



FAFIA-AFAI

Feminist Alliance for
International Action

L'Alliance Féministe pour
l'Action Internationale

CANADA

Ibrahim Salama, Chief, and CCPR Follow-Up Team
Human Rights Treaty Branch
United Nations, Geneva

June 15, 2021

Re: Implementation by Canada of the 11 January 2019 Decision of the Committee concerning the Petition of Sharon Mclvor and Jacob Grismer (CCPR/C/124/D/2020/2010)

Dear Mr. Salama,

The Canadian Feminist Alliance for International Action (FAFIA) wishes to provide information to the UN Human Rights Committee for consideration in the Follow-Up Process to its decision in *Mclvor v. Canada*.

FAFIA is an alliance of over sixty women's organizations. Our mission is to defend the human rights of women in Canada, and to advance women's equality through working to secure the domestic implementation of Canada's international and regional human rights commitments.

Since 2016, FAFIA has worked with a group of First Nations women leaders and organizations to defend the rights of First Nations women and their descendants who, for over 140 years, have been discriminated against by the status provisions of the *Indian Act*. This group first worked to secure the '6(1)(a) all the way amendment' to Bill S-3, which amended the *Indian Act* in 2017. This amendment, first proposed and adopted by the Senate of Canada, was dubbed the '6(1)(a) all the way' amendment because its purpose was to entitle First Nations women to full 6(1)(a) status on the same footing as men.

The group then worked to persuade the government to bring that amendment into force because it was not promulgated in December 2017 when other provisions of Bill S-3 were. It was finally promulgated on August 15, 2019. Since that time the group has been working to secure the registration of the 270,000 to 450,000 First Nations women and their descendants who, according to Government of Canada estimates, are newly entitled to status.^{1, 2}

This group, who, for ease of reference we will call the Indian Act Sex Discrimination Working Group, or just the Working Group, includes Sharon McIvor, who is a member of FAFIA, other First Nations women who have been the plaintiffs in leading cases challenging *Indian Act* sex discrimination over a fifty year period, Canada's leading experts on *Indian Act* sex discrimination, two of Canada's largest First Nations women's organizations – the Ontario Native Women's Association and the Quebec Native Women's Association – and the Union of B.C. Indian Chiefs. More detailed description of the members of the Working Group is provided in Appendix A to this letter.

Since November 2019, the Working Group has met with the Honourable Marc Miller, Minister of Indigenous Services Canada, and the Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations, and their officials, on seven

¹ Based on the work of independent demographers, relied on by the Government of Canada, the Parliamentary Budget Officer estimated that 670,450 First Nations women and their descendants are newly entitled to status by the Bill S-3 amendment which came into force on August 15, 2019, and 268,000 of those are likely to apply for status registration. See: Office of the Parliamentary Budget Officer, *Bill S-3: Report on Sex-Based Inequities in Indian Registration*, 5 December 2017, online at: https://www.pbo-dpb.gc.ca/web/default/files/Documents/Reports/2017/Bill%20S-3/Bill%20S-3_EN.pdf.

Based on the same demographic studies, the Government of Canada cites the number of the newly eligible as 270,000 to 450,000. See, for example, Indigenous Services Canada, *The Final Report to Parliament on the Review of S-3*, December 2020, at 3, online at: <https://www.sac-isc.gc.ca/eng/1608831631597/1608832913476>

² When the Government of Canada brought the '6(1)(a) all the way amendment into force on August 15, 2019, it stated that the amendment "is in line with the United Nations Human Rights Committee decision on the claim brought forward by Sharon McIvor and Jacob Grismer" and "could result in between 270,000 and 450,000 individuals being newly entitled to registration under the Indian Act..." See Crown-Indigenous Relations and Northern Affairs Canada, "Removal of all sex-based inequities in the Indian Act", 15 August 2019, online at: <https://www.newswire.ca/news-releases/removal-of-all-sex-based-inequities-in-the-indian-act-890690227.html>. See also Appendix C to this letter.

different occasions.³ Discussions were specifically focused on the implementation of Bill S-3 and the urgent need to register the newly entitled First Nations women and their descendants in a timely way, and, in particular, to ensure that First Nations women and their descendants are effectively informed of their new entitlement, have adequate assistance in the registration process, and do not have to deal with unconscionably slow, complex, and erratic procedures.

Members of the Working Group pointed out to Ministers and their officials that until the First Nations women and their descendants are actually registered, the discrimination continues. Until they are actually registered, the women and their descendants continue to be denied status and the benefits that go with it, and therefore continue to be denied equality in law and equal enjoyment of their culture.

According to figures provided to the Working Group by the Honourable Carolyn Bennett, as of March 25, 2021, only 17,500 new Indians have been registered since 2017, when the first provisions of Bill S-3 came into effect.⁴ Earlier we had asked for information regarding how many applicants applied or were registered under the August 15, 2019 amendment, which relates to the UN Human Rights Committee's *Mclvor* Decision. We were told that the Registrar does "not track whether an applicant is registered under the 2019 amendments vs. the 2017 amendments. They are all tracked as one S-3 workload or inventory."⁵

This means that the number of registrations related to the *Mclvor* Decision (the 2019 amendment) is less than 17,500, perhaps much less, since some of the 17,500 will be related to 2017 amendments (resulting from the *Descheneaux* decision in the Quebec Superior Court). In short, the overwhelming majority of First Nations women and their descendants who are newly entitled to status have not been registered to date, nor have, despite our repeated requests, any

³ Meetings with Minister Miller (Indigenous Services Canada - ISC) were held by videoconference on July 23, 2020, September 24, 2020, and April 29, 2021. Meetings with Minister Bennett (Crown Indigenous Relations and Northern Affairs – CIRNA) were held by videoconference on March 29, 2021 and April 7, 2021. Meetings with ISC officials were held by videoconference November 27, 2020 and January 15, 2021.

⁴ See Appendix B to FAFIA Letter: Information provided to the Working Group, March 30, 2021, by Chloe Van Bussel, Operations Manager, Office of Minister Bennett, Minister of Crown Indigenous Relations.

⁵ See Appendix C to FAFIA Letter: Information provided to the Working Group, October 8, 2020, by Jordano Nudo, Policy Advisor to Minister Miller, Indigenous Service Canada.

adequate plans been put in place by Canada to ensure that they will be registered in a timely way.

Nonetheless, the Government of Canada reported to Parliament on December 11, 2020,⁶ and claims, in its Final Report on Review of Bill S-3, that the “sex-based inequities”⁷ in the *Indian Act* have been eliminated. FAFIA considers this claim inaccurate for a number of reasons. Below are the highlights of concerns that have been shared with Ministers in meetings and correspondence.

Registration

Until the First Nations women and their descendants are actually registered, the sex discrimination continues. Facial changes to the legislation, without the necessary changes in procedures, protocols, practices and resource allocations that will make registration a reality for the First Nations women and their descendants who have been banished from their communities by sex discrimination, extend only an empty promise of equality.

a) Pro-Active Information Campaign

A pro-active, broad information campaign is necessary to reach First Nations women and their descendants in order to ensure that they know that they may be newly entitled to status. Information provided by Indigenous Services Canada, and what we learn through networks on the ground, indicates that efforts at reaching those who are newly entitled are, so far, minimalist and ineffective. Indigenous Services Canada has provided information about new entitlement to Bands, some national Indigenous organizations, and posted it on the Indigenous Services Canada website. However, these are not effective ways to reach the First Nations women and their descendants who are newly entitled, since they are not likely to be connected to Bands or national organizations, and are more likely to be living off reserve. They are most likely to be reachable through grass roots Indigenous women’s organizations, community centres, women’s shelters, and urban Indigenous support groups. A pro-active information campaign needs to be easy to understand, and popular; to be effective it should be collaborative and

⁶ *The Final Report to Parliament on the Review of S-3*, December 2020, online at: <https://www.sac-isc.gc.ca/eng/1608831631597/1608832913476>

⁷ We reject this terminology, since in Canadian and international law there is no such thing as an “inequity.” There are guarantees of equality and non-discrimination, and there are violations of them.

involve the grass roots organizations that represent and work with First Nations women.⁸

b) Supports for those Seeking Registration

The registration process is cumbersome and complicated. Many First Nations women and their descendants do not have access to internet and communication with Indigenous Services Canada is not easy. Gathering the necessary documentation is difficult and costly, and the bureaucratic process is hard to deal with. To make registration accessible, support services, including paralegal assistance, are needed in communities to give applicants advice and help.

c) Delay

For those who apply there is unacceptable delay. Information provided by Minister Bennett on March 29, 2021 (see Appendix B) shows that the standard time frame for processing a registration application is from 6 months to 2 years. This processing time is neither reasonable nor acceptable.

By contrast, in Canada, a person can get a new passport in 10 to 20 working days. Obtaining a new passport requires verification of identity, birth, citizenship – similar requirements to those for status registration.⁹

Further, this unacceptably poor standard is not being met in most cases.¹⁰

⁸ FAFIA is concerned that the Government of Canada may attempt to justify the low numbers of women and their descendants registered under the 2019 amendment as an expression of their choice. We reject this. Unless every woman and every matrilineal descendant who is newly entitled *knows* that they are entitled, they cannot be said to have chosen. In our view, it is the Government of Canada's responsibility to ensure that it mounts an information campaign that effectively reaches the women and their descendants who are newly entitled, and that takes every possible step to reverse the decades of discrimination and exclusion.

⁹ In the case of status registration, the process may require identification of relatives going back one, or several, generations. However, this does not justify the extreme difference between 20 working days for a passport and 6 months to 2 years, or more, for status registration.

¹⁰ See Appendix B. Of the more than 10,000 applications reported on, most faced delays greater than the standard, that is, more than two years. Members of the Working Group regularly receive complaints from women and matrilineal descendants who have waited more than two years, even up to five, to obtain their registration.

d) COVID-19 Emergency

The pandemic has caused additional delays in the registration process. It has also exacerbated the vulnerability of the First Nations women and their descendants who are not registered. The delays during the pandemic compound the vulnerability of those with disabilities.¹¹

The Working Group has repeatedly requested that *Indian Act* registration be declared an essential service during the COVID-19 pandemic, to ensure that the First Nations women and their descendants who are entitled to status can be registered and enjoy the health benefits they are owed, as well as the special COVID-19 services and supports that are being provided to Indigenous people. These urgent requests have not been answered.

f) Resource Allocation

Information provided to the Working Group (See Appendix B and Appendix C) indicates that there are 53 staff working on Bill S-3 registration in the Winnipeg office¹², and that an additional 15 million dollars has been allocated to hire more staff over three years.¹³ Very rough calculations¹⁴ indicate that this means that Indigenous Services Canada might be able to process 10,000 new registrations

¹¹ As rates of disability and poor health are high among First Nations peoples because of Canada's history of impoverishment, poor water, poor housing, and racism in services, Indigenous people, on and off reserve, are especially susceptible to COVID-19 and especially in need of protection. During this crisis, First Nations women and their descendants desperately need the benefits of status that they are entitled to, including extended health benefits, and COVID-19 services. First Nations women and their descendants who have disabilities are in particular need of these benefits and services. Delays in registration, caused by under-resourcing and lack of effective communication, deepen the harms that *Indian Act* discrimination has caused. The Government of Canada has offered specific assistance to Indigenous communities during the pandemic, including accelerated vaccination. However, this assistance is only available through Bands or to those who have status.

¹² See Appendix C.

¹³ See Appendix B.

¹⁴ Calculations are based on estimating how many registrations per year each clerk handles in light of known figures; how many additional clerks can be hired for 5 million each year for 3 years, and, in light of number of clerks and number of registrations per year per clerk, how many additional registrations per year ISC could process over the coming three years.

per year for three years.¹⁵ In light of the Government's estimates of 270,000 to 450,000 who are newly entitled, this does not appear to be an adequate response, nor does it indicate willingness to fully implement the Bill S-3 amendment and the *Mclvor* remedy.

Residual Discrimination

The Working Group has also repeatedly expressed its concerns to Ministers and their officials about the related discriminatory effects of loss of status and exile from Bands and communities that *Indian Act* sex discrimination has caused. The women lost services and facilities extended to status Indians and Band members, including the ability to hold land on reserve, to be buried on reserve, to access housing provided or supported by the Band, to have children attend reserve schools, to access support for higher education for oneself or one's children, to access health care provided on or through the reserve/Band.

The children of the women also suffer from this consequential discrimination affecting their mothers, for they too are, and have been, denied Band membership, services and benefits.

Because for decades Canadian policy was that only a status Indian could benefit from a Treaty which included her family and community, women and their descendants also lost Treaty rights and benefits.

The Working Group has expressed its concerns about how the exile of the women will affect the women, and First Nations as a whole, in future. Canada states that it wishes to "get out of the business of Indian registration." In practice, however, for the purposes of resource allocation and self-government agreements, Canada only recognizes, and counts, persons with status as members of a nation. Consequently, if Canada exits from Indian registration before it restores First Nations women and their descendants to their rightful place, it will be establishing self-government for nations that have been stripped of thousands of women and their descendants, whose return will then not be affordable, and perhaps not desirable for the nation. Canada cannot get out of the business of Indian registration until it restores the women to their nations, and undoes the enormous damage of its discriminatory regime.

¹⁵ Since Canada is in the best position to make an accurate calculation, the State party should provide its prediction of how many new Bill S-3 registrations it can process with current resources.

Outstanding Sex Discrimination Issues

a) Section 10 Block to Compensation

The *Indian Act* specifically bars women and their descendants who were previously excluded from 6(1)(a) status because of sex discrimination from claiming or receiving compensation.¹⁶ Contrary to Canada's claim that "sex-based inequities" have been eliminated from the *Indian Act*, this bar to compensation constitutes explicit discrimination based on sex.

The Working Group has repeatedly brought this bar to compensation to the attention of Ministers and officials, and requested that it be removed.¹⁷

b) Involuntary Enfranchisement

We have also brought to the attention of Ministers and officials the continuing sex discrimination inherent in the loss of status by wives and descendants of Indian men who were enfranchised. Whether the men were enfranchised voluntarily or involuntarily, the women and children automatically lost their status and were treated as the property of the men. The sex-based hierarchy in s. 6 of the *Indian Act* perpetuates sex discrimination against these women and their descendants.

c) Unknown and Unstated Paternity

In addition, there is ongoing sex discrimination inherent in the requirement that a woman provide proof that the father of her child is a status Indian in order to register the child, when the father refuses to acknowledge the child, or the

¹⁶ Section 10.1 of the *Indian Act*, as amended by S.C. 2017 c. 25.

¹⁷ Residential school survivors, and Sixties Scoop survivors, among others, have been granted compensation for the harms done to them. *Indian Act* sex discrimination has done terrible harm to First Nations women and their children over decades. Women have been expelled from their communities, from their homes, languages, and cultures, and families have been torn apart. Women have been deemed to be lesser parents, unable to pass on status in the way men can, and branded as traitors for 'marrying out'. They have been denied belonging, identity, services, and voice in decision-making for their communities. But the women and their descendants who have suffered this discrimination, and all its complex effects, are explicitly barred from seeking any compensation.

woman, for understandable reasons, such as rape, cannot or will not identify the father. The difficulties of obtaining and providing evidence of paternity fall on the mother, making evident one of the discriminatory effects of the two-parent rule, which is that it bestows privilege on the male Indian who can always identify the mother of his child.

Reparations

The Working Group has asked Ministers about reparations in light of the *Mclvor* Decision. We have been told (see Appendix C) that: "We do not currently have a mandate to negotiate on this matter. Discussions regarding reparations for those affected by sex-based discrimination in the registration provisions of the *Indian Act* would require support from Cabinet." Repeated questions elicit the same response.

Mandate

The Working Group also asked repeatedly: who has the mandate to fully implement Bill S-3 and to implement the *Mclvor* remedy? The Prime Minister writes mandate letters for his Cabinet Ministers which are public documents. Neither the mandate letter of Minister Bennett, nor of Minister Miller includes a mandate to fully implement Bill S-3 and to implement the remedy in *Mclvor v. Canada*.

Conclusion

The Working Group has made extensive attempts to persuade the Ministers responsible to implement Bill S-3 and the *Mclvor* remedy. It is evident from our interactions that the Government of Canada has no plan to ensure First Nations women and their descendants who are newly entitled to status, as required by the *Mclvor* Decision, will be actually registered, and in a timely way. The Government of Canada also has no plans to address the residual sex discrimination, or the remaining sex discrimination in the *Indian Act*. Expressions of intention to engage with First Nations and to consult with Indigenous organizations at some unspecified time, and in some unspecified way, do not discharge the obligation to provide an effective remedy, including non-repetition.

First Nations women fought hard through marches, lobbying, and repeated litigation and petitions to the United Nations Human Rights Committee for over fifty years before Canada finally, in August 2019, removed the core of the pre-

1985 sex discrimination from the *Indian Act*. Now Canada is failing to implement its own legislation and to perform the *McIvor* remedy in good faith.

We ask the Committee to support the requests of the Petitioners.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shelagh Day'.

Shelagh Day, C.M.
Chair, Human Rights Committee

Appendix A

Indian Act Sex Discrimination Working Group

Sharon McIvor is a Thompson Indian and a member of the Lower Nicola Band. Ms. McIvor, is a practising lawyer and a Professor of Indigenous Studies at the Nicola Valley Institute of Technology. She is a member of the Steering Committee of FAFIA.

Dr. Gwen Brodsky is lawyer and a leading expert on constitutional equality rights in Canada with many years of experience arguing equality rights cases before tribunals and courts.

Jeannette Corbiere Lavell, C.M. is a member of Wikwemikong First Nation on Manitoulin Island. She challenged the sex discrimination in the *Indian Act* under the *Canadian Bill of Rights* in 1971. She is a former President of the Native Women's Association of Canada, former president of the Ontario Native Women's Association, and a member of the Order of Canada.

Dr. Lynn Gehl is an Algonquin Anishinaabe-kwe from the Ottawa River Valley. She successfully challenged the *Indian Act* policy regarding unknown and unstated paternity. She is the author of numerous articles and of a recently published book, *Gehl v. Canada: Challenging Sex Discrimination in the Indian Act*.

Mary Eberts, O.C. Mary Eberts is one of Canada's leading constitutional equality rights litigators. She has been counsel in many challenges to *Indian Act* sex discrimination, and in ground-breaking *Charter* equality rights cases. She is an Officer of the Order of Canada.

Kukpi7 Chief Judy Wilson is the **Secretary-Treasurer of the Union of B.C. Indian Chiefs (UBCIC)**. She is the Chief of the Neskonlith Indian Band and a member of the First Nations Leadership Council, and the Assembly of First Nations Comprehensive Claims Policy Committee.

Viviane Michel is from Maliotenam, and she is the **President of Quebec Native Women (QNW)**. Bilingual, French and Innu, Viviane Michel has years of frontline experience working on violence against women with the Missinak Indigenous women's shelter in Quebec..

Mary Jane Hannaburg is a member of the Mohawk Nation and of the Bear Clan. She is **Vice-President of Quebec Native Women (QNW)**. She is a Certified

Addictions Specialist and Trauma Responder, and a Mental Health Worker at the Kanesatake Health Center.

Dr. Dawn Lavell-Harvard, Ph.D. is a member of the Wikwemikong First Nation, and Canada's first Aboriginal Trudeau Scholar. She is the **President of Ontario Native Women's Association (ONWA)**, former President of the Native Women's Association of Canada, and Director of the First Peoples House of Learning at Trent University.

Dr. Pamela Palmater is a Mi'kmaw citizen and member of the Eel River Bar First Nation in northern New Brunswick. She has been a practicing lawyer for 20 years and is currently a Full Professor and the Chair in Indigenous Governance at Ryerson University.

Shelagh Day is the **Chair of the Human Rights Committee of the Canadian Feminist Alliance for International Action (FAFIA)**. She is a human rights expert, with many years of experience working with governments, human rights commissions and non-governmental organizations. She is a Member of the Order of Canada.

Appendix B

Sent by email March 30, 2021 by:

Chloé van Bussel

Operations manager- Gestionnaire des opérations,

Office of the Minister of Crown-Indigenous Relations/ Cabinet de la ministre des Relations Couronne-Autochtones,

Tel: (873)-353-9135 | chloe.vanbussel@canada.ca

Registration Information Provided by Minister Bennett during meeting with Working Group, March 29, 2021

Applications

- Expected 67,000
- Applications Received since December 2017 31,500 (47.0%)
- Applications Processed as of March 25, 2021 17,500 (54.1%)
- Applications to be Processed as of March 25, 2021 11,379 (36.7%)
- Applications Partially Processed as of March 25, 2021 2,837 (9.2%)

Automatic Indian Status Amendments

- Registrations Completed 125,000
- Individuals newly able to pass on entitlement due to Registration Category Amendments 57,000

Service Standard Analytics

- Number of Applications within service standards (between 6 mos. and 2 years) 3,878
- Number of Applications outside service standards 10,338

Funding to Date

- An initial investment of \$19 million was provided in 2018

- An additional investment of \$21.2 million over three years starting in 2020-21 was approved in December 2020.
- Of the \$21.2 million, \$15.4 million will allow for an increase in resources to process registration claims, and \$5.8 million will be used for engagement and monitoring activities.
- Total Funding – \$40.2 million as of December 2017

Appendix C

Sent by email by Jordano Nudo, October 8, 2020

Conseiller politique | Policy Advisor

Cabinet du ministre des Services aux Autochtones | Office of the Minister of Indigenous Services

873-455-1127

Jordano.nudo@canada.ca

Responses to the Canadian Feminist Alliance for International Action September 24, 2020

- 1. What estimate of the number of First Nations women and their descendants who are eligible to be registered because of the August 15, 2019 amendments is ISC using as its base for allocating staff and resources? How many new staff are being hired, and what is the amount of funds that are allocated for implementation of S-3?**
 - According to independent demographic estimates, the removal of the 1951 cut-off could result in between 270,000 and 450,000 individuals being newly entitled to registration under the *Indian Act* over the next decade.
 - The actual increase in the registered population will depend on the number of individuals who choose to apply and whose applications support their registration.
 - Since 2017, the Winnipeg Processing Unit, a dedicated S-3 processing unit, has steadily increased from approximately 20 to 53 employees in 2020. There are plans onboard additional staff.
 - Registration support is also provided by 22 subject matter experts, entitlement officers and genealogical researchers in Headquarters.
 - To support the processing of files in French and English at the same rate, ISC has created a processing unit in Quebec. Hiring and training of staff to support this unit is ongoing.
 - For the implementation of S-3, ISC was allotted \$19 million in 2018 following the coming into force of Bill S-3 in December 2017.
 - Additional funds were supplied to enhance individual programs (for example Non insured health benefits) on an as needed basis to account for the increase in those newly entitled to access them.
 - This month, an additional \$21M has been secured for the implementation of the 2019 S-3 amendments (the 1951 cut-off) to further increase staff for processing of applications, to modernize operations, and for stakeholder engagement and impact monitoring.

2. How many applications the Registrar has received that are based on entitlement newly provided by the August 15, 2019 amendments?

- Since August 15, 2019, the Winnipeg Processing Unit has received 6200 applications. Some people may have already been included in our inventory if they applied before August 15, 2019.
- Unfortunately, we don't know how many applications we have received that are from applicants affected specifically by the 1951 cut-off and this is because an application must be processed in its entirety before it is known that it is impacted by the 1951 cut-off.
- There is no way to know, upon intake, whether the applicant falls under the 2017 or 2019 amendments.
- We do not track whether an applicant is registered under the 2019 amendments vs. the 2017 amendments. They are all tracked as one S-3 workload or inventory. This feature of the legislation is intentional to prevent further discrimination based on sex.

3. Are affidavits considered circumstantial evidence for the purposes of satisfying the unknown and unstated paternity provisions? What does the Registrar do in situations of an unknown paternity due to rape?

- All registration decisions are based on the balance of probabilities. This means that the evidence must show that it is more likely than not that the parent, grandparent, or ancestor is, was, or would have been entitled to be registered even if they are unknown.
- As outlined in section 5(6) of the *Indian Act*, the Registrar shall rely on any credible evidence that is presented by the applicant or that the Registrar otherwise has knowledge of and draw every reasonable inference in favour of the applicant.
- In situations where the applicant is unable to provide any circumstantial evidence, the applicant, and/or a person with knowledge of the applicant's ancestry or affiliation to a First Nation, are encouraged to provide any information that could help establish the person's entitlement to registration.
- Applicants are welcomed to submit affidavits or signed statements as circumstantial evidence to support their application for registration; however, it should be noted that applicants are not limited to affidavits and other types of circumstantial evidence are also accepted for review.
- In cases where an applicant is experiencing evidentiary difficulties, a discretionary decision may be rendered by the Registrar.
- Where a discretionary decision is required, cases are brought to an interdisciplinary case committee for review after which the case is presented to the Registrar for decision.

- Only the Registrar has the authority to render a discretionary decision.

4. How do applicants know that there is a priority processing policy for women and descendants who are elderly, have medical problems, or disabilities? How does an applicant trigger priority processing?

- Applicants that express an urgent need or request faster processing for registration or a Secure Certificate of Indian Status (SCIS), whether verbally or in writing, will have their applications assessed for priority processing on a case-by-case basis. Further documentation to support priority processing may be requested in some circumstances.
- Based on the July 23, 2020 meeting with the CFAIA, ISC is priority processing files of those aged 75 and over already in the queue (approximately 200 applications).
- If the Department receives pertinent information pertaining to a specific application(s), those may be processed on a priority basis for reasons including:
 - medical emergencies, including travel for medical reasons for the cardholder or the cardholder's spouse (with a health professional's note);
 - age of applicant;
 - employment;
 - education funding requirements (with a post-secondary letter of acceptance); and
 - per capita one-time payment to the band to which the applicant could be a member.
- This policy is not currently public. The Department is considering publicizing the policy in future external communications materials.
- Generally, and in support of equitable consideration, applications are processed in order of receipt.

5. Will ISC undertake to review ongoing and residual sex discrimination and address and remedy it?

- The Department is taking steps to address the residual discrimination as a result of sex-based inequities in the *Indian Act*.
- The onboarding of additional staff, system enhancements, workload management strategies, and additional funding are being pursued to further increase processing capacity and improve client service.
- These complementary measures will provide support to ensure that women and their descendants previously impacted by the sex-based inequities in the registration provisions are registered and have access to the associated rights, benefits and services in a timely manner.
- The Department is committed to monitoring the impacts of the implementation of S-3 in partnership with First Nations and other stakeholders which will further support the Department's understanding of any residual discrimination.

- ISC is partnering with the Assembly of First Nations (AFN) and waiting on a proposal from the Native Women’s Association of Canada (NWAC) to continue outreach on S-3, to assist in the monitoring of impacts, and to identifying possible solutions for other persisting inequities in the registration provisions.
- ISC will further engage the Canadian Feminist Alliance for International Action to help reach impacted individuals.
- Engagement with First Nations and partners is ongoing and the Department is developing proactive communications strategies to reach individuals who are impacted by the changes under S-3.

6. Will ISC negotiate reparations for First Nations women and their descendants who have been the victims of sex discrimination in the Indian Act?

- We acknowledge your interest in this issue. We do not currently have a mandate to negotiate on this matter.
- Discussions regarding reparations for those affected by sex-based discrimination in the registration provisions of the *Indian Act* would require support from Cabinet.

7. Will ISC consult with us about its interpretation of S-3 amendments?

- The Department welcomes collaboration with CFAIA on S-3 and is open to hearing CFAIA’s interpretation of the S-3 amendments.
- Lori Doran, Director General responsible for S-3 implementation will reach out.

8. Will ISC reinstate women, and the descendants of women, who lost status because of involuntary enfranchisement, or coerced enfranchisement, without further litigation?

- The Department acknowledges the challenges that have been caused by enfranchisement. This issue was raised in the *Exploratory Process* and the *Collaborative Process*.
- The Department is committed to engaging and addressing other known inequities including issues of enfranchisement.