

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
55TH ANNUAL GENERAL ASSEMBLY
OCTOBER 4TH TO 6TH, 2023

CARIBOO MEMORIAL RECREATION COMPLEX, WILLIAMS LAKE (SECWPEMC TERRITORY)

Resolution no. 2023-61

RE: Repeal of Second-Generation Cut-Off and Two-Parent Rule in the Determination of Indian Status (Registration) under the Indian Act

WHEREAS the federal government continues to subject First Nations to a disappearing formula under the *Indian Act* that, if left untouched, will result in the legislated extinction of First Nations;

WHEREAS the federal government's historic and ongoing attempts to terminate First Nations, have disproportionately targeted and discriminated against First Nations women and their descendants as a means of speeding up forced assimilation and legislative extinction. This extinction-based formula, which combines the two-parent rule and second-generation cut-off rule in the determination of entitlement to Indian¹ status, will terminate the existence of First Nations in the future;

WHEREAS the termination of First Nations individuals will also serve to terminate the legal existence of Indian Bands (First Nations), which are necessarily comprised of First Nations people registered under the *Indian Act*. The termination of Indian bands (First Nations) would impact the legal status, ownership, and ability to access any and all reserve lands, Aboriginal title lands, treaty lands, and/or fee simple lands, together with any monies held in trust for First Nations;

¹ The use of the term 'Indian' is used throughout as the legal definition for an entitled person under the *Indian Act*

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WHEREAS from 1876 to 1985, the *Indian Act* had a one parent rule for transmission of status, which only applied to men who were status Indians, not to women who were status Indians. Amendments to the *Indian Act* introduced in 1985 via Bill C-31 introduced a new form of discrimination by creating a hierarchy of status between 6(1) for those, mostly men, who already had full status and had never lost it, and 6(2) or half status, for those women who had lost status because of ‘marrying out’ and were being reinstated;

WHEREAS 6(2) status Indians must have children with another status Indian if they wish to ensure that their children will have Indian status. This is referred to as the “second generation cut-off” or “two parent rule” because a 6(2) status Indian alone cannot transmit status to the next generation;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of B.C., passed legislation committing to implement, affirms:

Article 8(1): Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

(2): States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources; (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights; (d) Any form of forced assimilation or integration; (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9: Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right;

WHEREAS the federal government has a legal duty and fiduciary obligation to ensure that legislation enacted under section 91(24) of the *Constitution Act, 1867* complies with its own laws, including, but not limited to the following:

- Section 15 of the *Canadian Charter of Rights and Freedoms 1982*, which guarantees equality between men and women;
- Section 35(4) of the *Constitution Act, 1982* which guarantees that the inherent Aboriginal, treaty and land rights of “Indians” are guaranteed equality between male and female persons;
- Section 3(1) of the *Canadian Human Rights Act* prohibits the federal government from discriminating on the basis of race or sex;
- Section 4(a) of the *United Nations Declaration on the Rights of Indigenous Peoples Act S.C. 2021, c.14*, confirms the application of *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) in Canadian law;
- Article 44 of the UN Declaration protect all rights and freedoms within the UN Declaration equally to male and female persons;

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WHEREAS Articles 1 & 2 of the *Convention on the Prevention and Punishment of the Crime of Genocide* (ratified by Canada in 1952) confirms that the actions taken by a state (Canada) with the intention to destroy in whole or in part, a national, ethnic, or racial group (First Nations), is a crime.

WHEREAS the Truth and Reconciliation Commission of Canada noted that in all of its dealings with Indigenous peoples, Canada committed genocide. The National Inquiry into Missing and Murdered Indigenous Women and Girls found Canada to be guilty of both historic and ongoing genocide, which includes the use of race and sex-based discriminatory Indian status rules to eventually extinguish the existence of First Nations. These and other commissions, inquiries, and court cases have called on Canada to end sex discrimination in Indian status registration;

WHEREAS by Resolutions 2010-08, 2012-18, and 2019-11, the UBCIC Chiefs Council has expressed concerns with government-imposed definitions of First Nations identity and belonging and has called upon Canada to immediately end sex-based discrimination in the *Indian Act*;

WHEREAS numerous reports on the sex-based discriminatory rules for registration under the *Indian Act*, including Section 6(2), and the one-parent rule which creates an extinctions-based formula, have been submitted to Canada by advocates including the Feminist Alliance for International Action Brief to the Senate Committee on Aboriginal Peoples Study on Bill S-3, UBCIC Comments on Proposed Amendments to the *Indian Act* and The Indian Act Sex Discrimination Working Group Briefing Note on ISC Proposed Amendment to the Indian Act in an effort for Canada to act in good faith and remedy this discrimination;

WHEREAS sex, race, and family-based discrimination in Indian status registration has led to the reduction in size of First Nations, with a view to ensuring their legal, political social, and cultural extinction over time. The primary legislative tool to ensure the legislative extinction of First Nations is the two-parent rule combined with the second generation cut-off;

WHEREAS this form of forced assimilation subjects First Nations people to racist conceptions of who is defined as Indian under the *Indian Act* which is based on an arbitrary and fictional notions of blood quantum in the determination and passing on of Indian status, which places unreasonable, undue and insurmountable social, cultural, legal and economic pressure on First Nations' choice with whom they have children with, in order for their children to maintain Indian status and its associated entitlements, like membership in their First Nations;

WHEREAS First Nations people were dispossessed of their lands and cultures, fragmented, and forcibly relocated to reserves and urban centers, creating conditions which have led to high rates of out-parenting and intermarriage between status Indians and non-status individuals. First Nations women were significantly more impacted by this process. Upon marriage to a non-status man, First Nations women ceased to be an Indian under the *Indian Act* and were forced to assume the legal identity of their husband. The same was not true for Indian status men, who retained their status if they "married out", and endowed

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Indian status on their non-Indian status wives and non-Indian status children, creating inequitable transmission of Indian Status for the descendants of First Nations men and First Nations women;

WHEREAS this sex-discrimination has impacted generations of First Nations women and their descendants by denying them their identities, cultures, and legal entitlements and has yet to be fully remedied or redressed by Canada;

WHEREAS Canadian citizenship is determined on a one parent rule basis and there are no other peoples in Canada that rely on blood quantum or a two-parent rule for citizenship, membership, or transmission of legal rights and culture; and

WHEREAS section 6(2) disregards familial relations and continues to break apart families and communities. Indian entitlements and Canada's fiduciary obligations are defined under the *Indian Act* and administered based on Indian Status, as opposed to self-determined or by traditional First Nations membership and citizenship laws. This is a significant barrier to the inclusion of future generations and expansion of band membership, which can result in non-status children facing band membership rejection. This is not only an obstruction to First Nations exercising self-determination over citizenship, but an imminent threat to the continued existence of Indian Bands (First Nations).

THEREFORE BE IT RESOLVED the UBCIC Chiefs-in-Assembly call on the Government of Canada to abolish all remaining sex, race and family-based discrimination as identified by First Nations and advocates, including legacies of sex discrimination and gender discrimination, in the *Indian Act* including 6(2) status and the requirement to have two status parents to transmit status to the next generation, and ensure that all First Nations men and women alike can transmit status as one parent;;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly call on the Government of Canada to respect First Nations sovereignty and the right to determine their own membership and citizenship laws based on their First Nation laws and traditions and to uphold their fiduciary responsibility to First Nations irrespective of racist colonial definitions of citizenship based on blood quantum;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs-in-Assembly direct the UBCIC Executive and staff to work with like-minded organizations to advocate for restoration of First Nations self-determination, citizenship rights, an end to sex discrimination and repeal of Section 6(2) of the *Indian Act*, and amendment of other sections of the *Indian Act* which enforce and implement the second generation cut-off and two parent rule; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs-in-Assembly call on the Government of Canada to release quantitative statistics on 6(1) and 6(2) status holders, demographic data related to birth and death rates, out-parentage rates, rates of children impacted by unstated paternity, membership affiliations for new registrations of status Indian children and the worst-case projected legislative

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extinction dates for First Nations individuals, Indian bands (First Nations) and the impact on First Nations title and rights holders of their membership.

Moved: Chief Marilyn Slett, Heiltsuk Nation
Seconded: Chief Lynda Price, Ulkatcho First Nation
Disposition: Carried
Date: October 6, 2023

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A handwritten signature in black ink, appearing to read 'Stewart Phillip', is written over a horizontal line.

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