

Bill S-3:

An Act to amend the *Indian Act* in response to the Superior Court of Quebec decision in *Descheneaux v. Canada*

WHAT IS IT?

Bill S-3 refers to an Act, passed in December 2017, whose initial purpose was to fix sex-based discriminatory registration provisions within the *Indian Act*. The bill was divided into two stages, the latter stage consisting of consultations with Indigenous communities and persons. **This is where you come in.**



WHAT CHANGED WITH THE *INDIAN ACT*?



Four known problems within the *Indian Act* were fixed: **unknown/unstated parentage**; **omitted minor children** (children who lost status when their mother married a non-status man); the **cousins issue** (differential treatment among first cousins whose status depends on the sex of their grandparent) and the **siblings issue** (females born out of wedlock between 1951 – 1985 who were denied status). These individuals are now eligible for status

WHO IS LEFT OUT?

There are a number of issues remaining in the *Indian Act* which go unaddressed by this bill:

Status hierarchy remains

This refers to the hierarchy of status between 6(1)(a) (male category) and 6(1)(c) status (re-instated female category). This gap also means 6(1)(c) women and their descendants are relegated to a different, often stigmatized and deemed 'lesser' category of status.



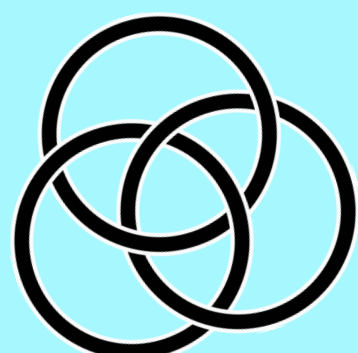
Unstated parentage is problematic

When applying for status on behalf of a child, the registering individuals - predominantly women - must supply "relevant evidence" which is difficult for many to access, or in cases where fathers refuse to sign the application forms, is impossible. In cases of rape, incest or abuse, this process can even be traumatic.



Band membership issues

Rules regarding band membership leave the opportunity for communities to discriminate against women.





Other gaps include...

Situations related to sperm donors, surrogacy and fertility treatments are not addressed by Bill S-3.

WILL IT WORK?

While this Act provides opportunities for more individuals to apply for status, the government continues to determine who does and does not qualify for 'Indian' status.

The bill also contains layered coming into force provisions, meaning these amendments will occur in 2 stages, the first addressing only the discrimination found to be unconstitutional in the titular court case and the second stage addressing a broader range of discrimination under these provisions, but not all discrimination. Bill S-3 also suggests the government has already determined the actions it will take following consultations.



HOW DOES THIS AFFECT UNDRIP?



The government recently introduced Bill C-262 which expressly states that Indigenous peoples should be determining their own identity and membership as per the United Nations Declaration on the Rights of Indigenous Peoples. It remains to be seen how the government would reconcile UNDRIP with the current *Indian Act*.

WHAT CAN I DO?

Make your voice heard! NWAC plans to hold Provincial and Territorial Member Association consultations, as well as national online consultations and a national symposium to raise awareness and generate discussion about this bill and its effectiveness.

