine called on the government of Canada to address the systemic inequities it has created and to work with First Nations governments so that they can assume control of citizenship. He stated, “The bill has not resolved any of the problems it was intended to fix and has in fact created new problems”(AFN). The press release signalled that significant gender discrimination still exists, that control over Indian status continues to be held by the Crown, and that the number of status Indians is declining as a direct result of Bill C-31 (AFN).

The issues Fountain raises are growing concerns for many First Nations people. A number of Indigenous leaders have spoken about the need for Canada to vacate the business of determining First Nations identity, status and citizenship, and have pointed to the importance of Indigenous institutions (where women have a central voice and agency) assuming responsibility for their own citizens. On the other hand others have talked about the fiduciary responsibility of the government and their duty to address the inherent discrimination, oppression and injustice of the Indian Act.

The consequences of the continuation of gender discrimination prevailing with Bill C-31 is such that the removal of “Indian” membership, identity and access to the land from Indigenous women and their children has led to further cultural and community dislocation, isolation, fragmentation and a loss of pride in respect to identity. In speaking with Audrey Huntley, an Indigenous CBC journalist, who toured the country and spoke with many families whose mothers, daughters, aunties, sisters and nieces were murdered or missing Indigenous women, I asked if there was a common thread among the women. She said that all of the women had been dislocated from their families, reserves and communities.

Indeed, nobody can downplay the results that have been brought about by gender discrimination in the Indian Act, which continues today.

Land-holding Systems and Matrimonial Property Provisions: Oppression and Resistance of Indigenous Women On-Reserve

The Indian Act, as discussed throughout this paper, enacted a system where Indigenous women were identified according to their husband's identity. The 1869 Gradual Enfranchisement Act not only verified this but also envisioned that land holding would be by Indian males. According to Beverly Jacobs and Mary Eberts, writers of Matrimonial Property on Reserve, "the act also laid the grounds for the "location ticket"⁵ system of allocating parcels of land on reserve" (Jacobs and Eberts 18). Although the location title was still vested in the Crown, the location holder "could bequeath his interest and could transfer it to the band or to another band member" (Jacobs and Eberts 19). This system was replaced by "Certificates of Possession" (CP) through the Indian Act in 1951 (Jacobs and Eberts 18). However, when the CP system came into effect, location ticket holders were grandfathered and hence the Certificate of Possession held the same significance as the location ticket (Jacobs and Eberts 19). Jacobs and Eberts explain the significance of CP systems and the presumptive gender bias:

Although the statutes regulating the location ticket and Certificate of Possession systems came overtime to be gender neutral and provide for the disposition of these interests by women as well as men, the patriarchal bias of the system was firmly established at its outset. (Jacobs and Ebert 19)

For example, it was not until 1951 that women were able to gain a role in land surrenders, however by then the exclusion of Indian women from Indian Act band governance was complete (19). It was at this time that the male preference in the land holding regime was clearly delineated (19).

In the Native Women of Canada's Submission to the United Nations Committee on Economic Social and Cultural Rights (CESCR) this year, it was put forward that while the land possession system in the Indian Act does not bar women from possessing reserve property, "the cumulative effects of a history of federal legislation which has denied Aboriginal women property and inheritance rights has created the perception that women are not entitled to do so" (NWAC). Further, until recently it was mandatory by law that women live on their husband's reserve- hence it is historically and contemporarily standard that it is more probable for the male partner to possess on-reserve property.

The assumed male-ownership of property is particularly problematic in circumstances where there is a breakdown in the marriage. Even when both the husband and the wife jointly hold a Certificate of Possession, a court cannot remove or exclude a violent spouse under provincial law, and cannot transfer the interest from spouse to spouse (Jacobs and Ebert 24).

Indigenous women told the Royal Commission on Aboriginal People that these certificates are a limiting feature of the Indian Act because of the sexual discrimination within them (RCAP). Under section 20 of the Indian Act, the Certificate of Possession (CP) system maintains "an Indian is not lawfully in possession of reserve land without an allotment by the band council as approved by the minister" (RCAP). Further, the right to possess reserve land and to occupy that land through a CP system can be terminated if an individual ceases to be a band member (RCAP).

⁵ To find out more about "location tickets" and how land was delineated by the Indian Act and controlled by the Superintendent General of Indian Affairs, please read "On building Solutions for Women's Equality: Matrimonial Property on Reserve, Community Development and Advisory Councils (as listed in the bibliography).

The Indian Act goes further in its limitations about property. Section 25 of the Indian Act makes clear that an individual can lose the right to reside on a reserve if they have lost Indian status or band membership. This legislation overtly affects Indian women and their families disproportionately (RCAP). The section delineates that “six months after an Indian ceases to be entitled to reside on reserve, he or she may transfer to the band or another member of the band, the right to possession of any lands in the reserve of which he or she has lawful possession” (RCAP , Jacobs and Ebert 24). Without a matrimonial real property regime on reserve, these specifications can empower a married spouse or common law partner to transfer his or her interest without the consent of the other, even where both are band members (Cornet and Lendor). There are no enforceable rules about who gets to stay in the matrimonial home.

On September 29th, 2006, the federal government, the Native Women's Association of Canada (NWAC), the Assembly of First Nations (AFN) and regional Native groups launched a consultation process aimed at providing for the equitable division of the matrimonial home and land on reserves when marriages break down (CBC 2006).

The fair division of assets when marriages fail is governed by provincial laws, and currently does not apply to reserves or the Indian Act. Essentially, Indigenous women do not have the same legislative protections as those living off- reserve (Aboriginal Women). This poses a number of problems for Indigenous women, especially considering that there continues to be a strong bias in favour of men receiving Certificates of Possession (CP) for the matrimonial home and that bands still control decisions regarding marriage. This puts a woman and her children at risk. For example, in cases where violence is involved, Indigenous women’s lack of matrimonial property rights put their and their children’s lives at risk for they may continue to stay in abusive situations because of a lack of housing options (NWAC).

This legislation on matrimonial property is derived from a 1986 Supreme Court of Canada case that held that, “as a result of the federal Indian Act, a woman cannot apply for one-half of the interest in the on-reserve properties for which her husband holds Certificates of Possession (Aboriginal Women). A denial of interest in family on-reserve properties upon dissolution of marriage can seriously disadvantage women (NWAC).

To help provide context and understanding to the extent of the legal reality of matrimonial property on reserve, Discussion Paper: Matrimonial Real Property on Reserve offers a solid example:

In Paul v. Paul, the husband and wife, both members of the Tsartlip Indian Band had been married for nineteen years. They had built a home on land on the Tsartlip Band Reserve held by the husband by way of a CP issued under the Indian Act. The couple had been living in the home for sixteen years. Mrs. Paul had twice successfully applied to the Supreme Court of British Columbia for an order of interim possession of the matrimonial home on two separate occasions of separation from her husband. The British Columbia Court of Appeal overturned the order on the second occasion.¹²² Mrs. Paul appealed this decision and the Supreme Court of Canada ultimately ruled that provincial family law could not be used to grant an order of interim occupation of a family residence on reserve.¹²³ As in Derrickson, the Court found that the provincial legislation being relied on to make the requested order was in actual conflict with the provisions of the Indian Act (s. 20 under which the allotment had been made and the CP issued to the husband). The Court did not decide in Derrickson or Paul whether s. 88 of the Indian Act could be used to referentially incorporate provincial laws relating to land. The Court said even if this was the case, the provincial legislation being relied on was in conflict with the Indian Act

provisions, and applying the doctrine of federal paramountcy, the federal provisions would prevail. (Cornet and Lendor)

The legal reality of matrimonial property laws today, is that it leaves women no better than chattels: property of men with no rights of their own. The absence of matrimonial property laws has forced women and their children out of their homes on reserve or to live with other family members. Like section 12(1)(b), the consequences represent the imposition of discrimination, victimization and oppression- and the result is homelessness, poverty and urbanization of Indigenous women.

There is a great need for Indigenous women's voices to be heard and hence the consultation process launched On September 29th, 2006, by the federal government, the Native Women's Association of Canada (NWAC), the Assembly of First Nations (AFN) and regional Native groups earlier in the year was opportune (CBC 2006). However, as the Discussion Paper: Matrimonial Real Property on Reserve puts forward "such measures will not achieve the objective of providing basic protections and rights if fundamental issues respecting the administration of justice and enforcement of First Nation laws as well as court orders are not addressed" (Cornet and Lendor).

Blocking Resistance and Human Rights: Section 67 of the *Canadian Human Rights Act*

Most people in Canada are given at least a modicum of protection under the Canadian Human Rights Act and are freely able to challenge discriminatory practices they face. But Section 67 of the Canadian Human Rights Act (CHRA) blocks people who are living or working on First Nations reserves from filing complaints with the Commission relating to any action arising from or pursuant to the Indian Act (CHRC 2006). A woman, for example who has been impacted by section 12(1)(b), or Bill C-31, cannot seek a remedy for this discrimination under human rights complaints, because Section 67 blocks their complaints.

The legislation was enacted in 1977, when the federal government stated that the reason behind the unusual exemption was that they needed more time to address gender discrimination against Indian women who married non-Indian men (CHRC).

Although First Nations women were not included in the discussions between the National Indian Brotherhood (NIB) and Cabinet, in December 1977 Jenny Margetts, President of Indian Rights for Indian Women (IRIW) and the prominent activist Mary Two-Axe-Early appeared before the Standing Committee on Justice and Legal Affairs (Cornet 125). Their appearance was part of the delegation of the National Action Committee on the Status of Women expressing their concerns of the Section 67 (Cornet 125). However, Justice Minister Basford decided that the "immediate removal of the exemption might address the problem of Indian women's rights, but it could also throw into jeopardy any legislative provision which says Indians shall be treated differently than others" (Cornet 125). This reflected the language of the Charter in 1982, as the Supreme Court of Canada made clear that achieving real equality sometimes requires different treatment (known as "substantive equality") (Cornet 126). It therefore deliberately excluded the Indian Act from the provisions of the Human Rights Act (Jamieson 1978:4).

By March 1978, the CHRA had passed into law and included the Indian Act exemption. It was at this time that the President of the NIB called the exemption "a farce" that was not working (Cornet 126). Section 67 was alleged to be a temporary measure and in 1985, The Minister of Indian Affairs described Bill C-31 as a compromise to the repeal of Section 67 (Cornet 126).

In October 2005, the Commission issued: "A Matter of Rights: A Special Report of the Canadian Human Rights Commission on the Repeal of Section 67 of the Human Rights Act. Chief Commissioner, Mary Gusella, in issuing the report stated:

First Nations people living on-reserve are the only group of people on Canada who are legislatively excluded from filing human rights complains in some circumstance. This situation is an embarrassment to Canada. How can Canada in good conscious, promote respect for human rights both at home and abroad while excluding First Nations from full human rights protection? (CHRC 2006)

The Native Women's Association of Canada agreed that the legislation must be repealed immediately and in their Submission to the CESCR at the United Nations, NWAC explained that a repeal would help to remedy the discrimination contained in Bill C-31 (NWAC 9). In its concluding comments, The CESCR, recommended at point 45:

The State party [Canada], in consultation with First Nations and including Aboriginal women's groups, adopt measures to combat discrimination against First Nations women and their children in matters relating to Indian status, band membership and matrimonial property. In

particular, the Committee urges the State party to repeal section 67 of the Canadian Human Rights Act, which prevents First Nations people from filing complaints of discrimination before a human rights commission or tribunal. The Committee also urges the State party to amend the Indian Act to remove any residual discrimination against First Nations women and their children. (CESCR 2006)

Very quietly it was announced On December 14, 2006 that the Minister of Indian and Northern Affairs moved to repeal section 67. In a press release in the Manitoba/Ontario "Drum", it was announced that the change would allow Aboriginal people to file complaints against discrimination in the Indian Act (Quesnel 2006). Commissioner David Langtry stated "now that section 67 is being repealed, the Commission will be working closely with First Nations communities on how best to implement the change and ensure that we move forward as quickly as possible" (Quesnel 2006). However, in a separate press statement released on December 13 2006, the Assembly of First Nations and the Native Women's Association of Canada called for full consultation before the repeal of Section 67 of Canadian Human Rights Act (AFN Bulletin). In the release the groups stated:

"The Government of Canada has not consulted First Nations, even though this action was anticipated almost three decades ago," said AFN National Chief Phil Fontaine. "Now, the government intends to simply repeal this section without due regard to the unique legal context and development of associated capacity for First Nations relating to the CHRA. This is simply a recipe for ineffectiveness and will add new costs for First Nations governments already under-resourced. (AFN Bulletin)

In the true spirit of paternalism, after thirty years of heavy oppression and the Canadian government's assertion of "knowing what's best for "Indians", the government went ahead with its own plan without consultation from any Indigenous communities. After almost 160 years of deception, political chicanery and social, economic, political, and spiritual oppression from Canada, can Indigenous women expect an altruistic approach and action from this country?

Conclusion: The Need for Indigenous Resistance

The collaborative colonial objective of the church and state to gain full control and ownership of the land was the key instigation for Native women's oppression, disempowerment, political demotion and victimization. The Canadian government had no qualms (or reservations of its own) in instituting the Indian Act and its pervasive regulatory control that striped Indigenous people of their rights, title and sovereignty. Imposed Canadian Jurisdiction over Aboriginal peoples has created multiple barriers, especially among Aboriginal women and the tradition of isolating and oppressing the true caretakers of the land continues today. Hence a strong resistance to Indian Act legislation continues and needs to be accelerated.

It is a fact that Indigenous women, who often live at the core of oppression and are forced to survive on the fringes of society, also act at the forefront of the movement to end oppression inherent in the Indian Act. But there is undoubtedly a need for further building with Indigenous people as a whole. One cannot separate the oppression of Indigenous women from the oppression of entire Indigenous nations, governing systems, families and communities.

A number of actions need to take place in order to empower Indigenous women, and our children, families and nations as a whole. While some Indigenous people have suggested that women need to assert and aim for a more inclusive roles in band councils, self-governments arrangements and negotiations within First Nations leadership organizations, others have pointed to the importance of Indigenous women taking back traditional roles that honour and give credence to traditional governing bodies such as the Feast, Potlatch or Longhouse systems. In addition, the recognition of gender based traditions including inheritance and property customs in Indigenous governance and land ownership should be a fundamental objective for Indigenous people seeking freedom from colonial control. And finally, a de-colonized and de-assimilated view and value of Indigenous women needs to be reclaimed so that all Indigenous people can be on the same page and united against the current state of colonization and oppression.

The ability of Indigenous men and women to respect and uphold each other and achieve a meaningful partnership will signal the beginning of an end to violence and discrimination against Indigenous women. It is together, in seeking collective goals and ends of sustainability, sovereignty, and justice that true freedom from oppression will take place.

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