



Ontario Native Women's Association

Ibrahim Salama,
Chief, Human Rights Treaty Branch

and

CCPR Follow-up Team

May 28, 2021

Re: CCPR Follow-up Process for Ascertaining the Measures Taken by Canada to Implement the 11 January 2019 Decision of the Committee concerning the Petition of Sharon McIvor and Jacob Grismer, CCPR/C/124/D/2020/2010.

Dear Mr. Salama and the Members of the CCPR Follow-up Team,

The Ontario Native Women's Association (ONWA) is writing to support the Petitioners' requests for the immediate and effective implementation of the UN Human Rights Committee decision and remedy in *McIvor* CCPR/C/124/D/2020/2010.

ONWA is the largest and oldest Indigenous women's organization in Canada. We are a not-for-profit organization established to empower and support all Indigenous women and their families in the province of Ontario through research, advocacy, policy development and programs that focus on local, regional and provincial activities. We have a long history of advocating for Indigenous women's rights, based on our experience in communities, our research and policy analysis, and our clear articulation of recommendations, guidance, and advice to decision-makers at all levels of government.

ONWA is deeply concerned with the federal government's persistent failure to provide a full and effective remedy for the egregious violations of Indigenous women's rights under international human rights law, identified by the Committee in Sharon McIvor's petition.

Indigenous women and their children have waited for too many years to see the necessary changes in the *Indian Act*. The *Indian Act* has embedded multiple forms of sex discrimination, as demonstrated in numerous court case victories (*Lovelace, Lavell, McIvor, Matson, Descheneaux* and *Gehl*). *Bill S-3* provided the federal government an opportunity to take full and effective action to restore Indigenous women's inherent rights, and their families and communities. Despite *Bill S-3* receiving Royal Assent on December 12, 2017, the federal government's actions fail to achieve the restoration of Indigenous women's inherent rights and to fully address the human rights violations highlighted by the United Nations Human Rights Committee.



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ONWA has called on the federal government to undertake the following four actions:

1. Put the appropriate investments into the implementation of registration of women and their children under *Bill S-3*. We understand that Indigenous women, before COVID-19, were told by Indigenous Services Canada that the registration process could take up to three years. This is not only a human rights issue, but the actions of the government undermine the ability for Indigenous women and their children to restore identity and belonging to one's own people. For some Elders, Indigenous women and families, three years may be too long to wait. In our work with the federal government, we have seen some improvements. However, the registration process continues to require a significant initial and ongoing investment.

2. Complete the remedy of sex discrimination as was identified in the decision from the United Nations Human Rights Committee about the *Mclvor* case, para. 9 starting on p. 17, in particular sub b). Only one part of this remedy has been implemented so far - that is, the change in the law that entitles women and their descendants to 6(1)(a) status on the same footing as their male counterparts. The actual registration of the women is a critical part of this remedy, and it is essential that the federal government also address the residual discrimination in communities. To ensure effective Nation building that is inclusive of First Nations women, there would have to be immediate investments in addressing the residual discrimination in communities that continue to function within a legacy of colonization and embedded patriarchal values, including the limitations that are part of the governance structure imbedded in the *Indian Act*.

3. Develop a strength based educational campaign for First Nations communities and for women who may want to apply. We know that this legislation was not well received by all First Nations. The significant challenges that some First Nations face in caring for their current membership, means that the return of new members is seen as an undue hardship. Embedded in some communities is a level of internalized racism that means that women and their children may be registered but have no sense of being welcomed back into their ancestral community. This is not a failing of any individual community but needs to be addressed and supported as part of the decolonization process.

4. The Government of Canada meaningfully engage with Indigenous women and invest in Indigenous women's organizations in the development of any federal policy and funding formulas. In 2016, the federal government established a "Nation-to-Nation" framework and chose as its partners for "Nation" building, three national Indigenous organizations: The Assembly of First Nations (AFN), the Métis National Council, and the Inuit Tapiriit Kanatami. For example, the AFN is a male dominated representative body of Chiefs that is established and recognized through the *Indian Act*. What constitutes the AFN's legitimacy to represent First Nations women and girls in the context of nation building and particularly urban Indigenous women who are not connected to their First Nation community?

The "Nation-to-Nation" framework continues to marginalize and alienate Indigenous women from substantive policy, funding and governance conversations and decisions. Consequently, recent decisions by the federal government have resulted in Indigenous women essentially being left out of legislative frameworks that have been constructed (*Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families*); reallocation of responsibilities and funding out of the federal government (Early Childhood Development, Housing, Health and Education) and most recently, the distribution of



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funding for addressing COVID- 19. While the model has continued to evolve, it has not recognized Indigenous women as having a right to their own representative bodies, and has not recognized urban Indigenous communities, which is where the large majority of Indigenous women live.

This federal government recognizes that previous policies have been rooted in colonization. Embedded in colonization are patriarchal values. If the federal government is serious in its application of its own Gender Based Analysis +, it is crucial that a critical lens be applied to examining why the government continues to fund and invest in institutions based on patriarchal institutions that perpetuate sex discrimination.

In closing, we seek the immediate and effective implementation of the UN Human Rights Committee decision and remedy in the *Mclvor v Canada*, CPR/C/124/D/2020/2010. We also call upon the federal government to significantly enhance its work towards righting historical injustices, through implementing the above actions.

With respect,



Dr. Dawn Lavell-Harvard
ONWA, President



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