



Women's Legal Education and Action Fund
Fonds d'action et d'éducation juridiques pour les femmes

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
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Dear Prime Minister and Ministers,

LEAF is a national organization dedicated to promoting substantive equality for women through litigation, law reform and public education. Addressing the inequalities experienced by women who face discrimination on multiple and intersecting grounds, such as on the basis of Indigenous identity, poverty, disability, race, sexual orientation and religion, is central to LEAF's mandate. LEAF has a particular expertise in the discrimination faced by First Nations women in Canada and has engaged in extensive litigation and law reform work demanding equality for First

Nations women. On a larger scale, LEAF continues to advocate for the elimination, once and for all, of all sex discrimination in Canada's laws.

We are writing to express our grave concerns about the failure to bring into force the outstanding provisions of Bill S-3. The result of this is the continued denial of equality in law to First Nations women and their descendants. We urge you to ensure that these provisions come into force before the election.

First Nations women face disproportionate levels of violence and discrimination and profound marginalization. This marginalization is rooted in colonial and sexist discrimination, which is rooted in social and legislative structures. The gender discrimination in the *Indian Act* is the longest standing example of systemic discrimination present in Canadian legislation. Although Bill S-3, if fully implemented, would address the gender discrimination in the *Indian Act*, this discrimination continues. The result: many First Nations women and their descendants are denied "Indian" status, or full status, on the basis of their sex, or the sex of their First Nations ancestor.

First Nations women and their descendants who are refused status are unable to access federal government supports, including the health and education benefits that come alongside status. The importance of these benefits should not be understated; however, the implications of the exclusions faced by First Nations individuals who trace their ancestry through their matrilineal line extend beyond these material benefits and include profound isolation and dislocation. Without status, many First Nations women are excluded from band membership, isolated from their families, treated as "outsiders" in their own communities, and denied the right to live in their home communities. Because of this disconnection, many non-status women are denied the ability to practice their culture and language, and unable to transmit their culture to their children and grandchildren. This has had a devastating impact on many First Nations women and their families.

The status provisions of the *Indian Act* have also played a significant role in sustaining First Nations women's disproportionate experiences of violence, poverty, and incarceration. Through the status registration provisions of the *Indian Act*, many First Nations women and their descendants have been assigned to subcategories of status which treats these individuals as not fully 'Indian', as lesser persons and as second class citizens. The impact of this status categorization has been recognized by the Committee on the Elimination of Discrimination against Women, which stated that the sex discrimination in the status registration provisions of the *Indian Act* "cannot be separated from the current violence against Aboriginal women and the continued and increased vulnerability of Aboriginal women to such violence." It follows that removing the discrimination from these provisions is a necessary step to addressing this violence.

In the 1980 decision in *Lovelace v. Canada*, the United Nations Human Rights Committee (UN HRC) found that the discriminatory removal of status from First Nations women who "married out" was inconsistent with Canada's international human rights obligations. In January 2019, after almost 40 years of successive governments refusing to take meaningful steps to correct this sex discrimination, the UN HRC ruled that the sex-based hierarchy of categories of status is discriminatory, and that First Nations women and their descendants are entitled to equality with First Nations men and their descendants. The discrimination still faced by First Nations women under the current status registration provisions of the *Indian Act* can be addressed by implementing the outstanding provisions of Bill S-3.

This ongoing discrimination is in violation of Canadian and international law, including Canada's Constitution. While the government has had many opportunities to correct this discrimination and comply with the *Charter of Rights and Freedoms*, Canada has repeatedly refused to fully eliminate the discrimination. We urge you to comply with the UN HRC's ruling, Canada's obligations under international human rights law, including the UN Declaration on the Rights of Indigenous Peoples, and section 15 of the *Canadian Charter of Rights and Freedoms*, and end sex discrimination in the *Indian Act* once and for all.

By fully enacting Bill S-3, the Government of Canada has a meaningful opportunity to support the substantive equality of First Nations women and their descendants and address the colonial discrimination that has remained embedded in the *Indian Act* for almost 145 years. This government has stated a commitment to feminism, women's equality, and reconciliation; however, women's equality in Canada can never be realized without the equality of First Nations women nor can the process of reconciliation meaningfully move forward while First Nations women lack equality in law.

We call on you to comply with Canada's international and constitutional obligations and act on your stated commitment to be Canada's feminist government by ensuring these provisions come into force as soon as possible.

Sincerely,

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