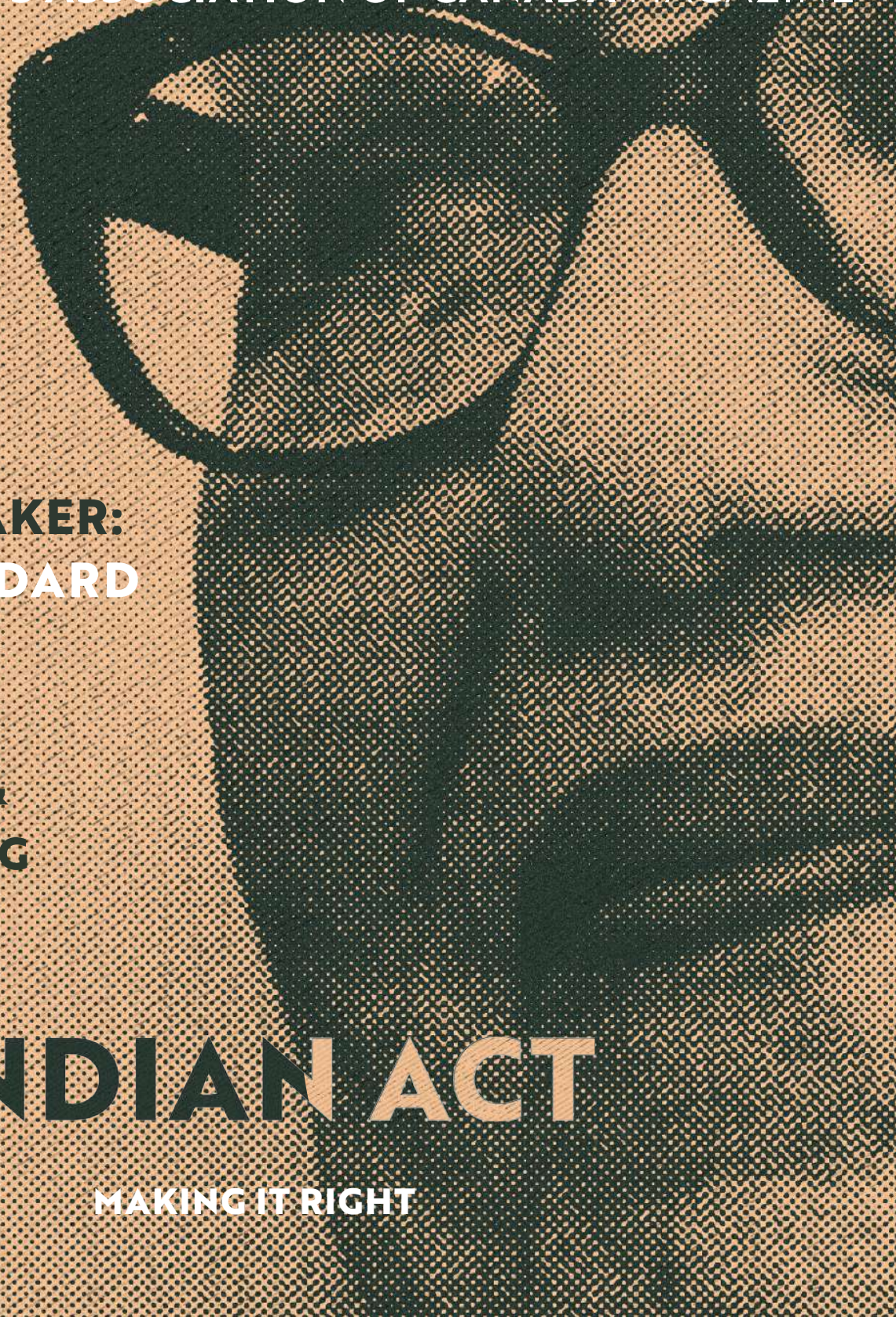
[kee/chi - nee/wesk] · *noun* THE GREAT SPIRIT OF THE FEMALE SIDE OF LIFE OF ALL THINGS

KCI-NIWESQ

NATIVE WOMEN'S ASSOCIATION OF CANADA MAGAZINE

ISSUE 9



HISTORY MAKER: YVONNE BEDARD

RECLAIMING, BELONGING & TRAILBLAZING

INDIAN ACT

MAKING IT RIGHT

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A MESSAGE FROM NWAC'S CEO

LYNNE GROULX LL.L., J.D. | CEO
NATIVE WOMEN'S ASSOCIATION OF CANADA
L'ASSOCIATION DES FEMMES AUTOCHTONES DU CANADA

WELCOME TO THE NINTH EDITION OF KCI-NIWESQ, THE MAGAZINE OF THE NATIVE WOMEN'S ASSOCIATION OF CANADA (NWAC).

In this issue we explore the difficult problem of sex discrimination in the Indian Act.

I am Métis, not First Nations. So the issue of status is one that has affected my community in a different way. And it has devastated the lives of so many of NWAC's members. It has ripped apart families and communities.

It has pitted leaders of First Nations, who must distribute the scarce resources of land, housing, medical services and others among their members, against women and their children who just want to belong to the places that their ancestors called home.

For so many decades, the federal government used sexist policies written into the Indian Act as a way of eliminating people from their lists of status Indians. First Nations women who married non-Indigenous men lost their status, while First Nations men who married non-status women did not.

This helped keep down the numbers of people who could claim status, and the meager resources and services that came with it.

It was also part of the genocide that has been perpetrated against Indigenous Peoples in this country since the early days of European contact. Like the residential schools, the sexist policies of the Indian Act have forced First Nations women to abandon their Indigenous heritage and to become part of settler society.

Now the question is, what to do about those policies.

Government after government has attempted to right the wrongs—generally on the heels of a court decision demanding that a human rights violation in the Indian Act be eliminated.

The most recent attempt to eliminate the discrimination occurred in 2017 when the current federal government declared the job had finally been done through the passage of Bill S-3. But there is more left to do.

An NWAC examination points out that there are still discriminatory passages of the Indian Act to be dealt with. You will read about that in this issue of Kci-Niwesq in an interview with Adam Bond, our manager of legal services.

You will also read the stories of four families who have been profoundly affected by the discrimination.

Karl Hele had to go to court to ensure he could pass along status to his daughter. Deanna Laity's great grandmother lost her status and, as a result, her grandmother was ashamed of her Indigenous roots. Katherine Legrange is trying to reclaim the First Nations heritage that has been denied to her.

And Yvonne Bedard, who died just before Christmas, is a hero in this cause.

So thank you once again for opening the pages that follow. Thank you for reading the ninth edition of Kci-Niwesq. Please drop us a line and let us know what you think at reception@nwac.ca.

MIIGWETCH.

MONTHLY MAGAZINE TO TELL OUR STORIES

NWAC

DESPITE REVISIONS, INDIAN ACT REMAINS COLONIAL INSTRUMENT THAT FAILS TO HIT THE MARK

SEX DISCRIMINATION IN THE INDIAN ACT HAS DENIED COUNTLESS INDIGENOUS WOMEN AND THEIR DESCENDANTS THE RIGHT TO INDIAN STATUS. IT HAS ALSO SEVERED THEIR TIES TO THE COMMUNITIES AND CULTURE OF THEIR ANCESTORS.

It is a wrong that multiple federal governments have attempted to correct, especially as courts determined rights were being violated.

The Indian Act was most recently revised to remove discrimination in a law, known as Bill S-3, which received Royal Assent in 2017.

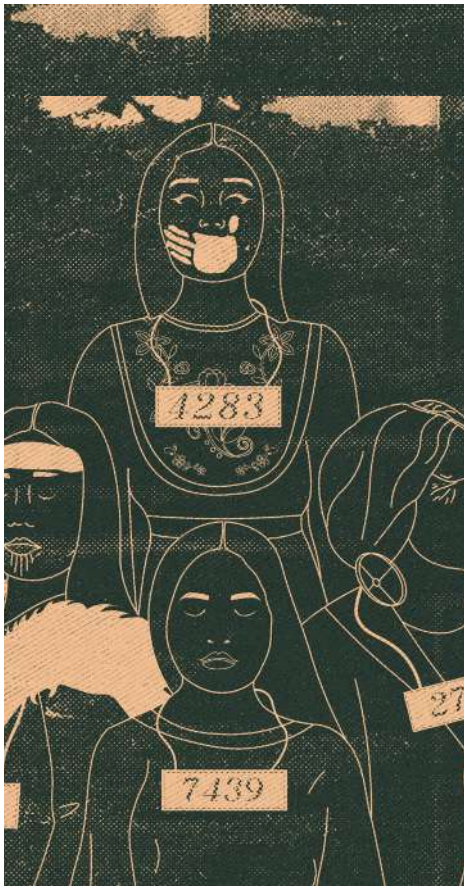
With the passage of that legislation, Carolyn Bennett, who was then the minister of Crown-Indigenous Relations, proclaimed: "I am proud that today all remaining gender discrimination has been eliminated from Indian Act registration provisions."

The department of Indigenous Services, which now controls the file, was slightly more cautious. It issued a statement saying Bill S-3 had rid the Indian Act of all "known" elements of sex-based discrimination and "the Government of Canada continues to collaborate with First Nations and other partners to address the remaining inequities in registration."

To that end, the Native Women's Association of Canada (NWAC) is conducting a legal examination of the Indian Act to determine what discrimination remains and who is affected. This follows a similar investigation that NWAC performed between 2017 and 2019 as S-3 was making its way through Parliament and in the immediate aftermath of its passage.

NWAC's work entails consultations with its grassroots members and with experts to determine the effectiveness of Bill S-3.

Leading the effort is Adam Bond, NWAC's manager of Legal Services. In this article, Mr. Bond attempts to answer some common questions that inevitably arise whenever this matter is debated.



DID BILL S-3 ELIMINATE ALL DISCRIMINATION IN THE INDIAN ACT?

ADAM BOND: The federal government is now careful with its language. It tends to say it has removed all "known sex-based discrimination" and, by "known," it means the sex-based discrimination that has been identified by the courts.

But there are still inequities in the registration provisions, absolutely. And, in fact, there are new forms of inequities based on age and marital status that are directly written into the S-3 legislation. Access to Indian status is restricted based on whether or not an Indigenous person was born after 1985 or the marital status of their parents at some time before 1985. So these are, on their face, discriminatory on the basis of age and marital status.

But one of the elements of discrimination that is more difficult to identify is what's known as adverse-effects discrimination. If a law, on its face, doesn't make any kind of distinction based on sex or gender, but has the effect of making a distinction on those grounds and that results in discrimination, then it's a potential breach of Section 15 of the Canadian Charter of Rights and Freedoms.

One of the ongoing concerns is the second-generation cut-off rule, contained in section 6(2) provisions of the Indian Act, which denies Indian status to people who are two generations removed from someone who is entitled to status. It doesn't make any distinction based on somebody's sexual gender. But, the reality is, it creates greater burdens and risks for women than it does for men.

For example, if you are a single mother with 6(2) status and you want to pass on status to your child, the father of the child also must be entitled to status.

Biology means the mother of a child is always known but, for victims of rape or incest or for women who have had had a child through secret relations with certain members of the community, disclosing personal and private information about the status of the father could put them or their child at risk. The government, in S-3, has attempted to address this issue of what's called unstated or unknown parentage. But it hasn't done so effectively.

The S-3 amendments specifically state that the burden of proof for an unknown or unstated parent or ancestor is some reasonable evidence. That requires an Indigenous woman to gather evidence to prove her child's ancestry. It is difficult to understand how providing evidence about the status entitlements of the other parent would not contribute to evidence of the identity of that other parent.

So, I think that Bill S-3 made some progress towards reducing the burden of proof in the legislation to some reasonable evidence. But there's still a disproportionate burden on single mothers than on single fathers.

There's also ongoing issues that are actually being litigated right now about discrimination or inequities with respect to people who lost status because of "voluntary" enfranchisement—which means they gave up their right to Indian status. In many cases—probably in most cases—it was not actually voluntary. People would want to avoid having to send their kids to residential schools so they would enfranchise. Sometimes women were married to a man, or are the son or daughter of a man who "voluntarily" enfranchised them. Bill S-3 didn't address that kind of differential treatment.

WHY HAS IT PROVED SO DIFFICULT FOR MULTIPLE FEDERAL GOVERNMENTS TO ELIMINATE ALL OF THE DISCRIMINATION IN THE INDIAN ACT?

ADAM BOND: It's really difficult to put it in a nutshell, but the takeaway here is that Parliament and various governments have been trying to tinker and adjust with these registration provisions for decades.

The reality is that the Indian Act itself is a colonial document. Certain rights and interests are preserved in the Act but, overall, it operates with a top-down kind of effect in which you have this centralized federal government making decisions about status entitlements for Indigenous Peoples. That just doesn't square with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

So the overarching question is, how long are we going to try and tinker with the registration provisions? How long are we going to continue to try and amend the Indian Act to make it fit within the rights of Indigenous Peoples—which is something that can never really be done.

HOW THEN SHOULD DECISIONS ABOUT STATUS BE MADE?

ADAM BOND: That is a really important question because it points out the distinction between status and membership. You can have status as an "Indian" under the Act but that doesn't mean you have membership in a particular band. You still have to qualify for band membership. So, I know it seems that the obvious answer would be the Indigenous governments or the Indigenous Peoples themselves should make decisions about who has Indian status. But it's much more nuanced and complicated than that. As we've seen from these amendments to the registration provisions, you can get a lot of resistance from band councils to the admission of membership to people they do not accept as being part of their communities.

One of the cornerstone principles of Indigenous rights as articulated under UNDRIP is that Indigenous Peoples have a right to self-determination and self-governance—and that encompasses decisions over membership. But that right is contextualized within the principles of international human rights norms. And that means that, yes, Indigenous Peoples have a right to determine their own membership, but they also must not discriminate on the basis of sex. Which is what our concern would be.

If band councils had complete right to determine membership, how are we going to protect Indigenous women who have been discriminated against from continuing to be discriminated against at the band level, at the community level? We have heard quite a bit about that in our consultation. Some people said the band councils should be able to decide. Some people said only traditional governing bodies and hereditary government leadership should be able to decide. And other people said there should be councils or established bodies for the different groups that make those decisions. So, there's no consensus, there's no national agreement on who should be making these decisions. But I think most people would agree that it's not the federal government.

ARE WE NOT DILUTING WHAT IT MEANS TO BE INDIGENOUS WHEN WE OPEN UP INDIAN STATUS AND, POTENTIALLY BAND MEMBERSHIP, TO PEOPLE WHO HAVE JUST ONE DISTANT INDIGENOUS ANCESTOR OR WHO HAVE HAD NO TIES TO AN INDIGENOUS COMMUNITY?

ADAM BOND: It is a legitimate concern because of the very large number of people who are newly entitled to Indian status as a result of Bill S-3.

If your great-great-grandmother had status and she lost it because she married a non-Indigenous man, you're now entitled because you're the direct descendant of her. Yet you may not have any contact with your great-great-grandmother's community, you

Pictured: **Adam Bond and children**

may not know anything about your heritage or culture. These people are the victims of the cultural genocide.

One approach would be to ask, as we expand the scope of people who are newly entitled to register for status and gain recognition as being Indigenous, what measures are we taking to ensure that these people are connected with their Indigenous histories and communities and heritage?

On the other hand, a very legitimate concern from people in the communities is this: "As far as we're concerned, we don't know them. We already have concerns that we're dealing with. We don't want to have this influx of, essentially, white people coming into our community or identifying as one of us and watering down our identity when we're already fighting for survival against attacks on our language and culture and heritage and practices."

These are real concerns that communities are trying to fight off. There's a concern that increasing the number of people who qualify for Indian status could actually perpetuate the cultural genocide by washing down their identity.

But we also have to be careful not to overly generalize. A lot of people who are affected by Bill S-3 are connected with their heritage and culture and communities but, just because of the second-generation cut-off rule or something like that, they are not entitled to status.

And we also have to be careful not to say that, because somebody is a few generations removed from their heritage, they shouldn't be entitled to have access to community and heritage and languages.

I think that, for people who are the victims of the cultural genocide, the government should be funding programs and activities to help them reconnect with their communities, so that they're not whitewashing the First Nation heritage, but they are actually learning about it, practising it, and reintegrating into their identities.

"BIOLOGY MEANS THE MOTHER OF A CHILD IS ALWAYS KNOWN BUT, FOR VICTIMS OF RAPE OR INCEST OR FOR WOMEN WHO HAVE HAD HAD A CHILD THROUGH SECRET RELATIONS WITH CERTAIN MEMBERS OF THE COMMUNITY, DISCLOSING PERSONAL AND PRIVATE INFORMATION ABOUT THE STATUS OF THE FATHER COULD PUT THEM OR THEIR CHILD AT RISK. THE GOVERNMENT, IN S-3, HAS ATTEMPTED TO ADDRESS THIS ISSUE OF WHAT'S CALLED UNSTATED OR UNKNOWN PARENTAGE. BUT IT HASN'T DONE SO EFFECTIVELY."

-ADAM BOND

DEANNA LAITY & ELISA DIEDRICH

IT IS ALL ABOUT BELONGING

Pictured: **Left Elisa Diedrich, Deanna Laity**

GETTING STATUS

IT IS ALL ABOUT BELONGING

Deanna Laity's grandmother Elisa Diedrich hid her Indigenous ancestry.

Ms. Diedrich's mother, Lena Galligos, was a member of what was then called Sliammon First Nation located on British Columbia's Sunshine Coast.

But Ms. Galligos married a white man in the early half of the 20th century.

Under the complicated rules of the day, any woman who "married out" of a First Nation lost her status under the Indian Act, and so did all of her descendants. At the same time, any man who was a status Indian and married a non-Indigenous woman was allowed to keep his status, and his wife could also get status.

Those were the sexist rules written into the Indian Act that reverberated through the generations.

Ms. Laity says it was hard for her great-grandmother to know that her sisters still had status, when she did not.

But, for Ms. Diedrich, fear of being shunned by the non-Indigenous community in which she was raised led her to her hide the truth about her mother's origins.

"Thinking she would have a more successful life if she left her heritage behind, she completely turned her back on the culture," Ms. Laity says of her grandmother. "She told her kids 'don't tell anyone you're part Indian, because they'll treat you differently.'"

The rules eventually were changed, and people in Ms. Diedrich's situation were allowed to obtain their Indian status retroactively. Her brother convinced her to apply for it, despite her reluctance, and it was granted.

But she was never entirely comfortable in her skin.

"Right to the end when she was finally able to get her status, she didn't want to show me the (status) card," says Ms. Laity. "She didn't want me to know what Nation she was from. She was still very ashamed of the heritage."

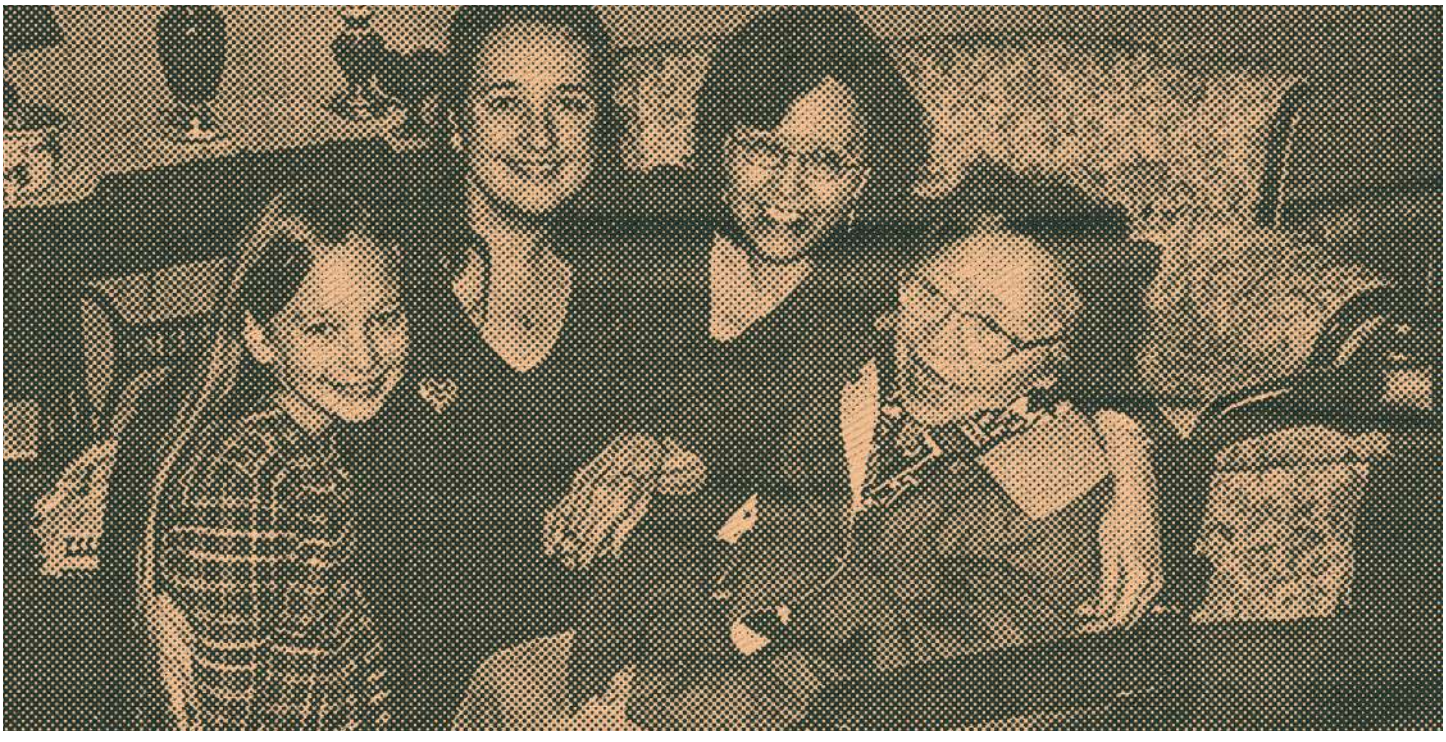
It was shame that affected how Ms. Deidrich lived her life.

"She didn't really ever go in the sun, because then she would be dark," says Ms. Laity. "My stomach feels a little heavy for her, sad. Because this is who you are, and then you had to be somebody else so that you wouldn't be discriminated against."

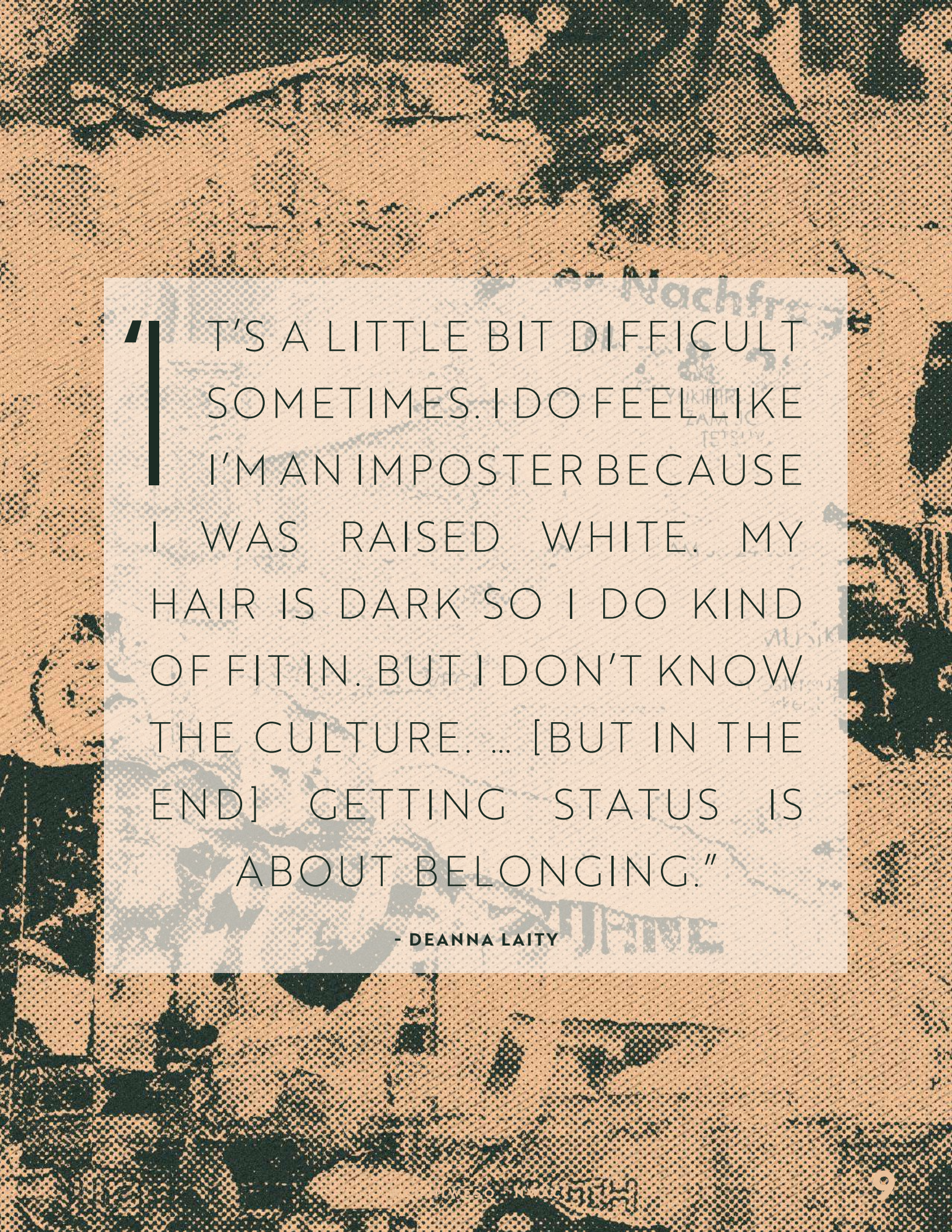
As a result of her grandmother's fears, Ms. Laity says her mother, Patricia Bryan, was raised in a home where the perceptions of Indigenous people were not positive.

"But she did not pass that on to me," she says. "She was raised with the shame. Whereas, for me, it was like, well, this is part of our history. So I'm really thankful for that."

Even though she too married a non-Indigenous man, Ms. Deidrich's children became eligible to obtain their status as a result of changes made to the Indian Act following a number of court challenges. But Ms. Laity's mother was not initially permitted to pass status to her children.



Pictured: **Left to right - (NEED NAMES)**



"IT'S A LITTLE BIT DIFFICULT SOMETIMES. I DO FEEL LIKE I'M AN IMPOSTER BECAUSE I WAS RAISED WHITE. MY HAIR IS DARK SO I DO KIND OF FIT IN. BUT I DON'T KNOW THE CULTURE. ... [BUT IN THE END] GETTING STATUS IS ABOUT BELONGING."

- DEANNA LAITY

"When my mom was granted status, that was incredibly hard for me," says Ms. Laity. "She raised me as a single mom for the first 12 years of my life. And for the first time there was a division. Status was something my mom had that I didn't. It was just very difficult because, when I thought about me and my mom and my grandma, I considered us like a braid. We kind of moved as one like we were interwoven."

Then the rules changed again and status became possible for Ms. Laity and for her children. Now they all have it. And they are trying to regain some of the heritage that was lost.

Sliammon First Nation is now known as Tla'amin Nation. It is home to an Elder named Elsie Paul who wrote a book called Written as I Remember It: Teachings From the Life of a Sliammon Elder.

Ms. Laity looked through that book and says it retold many of the stories she had heard about her ancestors.

Tla'amin Nation also released a YouTube video about a youth who was not permitted to live on the reserve because his father was white and his mother was Indigenous. "And I was like, wait a minute, the name was the same as one of my grandma's brothers," says Ms. Laity. "My grandma had told me the story."

One day, Ms. Laity's son suggested that her great-grandmother may have spoken the Tli'amin language. They checked with a cousin who lives on the reserve and learned that she had, in fact, been fluent.

Ms. Laity was also able to find pictures of her grandmother's aunts and uncles and grandfather. "And I said, 'Oh my gosh, these are my people.'"

She took the pictures to the Klahoose Band office and showed them to a young woman who worked there. "I pointed to a little girl and I said, 'this is my grandma's mom,'" says Ms. Laity. "And she looked at the picture and she pointed to another little girl and said, 'this is my granny's granny.' And I looked at her and she looked at me and we realized we're related."

Ms. Laity is now finishing up a master's degree in counselling and hopes to work with Indigenous youth.

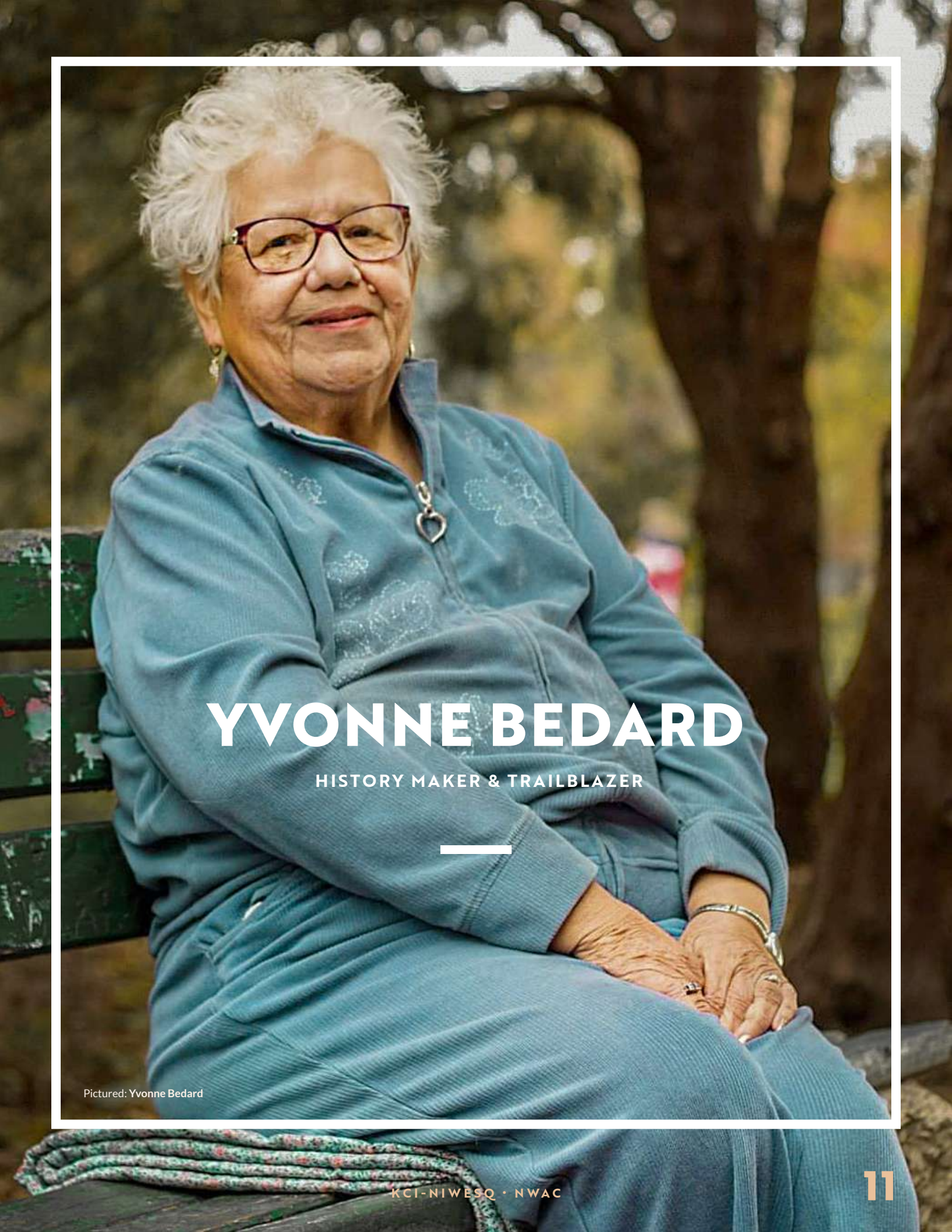
She has participated in Indigenous workshops offered by the Fraser River Indigenous Society. The people there, she says, have been open and accepting.

"It's a little bit difficult sometimes," she says, "I do feel like I'm an imposter because I was raised white. My hair is dark so I do kind of fit in. But I don't know the culture."

So she will keep learning. Because, in the end, says Ms. Laity, getting status "is about belonging."

"STATUS WAS SOMETHING MY MOM HAD THAT I DIDN'T. IT WAS JUST VERY DIFFICULT BECAUSE, WHEN I THOUGHT ABOUT ME AND MY MOM AND MY GRANDMA, I CONSIDERED US LIKE A BRAID. WE KIND OF MOVED AS ONE LIKE WE WERE INTERWOVEN."

- DEANNA LAITY



YVONNE BEDARD

HISTORY MAKER & TRAILBLAZER

Pictured: **Yvonne Bedard**

YVONNE BEDARD

HISTORY MAKER AND TRAILBLAZER

A limousine pulled up outside Yvonne Bedard's home on the Six Nations Reserve in southwestern Ontario on a dark night in April 1985.

Ms. Bedard had been fighting for more than a decade with the federal government, the police, and her own community for the right to live on the reserve in the house she had inherited from her parents.

She had married a white man in 1964 and then divorced him in 1970 after giving birth to a son and a daughter. The Indian Act, as it was written at that time, removed her Indian status, along with her right to live on the reserve, when she married outside the community.

But Ms. Bedard was a fighter. She held on to the home in the face of constant hostility. And she was not going to let whoever had the nerve

"MY MOTHER WAS A FIGHTER. AS A LITTLE GIRL, I REMEMBER THE RCMP CAME RIGHT TO THE HOUSE AND THEY WERE TRYING TO EVICT US. AND SHE STOOD HER GROUND. MY MOTHER CAME ACROSS AS A VERY SWEET WOMAN. BUT SHE WAS A SURVIVOR AND SHE FOUGHT THEM. SHE WAS GONNA STAY THERE NO MATTER WHAT. AND WE DID."

to show up in a fancy car in the black of night tell her she had to go.

"Who the hell are you?!" her son Mark Bedard remembers her yelling at the stranger who emerged from the car.

"I'm an attaché with the Prime Minister," Mr. Bedard says the man yelled back.

"Bullshit," retorted Ms. Bedard. "I'm gonna get my gun."

In fact, says Mr. Bedard, his mother never owned a gun. But, on the reserve after dark, it was impossible to tell the difference between a broomstick and a 12-guage shotgun. "She used it to scare people the hell off our property."

Mr. Bedard says the stranger hurriedly produced some parliamentary identification and informed his mother that she was going to be in the history books.

"Why the hell are you going to put me in the history books?" Ms. Bedard asked the man?

The man replied: "Your fight was something that is historical," says Mr. Bedard.

With that, Ms. Bedard knew her long legal battle to strike down sexist passages of the Indian Act was over.

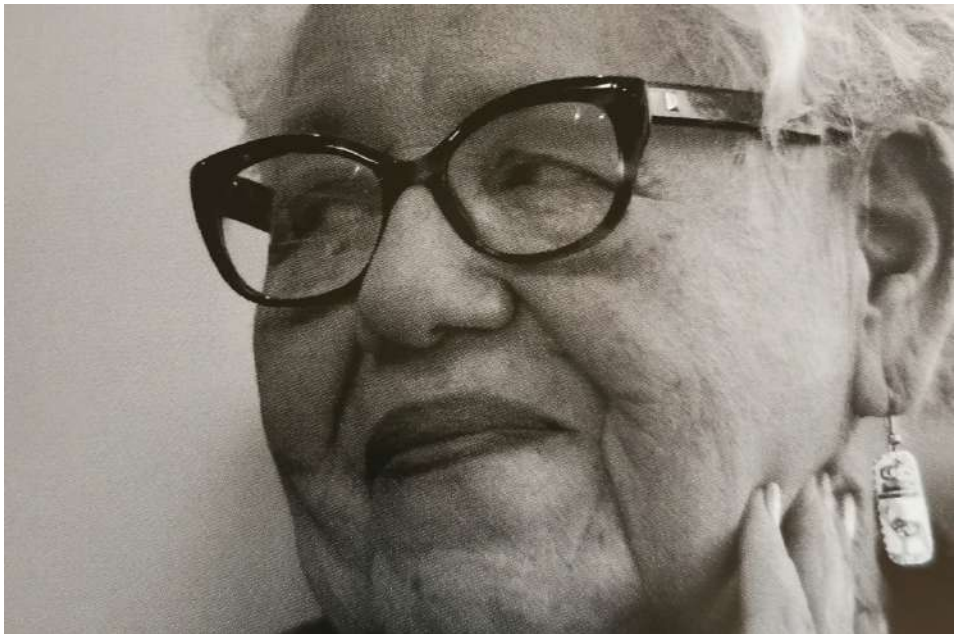
It was a battle that had gone all the way to the Supreme Court, and one that took the signing of the Canadian Charter of Rights and Freedoms in 1982 for the decision to go in her favour.

It was a battle she would not have had to fight had she been a man. Under the Indian Act of the day, if an Indigenous woman married a non-Indigenous man, she lost her Indian status. But, if an Indigenous man married a non-Indigenous woman, he retained his status and could pass it along to his wife.

"After my parents split and divorced, she brought us back to the reserve, my brother and me," says her daughter, Lisa Redding. "My grandparents were still down there. She was going home."

But the First Nation said she couldn't stay. The community gave her a year to dispose of the property and move out. Fearing she would be evicted, she launched a legal case against the Six Nations.

It was similar to that of another woman named Jeannette Corbiere Lavell, who married a non-Indigenous man in 1970 and brought a legal action saying removal of her status was a violation of the 1960 Canadian Bill of Rights. Ms. Corbiere Lavell had lost at trial but won on appeal.



Pictured: **Yvonne Bedard**

Ms. Bedard won her case on the basis of Ms. Lavell's victory. But both women lost their fight on appeal in a split decision of the Supreme Court, which was handed down in 1973. Writing for the majority, Justice Roland Ritchie ruled that the Bill of Rights could not amend the Indian Act.

Then came the Charter of Rights, and Parliament was forced to change the Indian Act to accord with its tenets. A law known as Bill C-31 was passed in 1985 to remove those sexually discriminatory sections of the Indian Act that had been identified to that point in time.

Other Acts of Parliament would follow in subsequent years to remove additional sexist provisions, but the revisions of 1985 meant Ms. Bedard could keep her house on the Six Nations.

"If an Indian man had a non-Native wife, she would have got his status automatically. What was the difference between that and her marrying a white man?" says Ms. Redding. "She did not agree with that. And that's where she fought the battle."

When Yvonne Bedard died in December 2021, she was mourned nationally as a trailblazer and on the Six Nations as a revered Elder whose counsel was regularly sought.

"My mother was a fighter," says Ms. Redding. "As a little girl, I remember the RCMP came right to the house and they were trying to evict us. And she stood her ground. My mother came across as a very sweet woman. But she was a survivor and she fought them. She was gonna stay there no matter what. And we did."

It wasn't always easy. Both of Ms. Bedard's children say they were harassed at school.

"I found my childhood down there to be horrible," says Ms. Redding. "I wanted to be accepted, as did my brother. And we weren't. We were ostracized because my father was a white man. I would get called half breed all the time. I had no friends. They looked down upon us because my mom had married off.

Ms. Bedard felt her own people were against her, says Ms. Redding. "Here's a woman who had an abusive relationship. She thought by going back there that it would be okay."

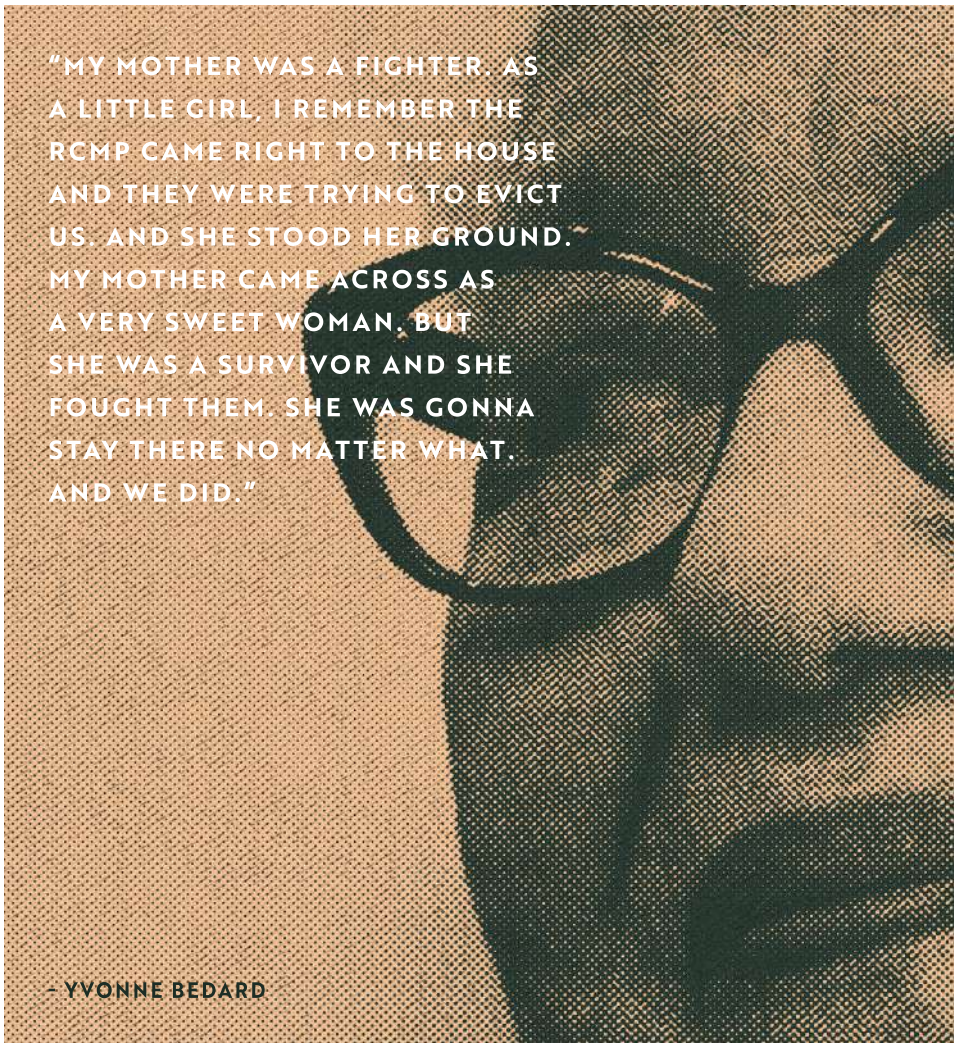
Despite the conflict, Ms. Bedard remained connected to the reserve for the rest of her life—and gave much back to her people.

"My mom was a very, very giving woman. Very generous. She was always thinking about others," says Ms. Redding. "She had family (at Six Nations) and she was down there a lot. She did peer counselling. People would call her and they would talk to her because she knew a lot of the Native ways, traditional ways, of how things went. Right until the very end, like maybe a year before she was sick, people were still following her, and she would go down there. She would also go to Akwesasne where she did a lot of work as well."

"I guess this was my way of honouring her because she had made that so readily available to women," Ms. Redding says of her mother.

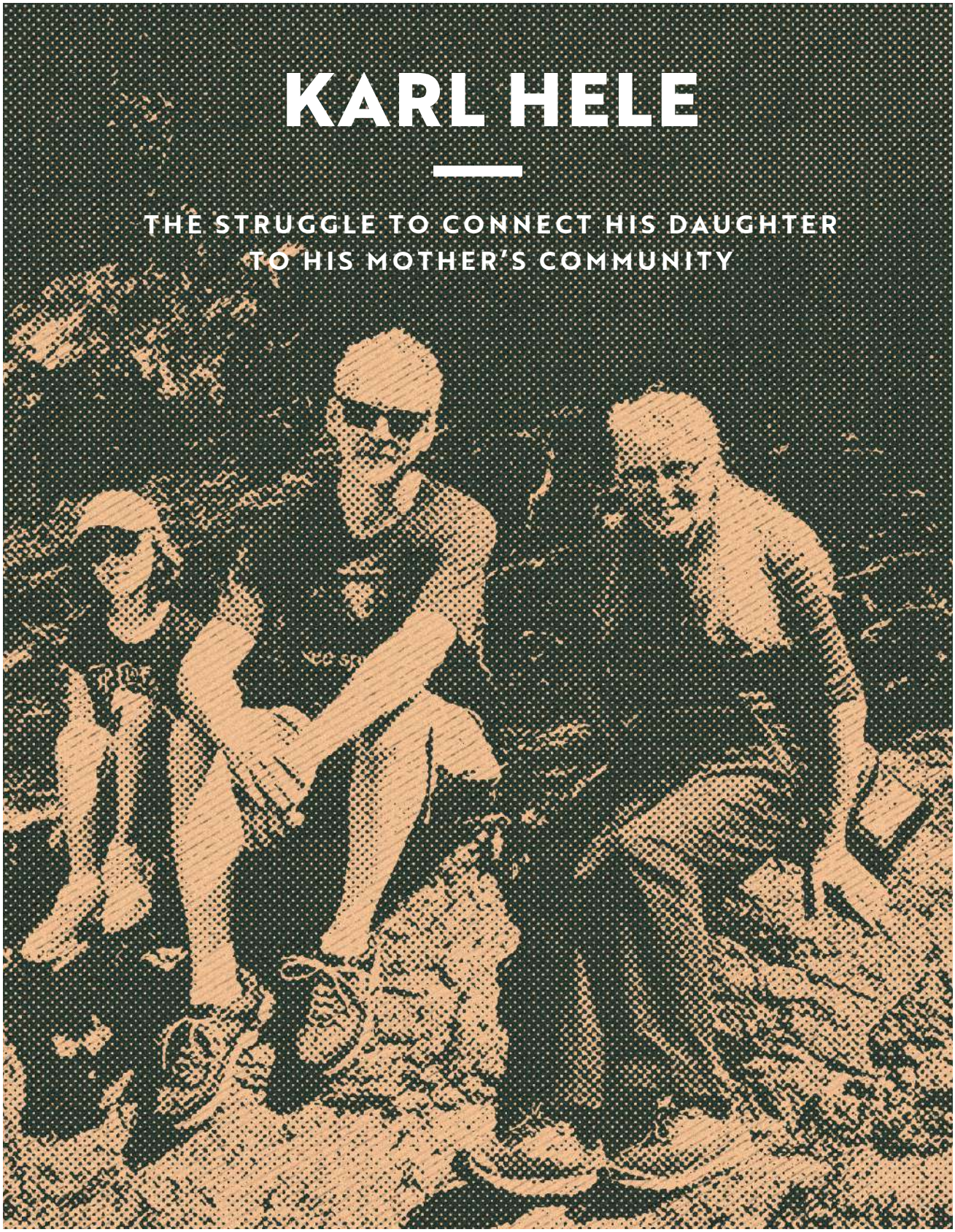
Mark Bedard says he and the whole family hope to carry on Ms. Bedard's legacy.

"I will never be able to fill her shoes. I mean, God, she has some pretty big shoes to fill," says Mr. Bedard. "But what my sister and I both have is that determination. We both have that fight that my mother instilled in us to survive."



KARL HELE

THE STRUGGLE TO CONNECT HIS DAUGHTER TO HIS MOTHER'S COMMUNITY



Pictured: **Karle Hele with his mother Margaret Hele (nee Bell) and his daughter Annora**

KARL HELE: THE STRUGGLE TO CONNECT HIS DAUGHTER TO HIS MOTHER'S COMMUNITY

WHEN MARGARET BELL obtained a teaching certificate, she took teaching jobs away from her Garden River First Nation in the middle of the last century. As a result, members of her community harassed her to give up her Indian status.

The campaign included threats directed at her mother and sisters. Ms. Bell relented to the pressure in 1964.

It was a choice that had profound impacts, decades later, on her son, Karl Hele, his daughter, Annora, and their ability to fully enjoy their rights as status Indians.

Dr. Hele, a professor of Canadian and Indigenous studies at Mount Allison University in New Brunswick and now a member of his mother's First Nation, fought a long battle to ensure that Indian status was passed along to Annora.

"I want her to have status because she knows her dad's an Indian, so I wanted to avoid the awkward question of 'Why am I not an Indian?" says Dr. Hele. "As a parent, how do you tell your kid they're not something, even though they are?"

Dr. Hele also wanted his daughter to have a connection to his mother's community.

"It sounds very non-Indian," he says, "but we've got this piece of property there that I will have, and I want my daughter to have the ability to say, 'this is where we are, and this is where we come from. This is where our ancestors lived since at least the 1840s.' So I wanted that connection to the family's past on the land."

The problem of the Heles' lost status dates back to 1964.

In addition to working off the Garden River reserve, Ms. Bell, Karl's mom, was also travelling and went to places like Europe and Mexico. It was something that did not sit well with the leaders of her community.

"They were basically saying," says Dr. Hele, "that women who don't live on the reserve need to get enfranchised," which is another word for giving up Indian status.

The supposition of the Garden River leadership was that Ms. Bell would eventually marry a non-Indigenous man. Under the rules of the Indian Act of the time, which had been amended in 1951, Indigenous women who married non-Indigenous men lost their Indian status, while Indigenous men who married non-Indigenous women retained their status and passed it along to their wives.

Some First Nations would proactively push women who were living off the reserve to enfranchise. "When I read through the records, they were doing this to all the different women in the area, whether it was Garden River or Batchewana (First Nation) or across Canada," says Dr. Hele.

Indian agents were also doing what they could to get Indigenous women off the rolls.

One aggressive Indian agent "would hear that a woman was engaged to get married to a non-Native and he'd go to the door with her enfranchisement papers in hand saying you need to fill these out," he says. "If they hadn't filled them out by the time of marriage or after the marriage, he'd track them down."

Dr. Hele's mother eventually married a non-Indigenous man, and he was born without status.

"I went to a local high school where my cousins, who were status Indian, were going," he says. "I'd see them in the hallways and we'd chat every once in a while. And different people at the school were like 'why are you talking to the Indian people?' Because I'm Indian, and that's my cousin."

> "AS A PARENT, HOW DO YOU TELL YOUR KID THEY'RE NOT SOMETHING, EVEN THOUGH THEY ARE? I WANT MY DAUGHTER TO HAVE THE ABILITY TO SAY, 'THIS IS WHERE WE ARE, AND THIS IS WHERE WE COME FROM. THIS IS WHERE OUR ANCESTORS LIVED SINCE AT LEAST THE 1840S.' I WANTED THAT CONNECTION TO THE FAMILY'S PAST ON THE LAND."
>
> - KARL HELE

It was important for Dr. Hele to get status, just to make it clear that he was indisputably a member of the Indigenous community. So he and his mother successfully applied for it in 1987 after the Indian Act was first rewritten to eliminate some of its sexist provisions.

But, when he asked to have Indian status extended to his daughter following her birth in 2011, his application was denied on the basis that his mother had 'voluntarily' enfranchised.

Until that time, he thought she had lost her status when she married his non-Indigenous father. Women who had enfranchised were not permitted to pass it along to their grandchildren.

He contacted his mother to ask what had happened, and she told him about the pressure that had been applied by the First Nation.

Ironically, says Dr. Hele, if his mother had lost her status as a result of her marriage to a non-Indigenous person, Annora would have been eligible for status under the 2011 changes to the law known as Bill C-3.

When he tried to explain the situation to his daughter, who is now 11, she would say it is unfair. "And I'm like, 'Well, you're right, but this is how it works. And this is why I'm going to court.'"

He could have made the legal argument that his mother's enfranchisement was not voluntary and was, therefore, a breach of her rights under the Canadian Charter of Rights and Freedoms. But Charter cases often end up appealed all the way to the Supreme Court, which means they can be expensive.

"So we instead filed a claim that my mother's voluntary enfranchisement was an administrative misreading of the Indian Act," says Dr. Hele. "The judge was astounded that we're using these modern laws that are supposedly non-biased to reinforce a rule on biased decisions of the past that we, today, say are odious and shouldn't have taken place. The judge thought this was crazy that a decision in '64 affected a child born in '70, which affected a child born in 2011, who is now being punished because of (an amendment to a law) that was passed in '51."

Dr. Hele and Annora won their case in the summer of 2020, thanks to amendments to the Indian Act that were passed by the federal government in 2011 and 2017 in legislation known, respectively, as Bill C-3 and Bill S-3.

It was the latest step in the fight that goes all the way back to 1857 when enfranchisement laws were first introduced.

Different First Nations responded differently to enfranchisement rules. Some supported the idea that, when an Indigenous woman marries a white man, she moves in with him and adopts his culture. Others believed that it is the men who adopt the culture of their wives, so they should be the ones to leave in the case of intermarriage.

FOR THE GOVERNMENT, ENFRANCHISEMENT WAS A COST-SAVING MEASURE.

Enfranchised people are not entitled to annuities or other benefits that flowed under the Indian Act. So money was offered to Indigenous people to convince them to enfranchise.

Sometimes having those payments in hand made the difference between having food to get through the winter or starving to death. And, when a man enfranchised, his wife and children were enfranchised along with him.

"I've heard of cases where the family had to enfranchise a youngest child or a daughter to get money to survive," says Dr. Hele. "How is that voluntary on the child's behalf?"

The changes to the Indian Act that were introduced in Bill S-3 did remove much of the remaining sexism in the Act.

Dr. Hele says he hopes his daughter is proud of what he has done to secure her Indian status and that, when she is older, she will carry on the fight.

"The whole reason the government invented status was to save itself money and get hold of Indigenous land. Because, if there's no Indians, there's no land claims, there's no Indigenous rights. It's about making us extinct," he says. "I'm hoping, if it's not done by the time she is an adult, that she pushes to get the government to get out of this business of deciding status."

"THE WHOLE REASON THE GOVERNMENT INVENTED STATUS WAS TO SAVE ITSELF MONEY AND GET HOLD OF INDIGENOUS LAND. BECAUSE, IF THERE'S NO INDIANS, THERE'S NO LAND CLAIMS, THERE'S NO INDIGENOUS RIGHTS. IT'S ABOUT MAKING US EXTINCT. I'M HOPING, IF IT'S NOT DONE BY THE TIME SHE IS AN ADULT, THAT SHE PUSHES TO GET THE GOVERNMENT TO GET OUT OF THIS BUSINESS OF DECIDING STATUS."

- KARL HELE

INDIAN STATUS

IS ABOUT RECLAIMING WHAT IS RIGHTFULLY OURS

Katherine Legrange was raised in a non-Indigenous home in Winnipeg, far from the First Nation of her birth father's family.

Today, she is trying to obtain her Indian status. Her request is in limbo because her great-great-grandfather relinquished his status, which meant it was also taken from his wife, his children, and all of his descendants.

But Ms. Legrange is determined to obtain a status card. "More than any benefits associated with being a status Indian," she says, "I just want to belong somewhere."

Ms. Legrange is the biological daughter of a non-Indigenous woman and an Indigenous man from the Crane River First Nation region between Lake Manitoba and Lake Winnipeg. Her birth parents were not married and she was given up for adoption shortly after she was born.

Pictured: **Katherine Legrange**

"I didn't know what my community was or what my legal status would have been. Or anything. I knew nothing," says Ms. Legrange.

The laws governing confidentiality around adoptions changed in 2015 and she was allowed to learn the name of her biological mother, but not the name of her biological father.

"I knew he was the one who was Indigenous and, if I wanted to trace my family history, I'd need his information. At the time, they wouldn't give it to me," she says. But she tried again three years later and was finally provided with his name and date of birth.

Unfortunately, her birth father had died in 1981. Still, the clues she was given allowed her to trace her roots back to Crane River, and she could see the names of her father's ancestors on the treaty list of the Ebb and Flow First Nation.

She learned that, when her great-grandmother was four years old, her great-great-grandfather appears to have opted out of Treaty to take Scrip , which means giving up status. "My great-grandmother, who lost her status as a result of her father's choice, obviously had no decision-making capability at that time," says Ms. Legrange.

Her daughter, Ms. Legrange's grandmother, married a Métis man and they lived on the Métis side of Crane River before moving to Winnipeg in the 1960s.

But, now that Ms. Legrange knows the truth of her heritage, she wants to be able to fully embrace her father's culture.

Becoming a status Indian would have been an impossible quest just a few years ago. Once a person had been enfranchised, the federal government would not allow their descendants to regain what had been given away.

But changes to the Indian Act, including Bill S3, which was passed into law in 2017, have changed the legal landscape. Ottawa aimed to remove the last vestiges of sex discrimination from the Indian Act and, even if some remains, the path was smoothed for people like Ms. Legrange whose ancestors opted out of Treaty.

She applied to obtain Indian status a year ago and has yet to hear back.

The government has told her it could take up to two years for a final decision to be reached. Ms. Legrange says this is unacceptable and points out that no one expects to wait that long for any other form of federal identification.

"There's a number of reasons why I want status. Treaty is a living document, and it's our birthright. I did not have a say in any of my situation, of how I got to this point, being adopted in the Sixties Scoop and being disconnected from my family, from my community," she says.

"So there's that piece of reclaiming my birthright," says Ms. Legrange. "But it's also for my children. Any kind of potential connection that they might have to Ebb and Flow or the Crane River would be lost if I did not pursue it."

She recently located one of her father's brothers and asked him if anyone in the family has tried to get their status. "And he said, 'no, we just were told we were Métis. And so that's what we accepted. We've never pursued anything else.'"

If she is given her status, Ms. Legrange says there are many other cousins who could follow her lead. There were 12 siblings in her father's family.

In the meantime, she has taken a trip out to Ebb and Flow First Nation.

"I've tried to make connections there but they're suspicious of me," she says. "The community doesn't know who I am because I was adopted and grew up in Winnipeg. And I was kept a secret by my father. On my mother's side, some people knew. But on my father's side, nobody knew except my sister and her mom."

Ms. Legrange is more hopeful of finding acceptance at Crane River because it is where her father lived as a child. She wants to attend powwows and festival days next summer. And she has asked both First Nations for membership but has not heard back.

"I just want to belong there," she says. "I want to be able to say I belong to Ebb and Flow or to Crane River. That's where my family is from. Whereas right now, I don't feel like I have the right to say that, which is nonsense. It's a fact, right? That's where my family is from. But there are so many layers of disconnect."

Ms. Legrange recently attended a blanket ceremony conducted by Elders and, even though it wasn't performed in one of the communities of her ancestors, she says she felt like she was being reclaimed.

"Ultimately, that's what I'm looking for—that reclamation, that acknowledgement, that validation of belonging," she says. "The government needs to be accountable. They've done a lot to oppress us as women and children, to deny us treaty rights and benefits, So that's part of it too, just reclaiming what is rightfully ours."

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NWAC, which was founded in 1974, is a national Indigenous organization representing First Nations (on and off reserve, with status and without), Métis, and Inuit women, girls, and gender-diverse people in Canada. Its goal is to enhance, promote, and foster the social, economic, cultural, and political well-being of Indigenous women within their respective communities and Canadian society.

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