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**Revisiting Histories of Gender-Based Exclusion  
and the New Politics of Indian Identity**

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and the New Politics of Indian Identity.***

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## **Introduction**

This paper is concerned with the history of injustice surrounding the 1985 *Indian Act* amendments.<sup>1</sup> These injustices have attracted the attention of both policy makers and Native women's organizations in past years. Demographers have also predicted these amendments will lead eventually to the legal assimilation of status Indians in Canada.<sup>2</sup> In this paper, I reflect on these matters from an Indigenous and scholarly perspective.

I will explore the overall position and responsibility of men in relation to sex discrimination as it is being directed toward Aboriginal women. In doing so, I suggest that status injustices no longer belong exclusively to women. I make this point by exploring scholarly literature with hopes of re-envisioning histories of gender-based exclusion and politics. I suggest that discrimination takes place at the intersection of racism and sexism in Indian policy.

Beyond scholarly analyses, I conclude by suggesting that there is also an ancient context for Aboriginal men to be concerned with -- and indeed speak out about -- sex discrimination. In doing so, I consider some of the traditional stories belonging to the Six Nations or Haudenosaunee.<sup>3</sup> I wish to illustrate this, along with some cautions, as traditional context for future generations of women and men who wish to combat race discrimination and the gender-based injustices now confronting them.<sup>4</sup>

## **Status Indians/Injustices Today**

On June 28th, 1985, Bill C-31: An Act to Amend the *Indian Act* was given royal assent in Canadian Parliament.<sup>5</sup> It promised to end years of blatant sex discrimination directed toward Aboriginal women under section 12(1)(b) of the 1951 amendments.<sup>6</sup> However, under the new

legislation, three types of discrimination and politics are made possible. These include inequalities of Indian status<sup>7</sup>, discrimination toward unmarried or unwed women<sup>8</sup>, and the development of Canadian case law concerning Aboriginal citizenship rights.<sup>9</sup> Discrimination is still made possible under An Act to Amend the *Indian Act*, but it is not always clear or obvious.<sup>10</sup>

Those who register as status Indians now do so under one of seven different sections of the *Indian Act*.<sup>11</sup> The major difference lies between sections 6(1) and 6(2). These sections reproduce legal inequalities because the children of women who married non-Indians before 1985 cannot pass along Indian status under section 6(2).<sup>12</sup> The children of men do not face this same restriction as they are registered under section 6(1). The inequality I am describing has been referred to as “the second generation cut-off clause”<sup>13</sup>, or “cousin's issue”.<sup>14</sup>

It is the children of women – but not men – who face ongoing discrimination under section 6(2). If they marry non Indians, these people are unable to pass along Indian status like those that are registered under section 6(1). The Canadian Advisory Council on the Status of Women has described this matter as a human rights issue. As they put it: “Sections 6(1) and 6(2) together with band membership criteria, perpetuate the unequal treatment of Indian men and Indian women by giving fewer rights to the grandchildren of women who married out”.<sup>15</sup>

Section 6(2) of the *Indian Act*<sup>16</sup> is little different in effect than section 12(1)(b) of the *Indian Act*.<sup>17</sup> Both sections have worked to allow for the loss of Indian status by those who marry non-Indians. The only difference is that -- in 2006 -- it is also men who “involuntarily enfranchise” their children when marrying non-Indians.<sup>18</sup> The choices facing *male and female* Indians registered under section 6(2) of the *Indian Act* is therefore not any different than those facing women from 1850-1985. Indeed, section 6(2) if left intact, will lead to the eventual legal assimilation of status Indians and their lands in Canada, irrespective of gender.

## Indian Status in Historical Perspective

Indian status injustices have never been easy to raise publicly. Consider that Jeannette Lavell and Yvonne Bedard did not receive widespread support from status 'Indian' organizations in the 1970s when they challenged sex discrimination in the *Indian Act*. At the time, it was feared that status 'Indians' would lose citizenship rights if the Bill of Rights were to supersede the *Indian Act*.<sup>19</sup> There was concern about the right of Aboriginal peoples to determine their own citizenship.<sup>20</sup> Placed into historical perspective, the fear itself may also have been generated by the 'White Paper'.<sup>21</sup>

The 'White Paper' put unease into the heart of status 'Indian' politics. Much of this arose because of colonialism's ability to create divisions between status and non-status Indians, including men and women. In the 1970s, like today, many feared termination policy and legal assimilation<sup>22</sup> as the hidden agenda of government.<sup>23</sup> Some politics therefore became preoccupied with the state-generated rights of status 'Indian' people. However paradoxically, prior to 1982, this may have involved defending the *Indian Act* as a source of Aboriginal rights, even though these are state-generated rights.<sup>24</sup>

The decision of status organizations to intervene in the Lavell case<sup>25</sup>, or to oppose women would be understood by sociologists as a boundary maintenance struggle.<sup>26</sup> But opposition during the 1970s also reflects the dynamics of power that colonialism has been able to create where placing oneself outside of the *Indian Act* is concerned. This is not an easy thing to do because people have been made unequal to each other because of the *Indian Act*. To pretend that Indian status is inconsequential is to therefore undermine the importance of legal distinctions, and how these affect the relationship between status Indians, both male and female.

Seeing women and men in state constructed terms conceals the historical events which, first, imposed citizenship boundaries on all Aboriginal peoples, and later required that people be legislated outside of them. *It prevents some of us from seeing that the voluntary acts of Indian men have had quite different consequences than the voluntary acts of Indian women.* It obscures the fact that from 1850 to 1985, the loss of Indian status for some people in Canada was

involuntary. If demographers are correct, it is a way of seeing things that might even disguise the legal assimilation of status Indians in Canada.<sup>27</sup> But there is an additional, if not theoretical, quandary that also contributes to the legal assimilation of status Indians in Canada.

### **Naming “Intersectional” In/justice**

Indeed, it is necessary to suggest that the basis of discrimination now facing female and male Indians is taking place at the complex intersection of both racism and sexism in colonial history<sup>28</sup>. Sexism is quite literally, a tool of colonial policy that has resulted in the "involuntary enfranchisement" of children -- female and male -- whose grandmothers married non-Indians. The ascribed sex of a person who faces discrimination because of sexism in early Indian policy and the Indian Act no longer belongs to women alone. Profoundly, it belongs -- as it always has -- to the entire status Indian collective.

Racism and sexism have combined to structure our history as status Indians. It was often assumed that we would adopt European values and practices, and become subject to notions of interpersonal or institutional sexism. These understandings were established in religious- and state-inspired initiatives to restructure families, place men as heads of households, and to re-organize who we knew as relatives (ie. kinship) at contact.<sup>29</sup> This was later upheld in policy. But we know very little about how people -- including men -- accommodated and experienced sex discriminatory policy initiatives after contact.

It is superficial to assume that all men have passively collaborated with sexism or have benefited from it in policy. The Assembly of Manitoba Chiefs once recognized that “full self-government is the opportunity to overcome patriarchy, not an excuse for its continuation”.<sup>30</sup> Other men are seeking to understand sexism by turning to traditional teachings, or by collaborating with women’s organizations. Present scholarly literature does not talk about these men, or how they have accommodated sex discriminatory policy, especially where the *Indian Act* is concerned.<sup>31</sup>

For many men, the impact of sexism and racism is called readily to mind when thinking about Indian policy. Some of us are registered under section 6(2) because of our mother's choice to marry a non-Indian, or a non-status Indian. Some of us are concerned that our children, even though they belong to our nations and communities, are not entitled to Indian status because of our mother's gender. *This has led some of us to realize that sexism is fundamental to histories of racialization and imposed citizenship.* Indeed, status injustices can no longer be understood in either/or terms as involving either women's rights or Aboriginal rights because, today, the rights of all status Indians is threatened by histories of sexism and gender-based exclusion.

For others, the impact of sexism may not be called readily to mind. Some of this is based on an original fiction that separates "women" and "Indian" in Eurocentric thought.<sup>32</sup> A fiction that leads men to corroborate with sexism rather than to challenge it. Indian policy made it so that women were divisible into either/or terms. Women could be either Indians (by marrying Indians) or women (by marrying non-Indians), but not both.<sup>33</sup> Men, on the other hand, were able to remain Indians, and the women when they married actually became status Indians.

The discrimination that faced people like Jeannette Lavell and countless other Aboriginal women since the 1970s represents an injustice at the intersection of racism and sexism. Discrimination made these women unequal to Indian men (who did not lose status when they married out) and to non-Native women (who acquired Indian status by marrying Indian men). Put simply, many people have had trouble being recognized as both Indians and women in Canada.<sup>34</sup>

It is out of the history that I am describing that women's activism has always been characterized by a twofold aspiration: to seek restoration of their right to rejoin the status collective and – at the same time – to promote their endeavours as Aboriginal peoples. Women have combated discrimination at the intersection of race and gender.<sup>35</sup> They have sought to have "gender rights" recognized while – at the same time – promoting the collective rights of Aboriginal peoples.<sup>36</sup> In the 1970s -- and again in 2006 -- women of many nations have not

only mobilized as Indians or women, but as Indian women. Ironically, men have inherited and must now embrace a similar kind of politics stemming from histories of sexism when resisting section 6(2).

There is a scholarly framework for understanding the types of discrimination I am describing. Consider, for example, the writings of bell hooks, Kimberle Crenshaw, Gloria Anzaldúa, Cherrie Moraga, Mary-Ellen Turpel-Lafond, Beverley Jacobs, and Patricia Monture. These women suggest that men are uniquely, if not profoundly, shaped by sexism. They regard sexism as affecting the identities of Aboriginal men under colonial domination, a perspective that in part informs what George Dei calls "integrative anti-racism".<sup>37</sup> This is the scholarly basis for linking the impact of racism and sexism upon women and men. But there is also ancient context for thinking about men's responsibility to challenge sex discrimination in their everyday lives, as well as within Indian policy. Some this is based on traditional stories that teach us about gender balance, and the roles and responsibilities of women and men.

### **Defining Frameworks: A "Critical Haudenosaunee Perspective"**

There is a story in my nation about the way in which Haudenosaunee came to occupy the world as we know it. It is the story of creation, and it is vastly significant where appreciating the beliefs and world-views of Haudenosaunee is concerned. I have heard parts of this story being told by different people through the years. These individuals, some of them elderly, others traditional, are committed to preserving the stories (and teachings) of our nations. Many others incorporate ideas from this story into their everyday lives.

The importance of creation cannot be underestimated. It is a story that contains extraordinary detail about where we come from, our origins, and the responsibility we all share in taking care of the earth, and each other. It also stands out in my mind as a story describing the origin of women's importance. It describes a source from which women's power and influence has emerged.<sup>38</sup> It is also a story that is different from other nations in Canada. This is because Aboriginal peoples are unique in expressing themselves about the origins of *Onkwehonwe*.

The word *Onkwehonwe* is one that is sometimes used by Haudenosaunee to refer to the earth's "original peoples".<sup>39</sup> It is meant to draw attention to the memory of how we came to exist on this land before the arrival of First Europeans. Other nations use different words to describe original occupants. The story of how we came to occupy the earth-world in my nation is a memory that is shared by Haudenosaunee.

In the story of creation, *Tekawrahkwa* (or Sky Woman) falls from the Sky world and lands on a turtle's back. She is believed to have given birth to twins following her arrival (a story within a story), but more importantly, she is the first of *Onkwehonwe* to die and be buried in the new earth world. Her "burial" is meaningful to some of us. As Deborah Doxtator once wrote:

Sky Woman in the creation story ... becomes even more connected with the earth. Following the birth of the twins, she dies and merges with the earth, her body bringing forth important plants and other things that sustain us like corn, beans and squash. Children born to the women created on the earth are referred to as the new faces pushing up from the earth. In the "Thanksgiving Address" -- a story that sets out the order of the universe -- the earth is "our mother who supports our feet".<sup>40</sup>

*Tekawrahkwa* was the first person to have resided in the earth world as we know it. Following Doxtator, she is the first to have died and to have merged with the earth as it is currently experienced. This teaching is acknowledged in our traditions. Women are sometimes thought to be the predecessors of the Nation.<sup>41</sup> They are responsible for energizing the earth with the "eternal potential" of Haudenosaunee existence.<sup>42</sup>

Sky Woman is a traditional story. It is lengthy and complex.<sup>43</sup> I take full responsibility for sharing only some of it here. In doing so, I demonstrate a way that some people give thanks to "Mother Earth" in (post)modern life and ceremonies. In my nation, thanks can be given to the earth and to the "mother who supports our feet". Women have the capacity to sustain life through childbearing and, originally,

through the earth itself. *Tekawrahkwa* reminds us that women create and maintain life on "turtle island".

The story of creation is not the only story I know about women and men. Women are also central to the Great Law or *Kayanerenhkowa*. This is sometimes referred to by anthropologists as "The Constitution of the Six Nations".<sup>44</sup> It refers to a sophisticated and complex system of principles among Haudenosaunee which promotes peace, responsibility to future generations, consensus in government, accountability, and so on.<sup>45</sup>

There is no one official "version" of the *Kayanerenhkowa*. It is a story about complex philosophical principles, and it is normally something that is orated.<sup>46</sup> It tells a story of a wise man, who brought words of peace to Haudenosaunee men and women at an estimated date of 1192.<sup>47</sup> 800 years later, the US Congress would acknowledge principles expressed in this story. Indeed, the story helped the US to confederate the original thirteen colonies, and to develop a Constitution.<sup>48</sup>

Though absent from the US Constitution, the Great Law also teaches that women were heads of "matrilineages", and that -- as clan mothers -- they could institute or impeach hereditary chiefs.<sup>49</sup> It teaches that women had the ability to influence the decisions of council.<sup>50</sup> The story has even led some academics to suggest that women could initiate or stop wars, even hold councils of their own.<sup>51</sup> It has also led to academic discussions about women's rule or matriarchy.

## **Women, Men and Women's Rule**

Consider the words of Matilda Joselyn Cage, an American suffragist and colleague to Elizabeth Cady Stanton – both widely cited by early feminists. Cage is said to have lived with the Seneca in what is now called New York State. In 1893, she declared, "Never was justice more perfect, never civilization higher than under the Matriarchate".<sup>52</sup> She also wrote that "the division of power between the sexes in this Indian republic was nearly equal".<sup>53</sup> This tradition of writing about

women's status and "equality" has carried on into contemporary academic literatures.

Shoemaker suggests that this tradition of elevating women's status has also given way to "declension narratives". These narratives depict women "as powerful and respected members of their communities" before colonialism took place which resulted in "a loss of women's power and status". As she explains:

American Indian women are one group whose history remains shadowy. When packaged by academics for an academic market, their history tends to follow a prepackaged formula, much like the history of white women before revisionism set in. For the period before contact, American Indian women are generally depicted as powerful and respected members of their communities. Then colonization, cousin to industrialization, initiated a loss of women's power and status. This type of narrative history – sometimes called a declension narrative because change is cast of terms of decline – is especially prominent in the history of Iroquois women ... Interest in the role of women in Iroquois society continues today. Most of this interest, however, has focused on the period after European contact and before colonization, roughly the seventeenth and early eighteenth centuries. Very little historical research has looked at Iroquois women after colonization, when some of the most radical changes in Iroquois society occurred. And yet, it is widely thought that Iroquois women lost status and power.<sup>54</sup>

Following Shoemaker, the idea of gynocracy, matriarchy, or even "matrifocality"<sup>55</sup> can be used to describe Haudenosaunee. We might even conclude – and based on academic literatures -- that women held authority at the expense and exclusion of men. I think these conclusions obscure a complex history of gender-based exclusion and the accommodation of sexism in communities.<sup>56</sup> More importantly, they say nothing about the dynamic, complementary, fluid, or dialectical interplay between "the sexes".<sup>57</sup>

Sylvia [Skonaganleh:ra] Maracle (Mohawk) has explained -- on at least two occasions -- that there are two interpermeable halves in this life – one female and the other male, and that both halves have to be

there to make it complete.<sup>58</sup> It is therefore important to maintain balance and complementarity between men and women. Taiaiike Alfred (Mohawk) has made a similar point by noting that:

The Creator, Sonkwaiatison, gave a gift to our people: awareness that our own existence as human beings is embedded in a web of life that encompasses the entire universe. This knowledge brings with it responsibility, and in that, we have a profound responsibility to ensure that we demonstrate respect and promote balance and harmony in all of our relationships. We are responsible for ensuring that the Creator's original balance is maintained.<sup>59</sup>

The promotion of "balance and harmony in all human relationships" is the responsibility of Haudenosaunee stemming from the Creator's original instruction. This is true even for the relationships between male and female citizens as told through the Great Law. As Alfred suggests:

[I]t seems there are twin responsibilities for men and women: men must acknowledge, respect, and work to help eliminate the heavy burden that women carry; and women must commit themselves to making the nation livable from within the culture. A continuing neglect of either one of these responsibilities will end the cycle of life as surely as any "environmental catastrophe" [emphasis mine].<sup>60</sup>

The twin responsibilities of men and women must therefore -- in the final instance -- be upheld. When it comes to matters involving "the sexes" -- and without excluding the existence of inter-sexed individuals -- these are principles that I understand to be Haudenosaunee. They are principles that some of us take seriously in speaking out about gender imbalance and the history of patriarchal, and sex-discriminatory policy.

It is by no means remarkable that some Haudenosaunee men would choose to speak about issues involving women, sexism, governance and gender egalitarianism. This not only stems from the academic interest men have as anti-racist and anti-sexist educators. Indeed, there is ancient context for describing women's status, and for being

concerned about gender imbalance and exclusion. As Alfred and Maracle both explain, it is the responsibility of men and women to maintain a balance between them. Haudenosaunee must exercise this responsibility when it comes to thinking about sexism (which disrupts gender balance and complementarity).

Notwithstanding the ancient context I am describing, it is still uncommon to hear men speak of their experience of sex-discriminatory policy.<sup>61</sup> Men are often unaccustomed to thinking about sexism, or the relationship that sexism shares with the racism and colonial injustice. Afro-American women have described this as a one-dimensional way of thinking about discrimination, something they refer to as ineffective when it comes to thinking about discrimination and power.<sup>62</sup> One-dimensionality is a way of thinking about sexism as if it does not affect men, or as if it is disconnected from racism or colonial injustice.<sup>63</sup>

### **Correcting Historic Wrongs: Concluding Thoughts**

A major change in thinking is required before issues of Indian status can be fully rejuvenated in Canada. I believe this change is now being realized – and can be realized – in three different ways. First, by refusing to acknowledge the *Indian Act* as the source that determines Aboriginal citizenship. Second, by having men realize their responsibility in maintaining a balance between genders and understanding the way that sexism shapes our lives. Third, by developing a new way of thinking about gender-based exclusion, and a new politics of identity.

Indian status owes much to the inattention of governments. Since 1985, neither federal or band based governments have paid any sustained attention to these complexities. This does not mean that the issues surrounding imposed citizenship have gone away. It would be useful to have our nations – including Haudenosaunee – acknowledged as nations in law, including who it is that we define as citizens.<sup>64</sup> It is necessary to move beyond the *Indian Act* and start acknowledging a sense of belonging that is based on real or assumed bonds between people, their shared knowledge of traditional stories or history, common beliefs, and a tie to some

specific territory.<sup>65</sup> Only after this gets legally acknowledged are we able to be truly self-determining.

By focusing on these and other aspects of belonging, the *Indian Act* remains ineffective as a tool for regulating identity.<sup>66</sup> But this does not mean that Canada is prepared to recognize the identities of Aboriginal peoples as nations, or to exercise a financial obligation toward “non-Indians”. It does not even require that nation-to-nation agreements, territories, or nation-specific understandings of citizenship be acknowledged. Nor does it justify the kinds of legal inequalities created under section 6(2). These things require the attention of governments, policy makers and those affected by citizenship injustices.

A change in the way of thinking about discrimination is also required in Canada. Citizenship injustices were created through the racialized and sexist understandings that remain a component of citizenship policy. It follows that any type of analysis (or “liberating strategy”) be committed to realizing – and addressing – both types of discrimination.<sup>67</sup> The loss of Indian status – and Indian status in general – is not something that belongs to women (or “individuals”), it is something that belongs to all Aboriginal peoples because of the racism and sexism that is section 6(2).<sup>68</sup> Put simply, status Indians experience discrimination at the “intersection” of race and gender.

A new politics of identity is forming in Canada, and it includes a generation of men who are in part affected by sex discrimination. These men are either registered – or are becoming registered – under section 6(2) of the *Indian Act* because of the either/or choices available to their mothers as “Indians”. Section 6(2) has created a different way of thinking about “women’s issues” or sexism. It could bring forward a new way of thinking about discrimination in general, preferably leading many of us to realize that citizenship injustices were never entirely about women at all. Instead, they were about state-inspired definition -- and the potential of becoming a non-status Indian -- while remaining an Indigenous person.

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<sup>1</sup> *Indian Act*, R.S.C. 1985 (1st Supp.), c.32; also see Joan Holmes, *Bill C-31: Equality or Disparity?* (Ottawa: Canadian Advisory Council on the Status of Women, 1987).

<sup>2</sup> Stewart Clatworthy, "Impacts of the 1985 Amendments to the *Indian Act* on First Nations Populations" in Jerry White, Paul. S. Maxim & Dan Beavon (eds) *Aboriginal Conditions: Research as a Foundation for Public Policy* (University of British Columbia Press, 2003). Also see Stewart Clatworthy, *Factors Contributing to Unstated Paternity* (DIAND: Strategic Research and Analysis Directorate, 2003) and Michelle M. Mann *Indian Registration: Unrecognized and Unstated Paternity* (Ottawa: Status of Women Canada Research Directorate, 2005).

<sup>3</sup> The word "Haudenosaunee," meaning "People of the Longhouse" -- a reference to the distinctive houses in which my ancestors once resided -- may differ depending on the Six Nations person or community to whom one is speaking. See Taiaiake Alfred *Heeding the Voices of our Ancestors* (Oxford University Press, 1995) at 38 who refers to his people (the people of Kahnawake Mohawk Nation) as Rotinohshonni. Also see Deborah Doxtator. *What Happened to the Iroquois Clans?* (PhD Dissertation, University of Western Ontario, 1996) [unpublished] who chose the word "Rotinohshyonni." I use the word "Haudenosaunee" as it is one that is most familiar to me, and it is one that has been used in political dealings by my own community,

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the Six Nations at Grand River Territory . See House of Commons, *Minutes and Proceedings and Evidence of the Special Committee on Indian Self Government, Issue #31, Appendix 36* (Ottawa, 1983). All words used henceforth in this paper are in Mohawk (my grandfather's language), and I am grateful for the advice provided by David Kanatawakhon in this regard. See also Mohawks of the Bay of Quinte. *iontewennaweienhstáhkwa [Mohawk Language Dictionary]* (Mika Publishing Company, 1990).

<sup>4</sup> In the spirit of sharing knowledge with future generations, this paper is for my nieces Deanna Cannon, Sarah, Melissa, and Emma Ward.

<sup>5</sup> *Indian Act*, R.S.C. 1985 (1st Supp.), c.32

<sup>6</sup> *Indian Act*, S.C. 1951, c.29, s. 12(1)(b).

<sup>7</sup> Holmes, 1987, *ibid*.

<sup>8</sup> Clatworthy, 2003, *ibid*; Mann, 2005, *ibid*.

<sup>9</sup> Thomas Issac, "Self-Government, Indian Women and their Rights of Resinstatement under the Indian Act: A Comment on Sawridge Band v. Canada [Case Commentary]" (1994) 4 *Canadian Native Law Reporter* at 1-13. Also see Wendy Moss, "Indigenous Self-Government in Canada and Sexual Equality Rights Under the Indian Act: Resolving Conflicts Between Collective and Individual Rights" (1990) 15 *Queen's Law Journal* (1990).

<sup>10</sup> Martin Cannon, "Revisiting Histories of Legal Assimilation, Racialized Injustice, and the Future of Indian Status in Canada." in Jerry White, Wendy Cornet and Erik Anderson (eds.) *Aboriginal Policy Research Volume V - Moving Forward, Making a Difference*. (Thompson Nelson, forthcoming, 2007).

<sup>11</sup> *Indian Act*, R.S.C. 1985 (1st Supp.), c.32

<sup>12</sup> *Indian Act*, R.S.C. 1985 (1st Supp.), c.32, s.6(2), also see Holmes, 1987, *ibid*.

<sup>13</sup> Huntley, Audrey, Fay Blaney, Rain Daniels, Lizabeth Hall and Jennifer Dysart. *Bill C-31: Its Impact, Implications and*

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*Recommendations for Change in British Columbia- Final Report* (Vancouver: Aboriginal Women's Action Network (AWAN), 1999).

<sup>14</sup> Cannon, 2007, *ibid*.

<sup>15</sup> Quoted in Holmes, 1987, *ibid* at 16

<sup>16</sup> *Indian Act*, R.S.C. 1985 (1st Supp.), c.32, s.6(2)

<sup>17</sup> *Indian Act*, S.C. 1951, c.29, s. 12(1)(b).

<sup>18</sup> Involuntary enfranchisement takes place in Canada, whenever a status Indian (registered under section 6(2) of the Indian Act), marries and has children with a non-Indian person. This act of exogamous, "out-marriage" may seem a relatively neutral one, but section 6(2) works to disenfranchise the grandchildren of women who married non-Indians before 1985. These individuals represent a new class of "involuntarily enfranchised" Indians. They are the children of section 6(2) intermarriages. This new generation of individuals also includes the children of women registered under section 6(2) who do not state paternity at the time of registration. See Cannon, 2007, *ibid*.

<sup>19</sup> Harold Cardinal, *The Rebirth of Canada's Indians* (Edmonton: Hurtig Publishers, 1977) at 110. Also see Sally Weaver, "First Nations Women and Government Policy" in Sandra Burt, Lorraine Code & L. Dorne (eds) *Women in Canada, 2nd Edition* (Toronto: McClelland & Stewart, 1993) at 99.

<sup>20</sup> See Morris Manyfingers, "Determination of Indian Band Membership: An Examination of Political Will" (1986) 1*The Canadian Journal of Native Studies* at 63-75.

<sup>21</sup> In June 1969, the Honourable Jean Chretien, then Minister of Indian Affairs and Northern Development, introduced a new legislation called the *Statement of the Government of Canada on Indian Policy*. See Canada, *Statement of the Government of Canada on Indian Policy* (Ottawa, 1969). By repealing the *Indian Act*, S.C. 1951, c.29, the government had hoped to have status Indians secure provincial-based services, and to abolish Indian status so that status Indians would be offered "the same citizenship status and rights as

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non-Indians and nothing more". See Terry Wotherspoon and Vic Satzewich, *First Nations in Canada* (Nelson, 1993) at 230.

<sup>22</sup> It is important to distinguish between cultural and legal assimilation. Cultural assimilation refers to the "loss, by an individual, of the markers that served to distinguish him or her as a member of one social group, and the acquisition of traits that allow that person to blend in with, succeed in, a different social group" (Deborah D. Jackson, *Our Elders Lived It: American Indian Identity in the City* (Northern Illinois University Press, 2002 at 74). Cultural assimilation has not been completely effective as a policy (or legal) objective. Individuals continue to preserve a collective identity as Aboriginal peoples despite colonial intrusion. At the same time, and in the absence of scholarly and qualitative research, one can only estimate the extent of damage created by the legal assimilation of status Indians. See Martin J. Cannon "Bill C-31 -- An Act to Amend the Indian Act: Notes Toward a Qualitative Analysis of Legislated Injustice" (2005) 25(1) *The Canadian Journal of Native Studies* at 381 and 382. Also see Cannon, 2004, *ibid* at 3,13, 29, 129, 136 and 316.

<sup>23</sup> Sally Weaver, "The Status of Indian Women" in J.E. Leonard (ed) *Two Nations, Many Cultures: Ethnic Groups in Canada, 2nd Edition* (Scarborough: Prentice Hall, 1993) at 64. Also see David Newhouse, "From the Tribal to the Modern: The Development of Modern Aboriginal Societies" in R.F. Laliberte, P. Settee, J.B. Waldrum, R. Innes, B. Macdougall, L. McBain, F.L. Barron (eds) *Expressions in Canadian Native Studies* (Saskatoon: University of Sasaktatchewan Press, 2000).

<sup>24</sup> Weaver, 1993, *ibid.* at 64

<sup>25</sup> Opposition to Lavell and Bedard was made official in 1972, when the National Indian Brotherhood decided at a conference -- and in the absence of unanimous support -- to formally intervene in the case. See Sherrill Cheda, "Indian Women: An Historical Example and a Contemporary View" in Marylee Stephenson (ed) *Women in Canada* (Don Mills: General Publishing Co. Ltd, 1977) at 205.

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<sup>26</sup> Sally Weaver, "Judicial Preservation of Ethnic Group Boundaries: The Iroquois Case" in *Proceedings of the First Congress, Canadian Ethnology of Society, Paper no. 17* (Ottawa: National Museums of Canada, 1974) at 49-50.

<sup>27</sup> See Clatworthy, *Population Implications of the 1985 Amendments to the Indian Act [Appendix B]* (Winnipeg: Four Directions Consulting Group, 1992). Also see Clatworthy, 2003, *ibid.*

<sup>28</sup> See Kimberle Crenshaw. "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics." in Christopher McCrudden (ed.) *Antidiscrimination Law* (Burlington, VT: Ashgate/Dartmouth, 2004). Also see Cannon, *Demarginalizing the Intersection of Race and Gender in First Nations Politics* (MA Thesis, Queen's University, 1995) [unpublished].

<sup>29</sup> See Martin J. Cannon, *A History of Politics and Women's Status at Six Nations of Grand River Territory*. (PhD Dissertation, York University, 2004) [unpublished] at 37-38

<sup>30</sup> Quoted in Donna Greschner, "Aboriginal Women, the Constitution and Criminal Justice" (1992) 26(2) *University of British Columbia Law Review* at 148.

<sup>31</sup> *Indian Act, 1985, ibid.*

<sup>32</sup> Cannon, 1995, *ibid.*; also see Roberta Hamilton, *Gendering the Vertical Mosaic: Feminist Perspectives on Canadian Society, 2nd Edition* (Pearson Prentice Hall, 2005) at 100.

<sup>33</sup> Cannon, 1995, *ibid.*; Hamilton, 2005 *ibid.* at 100.

<sup>34</sup> Cannon, 1995, *ibid.*; Hamilton, 2005 *ibid.* at 100.

<sup>35</sup> Cannon, 1995, *ibid.*

<sup>36</sup> Issac & Maloughney, "Dually Disadvantaged and Historically Forgotten?: Aboriginal Women and the Inherent Right of Aboriginal Self-Government" (1992) 21 *Manitoba Law Journal* at 457.

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<sup>37</sup> George J. Sefa Dei. "Reflections of an Anti-Racist Pedagogue." In Lorna Erwin & David MacLennan (eds.) *The Sociology of Education in Canada*. (Toronto: Copp Clark Pitman, 1994) at 290-310. Also see George J. Sefa Dei "The Intersections of Race, Class and Gender in the Anti-Racism Discourse" in George J. Sefa Dei *Anti-Racism Education: Theory and Practice*. (Fernwood, 1996) at 55-74.

<sup>38</sup> See Cannon, 2004, *ibid* at 37-38. Also see Deborah Doxtator. *What Happened to the Iroquois Clans?* (PhD Dissertation, University of Western Ontario, 1996) [unpublished] at 32 and 33.

<sup>39</sup> Taiaiake Alfred. *Wasáse*. (Broadview Press, 2005) at 2-21.

<sup>40</sup> Deborah Doxtator, "Godi'Nigoha': The Women's Mind and Seeing Through to the Land." in Woodland Cultural Centre, publ., *Godi'Nigoha': The Women's Mind* (Brantford, Ontario: Woodland Cultural Centre, 1997) at 32-33.

<sup>41</sup> See Madelina Sunseri "Moving Beyond the Feminism Versus Nationalism Dichotomy: An Anticolonial Feminist Perspective on Aboriginal Liberation Struggles" (2000) 20(2) *Canadian Woman Studies* at 143-149. Also see Jo-Anne Fiske "The Womb is to the Nation as the Heart is to the Body: Ethno Political Discourses of the Canadian Indigenous Women's Movement" (1996) 51 *Studies in Political Economy* at 65-96.

<sup>42</sup> See Brian "Mike" Myers, Gordon Peters and Jim Dumont. *Indigenous Dispute Resolution: Haudenosaunee Edition* (Manuscript Prepared for the Centre for Indigenous Sovereignty, Thamesville/Toronto, Ontario, 1998) at 13.

<sup>43</sup> Thomas King acknowledges this complexity in all five of his 2003 Massey Lectures. He started each of them by explaining: "There is a story I know. It's about the earth and how it floats in space on the back of a turtle. I've heard this story many times, and each time someone tells the story, it changes. Sometimes the change is simply in the voice of the storyteller. Sometimes the change is in the details. Sometimes in the order of events. Other times it's the dialogue of the response of the audience. But in all the tellings of all the tellers, the

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world never leaves the turtle's back. And the turtle never swims away." See Thomas King, *The Truth About Stories* (Anansi Press, 2003).

<sup>44</sup> See Arthur C. Parker. *The Constitution of the Five Nations or the Iroquois Book of the Great Law [1916]*. (Ohsweken, Ontario: Iroquois Reprints, 1984).

<sup>45</sup> Parker, 1984, *ibid.* North American Indian Travelling College, *Traditional Teachings* (North American Indian Travelling College, 1984). Also see Jacob Thomas and Terry Boyle. *Teachings from the Longhouse*. (Toronto: Stoddard Publishing Co. Ltd., 1994).

<sup>46</sup> Jake Thomas is a now deceased Cayuga elder who held public recitations of this story at Grand River Territory (Ontario, Canada) in 1994. See Jake Thomas *The Great Law 12 Vol. Videotape Collection* (Ohsweken, Ontario: The Jake Thomas Learning Centre, 1994). It is nothing short of remarkable that people have continued to preserve the rich cultural knowledge of our ancestors at Six Nations. From well attended public recitations, to an ongoing calendar of events, rites and rituals still being practiced by Longhouse adherents, these factors point toward the same thing: that the stories about *Onkwehonwe*, who we are as a people, and most importantly, *who we want to be* remains on the minds of many.

<sup>47</sup> See B.E. Johansen "Dating the Iroquois Confederacy" (1995) 1(3&4) *Akwesasne Notes* at 62-63.

<sup>48</sup> See US Con. Res. 76, 100th Cong., 2nd Sess. (1988); H.R. Con. Res.331, 100th Cong., 2nd Sess. (October, 1988).

<sup>49</sup> North American Indian Travelling College, *Traditional Teachings* (North American Indian Travelling College, 1984). Also see Parker, 1984, *ibid.*; Thomas, 1994, *ibid.*, and Thomas and Boyle, 1994, *ibid.*.

<sup>50</sup> A. Eastlack Shafer, "The Status of Iroquoian Women [1941]." in W.G. Spittal (ed.) *Iroquois Women: An Anthology* (Ohsweken, Ontario: Iroquois Reprints, 1990) at 93. Also see Cannon, 2004, *ibid.* at 2, 25, 48-50.

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<sup>51</sup> L. Carr "The Social and Political Position of Women Among the Huron-Iroquois Tribes." (1884) *Report of the Peabody Museum of American Archeology* at 230. Parker (*ibid.*) at 55.

<sup>52</sup> Quoted in Sally Roesch Wagner "The Root of Oppression is the Loss of Memory: The Iroquois and the Early Feminist Vision [1988]" in W.G. Spittal (ed) *Iroquois Women: An Anthology* (Ohsweken, Ontario: Iroquois Reprints ,1990) at 224.

<sup>53</sup> Wagner, "The Root of Oppression is the Loss of Memory", *ibid* at 224.

<sup>54</sup> See Nancy Shoemaker "The Rise or Fall of Iroquois Women." (1991) 2(3) *Journal of Women's History* at 39.

<sup>55</sup> Quoted in Lorraine Code (ed.) *Encyclopedia of Feminist Theories* (Routledge, 2000) at 329.

<sup>56</sup> Martin J. Cannon "Bill C-31 -- An Act to Amend the Indian Act: Notes Toward a Qualitative Analysis of Legislated Injustice" (2005) 25(1) *The Canadian Journal of Native Studies* at 381 and 382. Also see Cannon, 2004, *ibid* at 3,13, 29, 129, 136 and 316.

<sup>57</sup> Cannon, 2004, *ibid* at 7, 53-56, 66-67.

<sup>58</sup> See Marlyn Kane (Osennotion) and Sylvia Maracle (Skonganleh:ra), "Our World: According to Ossennotion and Skonaganleh:ra" (1989) 10(2&3) *Canadian Woman Studies* at 12. Also see Maracle quoted in Kim Anderson, *A Recognition of Being: Reconstructing Native Womanhood* (Toronto: Second Story Press, 2000) at 173 and 174.

<sup>59</sup> Taiiaike Alfred, "The People" in Haudenosaunee Environmental Task Force (eds) *Words That Come Before All Else: Environmental Philosophies of the Haudenosaunee* (North American Travelling College, 1993) at 8.

<sup>60</sup> See Alfred, *ibid*, 1991 at 13-14.

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<sup>61</sup> An exception to this includes events such as the one I participated in along with several other men in Ottawa, Canada on June 28th, 2005 at the invitation of the Native Women's Association of Canada (NWAC). The event itself drew attention to Indian status injustices and created a forum for people to talk about section 6(2) of the Indian Act. Events such as this one are by no means unique. Indeed, the 1985 amendments followed a history of similar kinds of activism by Aboriginal women across Canada in the 1970s, including the Lavell-Bedard case(s); the extensive lobbying efforts of Mary Two-Axe early and others, and the near condemnation of Canada's human rights reputation in *Lovelace v. Canada*. See Janet Silman, *Enough is Enough: Aboriginal Women Speak Out* (Toronto: Women's Press, 1987). Also see John Borrows, "Contemporary Traditional Equality: The Effect of the Charter on First Nations Politics" (1994) 11 *University of New Brunswick Law Journal* and Sally Weaver "The Consolidation of the Grand River Reserve in the Mid-Nineteenth Century, 1847-1875" in Edward S. Rogers and Donald B. Smith (eds) *Aboriginal Ontario: Historical Perspectives on the First Nations* (Toronto: Dundurn Press, 1994) at 182-212.

<sup>62</sup> Patricia Hill Collins, "The Social Construction of Black Feminist Thought" (1989) 14(4) *Signs: Journal of Women in Culture and Society* at 750. Also see Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (Unwin Ltd., 1990) at 1-21. Also see Combahee River Collective, "A Black Feminist Statement" in G.T. Hull, P.B. Scott and B. Smith (eds) *All the Women are White, All the Blacks are Men, But some of us are Brave* (New York: The Feminist Press, 1982) at 13-22.

<sup>63</sup> Aileen Moreton-Robinson, *Talkin' Up to the White Woman: Indigenous Women and Feminism* (University of Queensland Press, 2000).

<sup>64</sup> Claude Denis, "Indigenous Citizenship and History in Canada: Between Denial and Imposition" in Robert Adamoski, Dorothy E. Chunn & Robert Menzies (eds) *Contesting Canadian Citizenship: Historical Readings* (Broadview Press, 2002) at 114-116

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<sup>65</sup> Tim Schouls, *Shifting Boundaries: Aboriginal Identity, Pluralist Theory, and the Politics of Self-Government* (University of British Columbia Press, 2003) at 177.

<sup>66</sup> Lawrence, 2004, *ibid.*

<sup>67</sup> Cannon, 1995, *ibid.*

<sup>68</sup> Cannon, 1995, *ibid.*