

17 September 2026

Prime Minister Mark Carney
Office of the Prime Minister
80 Wellington Street, Ottawa, ON K1A 0A2

Via email: mark.carney@parl.gc.ca

Dear Prime Minister:

Re: Passage of Bill S-2, *An Act to amend the Indian Act*, in its Senate-amended form

We write on behalf of the British Columbia Civil Liberties Association ("BCCLA") to urge the Government of Canada to accept the Senate's amendments to Bill S-2, *An Act to amend the Indian Act* (the "Bill"), and to pass the Bill without further amendment or delay. We also urge your Government to treat the Technical Advisory Note issued by the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), enclosed, as authoritative guidance in this matter.

Background

Since 1876, the *Indian Act*¹ has functioned to dispossess and assimilate First Nations peoples, including through rules that stripped status from Indian women who married non-status men while imposing no equivalent penalty on men², instead permitting men to endow status on their non-status wives. Although intended to address this inequity, amendments in 1985 (Bill C-31) introduced the second-generation cut-off, a rule placing anyone with only one status parent in a separate status category under section 6(2) of the *Indian Act*. Unlike status under section 6(1), section 6(2) status cannot be transmitted to the status individual's children unless they parent with another status Indian.³

The continued presence of the second generation cut-off in the *Indian Act* has ensured that the disadvantage originating with a grandmother's loss of status for marrying a non-status male has been continued down through the generations, to the present day. This is a structural inequality that perpetuates sex-based discrimination across generations, denies status to people who are

¹ RSC 1985, c I-5.

² *Lovelace v Canada*, Communication No. 24/1977, CCPR/C/OP/1 at para 10.

³ [Indigenousfoundations.arts.ubc.ca](https://indigenousfoundations.arts.ubc.ca), "Bill C-31" (2009) https://indigenousfoundations.arts.ubc.ca/bill_c-31/.

recognized and integrated into their First Nations communities, and will legally extinguish entire family lines from the Indian register within a few generations.⁴

The *Indian Act*'s registration provisions have been found unconstitutional on multiple grounds. In *Descheneaux*⁵ the Quebec Superior Court found that the provisions discriminated on the basis of sex by conferring different status entitlements on descendants of women who had lost status through pre-1985 sexist provisions than on similarly situated descendants of men. A separate form of discrimination, affecting descendants of those who lost status through enfranchisement, was at issue in *Nicholas*.⁶ In that case, the Court granted Canada an extension to April 30, 2026 to enact curative legislation, warning that inaction would create different registration regimes across the country. That deadline has now passed.

On December 4, 2025, the Senate voted unanimously to amend Bill S-2 so that it would repeal the second-generation cut-off and replace it with a one-parent rule. We note with dismay that the Bill has languished in committee since its referral in February 2026 and that the Standing Committee on Indigenous and Northern Affairs has not met for its study since 28 May 2026 and has not yet scheduled their next meeting on this matter. This represents an unnecessary and unconscionable delay, during which time the human rights violations resulting from section 6(2) and the second-generation cut-off have persisted and will continue.

It is critical to recognize that, although the second-generation cut-off may appear neutral on its face, it carries forward sex-based discrimination that has compounded across generations. The second-generation cut-off provides that after two generations of parenting with a non-status person, the children of that family line are no longer eligible for Indian status. For decades, First Nations women who “married out” – partnered with non-status men – automatically lost their Indian status, while First Nations men who married out conferred their status on their wives. The 1985 amendments meant that women who married out prior to 1985 and their husbands constituted a one status parent family and could only confer section 6(2) status on their children, while men who married out and their wives constituted a family with two status parents and could confer full section 6(1) status on their children. In this way, the earlier discrimination continues to shape who is discriminated against by the cut-off today.⁷

The burden of the second-generation cut-off also falls disproportionately heavily on First Nations women and their children. A woman with section 6(2) status cannot transmit status to her child if the child's father refuses to claim paternity, or if she cannot safely name him because of violence, incest, or other abuse.⁸ Because Indigenous women experience disproportionately high rates of unstated or unrecognized paternity, often linked to the presence or threat of gender-based

⁴ Canada.ca, “Collaborative Process on the Second-Generation Cut-off and Section 10 Voting Thresholds: Community Specific Data Sheets” <https://open.canada.ca/data/en/dataset/39194018-abf3-45fd-9310-2acac0f64fa2>

⁵ *Descheneaux v Canada (Attorney General)*, 2015 QCCS 3555.

⁶ *Nicholas v Canada (Attorney General)*, 2025 BCSC 1596.

⁷ Amnesty International, “Erased by Law: How Canada’s Second-Generation Cut-Off Threatens the Future of First Nations” (2026) <https://amnesty.ca/features/canada-second-generation-cut-off-threatens-first-nations/>.

⁸ *Ibid*

violence, and because Indigenous women are more likely than Indigenous men to be single parents, this requirement denies status overwhelmingly to children of Indigenous women and not on those of Indigenous men in the equivalent position.⁹

The EMRIP Advisory Note and Canada's International Obligations

The EMRIP advisory note¹⁰ provides authoritative advice and guidance to Canada regarding its obligations under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It concludes that the second-generation cut-off, the 1985 cut-off, and the two-parent rule in section 6 of the *Indian Act* constitute a policy of forced assimilation in violation of Article 8 of UNDRIP. The Advisory Note calls on Canada to eliminate these provisions as a matter of priority, and to repeal legislative barriers that prevent First Nations women and their descendants from accessing reparations for the discrimination they have suffered.¹¹ The Senate-amended Bill S-2 gives effect to precisely these recommendations.

Canada's obligations in this area are long-established. The UN Human Rights Committee, in its 2026 Concluding Observations, found that discriminatory effects of the *Indian Act* "persist against Indigenous women, particularly regarding the second generation cut off rule," and expressly recommended Canada adopt "proposed amendments concerning the second-generation cut-off rule" without further delay.¹² The CEDAW Committee, in its 2024 Concluding Observations, similarly found that gender-based discrimination against Indigenous women and girls persists despite previous amendments, and recommended Canada repeal all provisions restricting access to reparations.¹³

As a civil liberties organization, we are compelled to underscore what is at stake. The second-generation cut-off is not a mere technicality, but a mechanism of legal erasure. Unless this rule is repealed, entire family lines will be cut off from their legal identity, their communities, their treaty rights, and the services that status confers, and First Nations will become legally extinct under the *Indian Act* in a matter of generations. The EMRIP Advisory Note confirms that every further delay prolongs an ongoing human rights violation.

We therefore call on you, as Prime Minister, to ensure that your Government adheres fully to the EMRIP Advisory Note and supports the passage of Bill S-2 in its Senate-amended form as soon as possible. Any further amendment that weakens or removes the Senate's amendments,

⁹ National Inquiry into Missing and Murdered Indigenous Women and Girls, "Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls" <https://www.mmiwg-ffada.ca/final-report/>.

¹⁰ Expert Mechanism on the Rights of Indigenous Peoples, "Technical Advice to Canada: Technical Advisory Note of the Expert Mechanism on the Rights of Indigenous Peoples" (May 2026) ["Advisory Note"].

¹¹ Advisory Note.

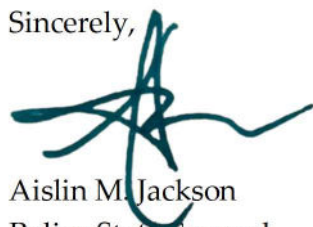
¹² UN Human Rights Committee, "Concluding Observations on Canada" CCPR/C/CAN/CO/7 (March 2026), paras. 55–56.

¹³ CEDAW Committee, "Concluding Observations on Canada" CEDAW/C/CAN/CO/10 (30 October 2024), paras. 31–32.

particularly those addressing the second-generation cut-off or access to reparations, would be inconsistent with Canada's human rights obligations and with the Advisory Note's explicit recommendations. The Government of Canada must pass Bill S-2 intact and without further delay.

Canada has made a solemn commitment to align its laws with UNDRIP under Canada's own statutory obligations with the *United Nations Declaration on the Rights of Indigenous Peoples Act*.¹⁴ Adherence to the EMRIP Advisory Note and passage of the Senate-amended Bill S-2 are the necessary immediate steps to honour that commitment. We urge you to take every step in your power to ensure Bill S-2 proceeds as soon as the House returns.

Sincerely,



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Encl.

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¹⁴ SC 2021, c 14.

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