

managing their own affairs. The chiefs were granted little in the way of bylaw powers, and those limited powers were not at all reflective of their former self-governing powers, which further emasculated them and their role in leading their nation. Their role was (and is) to administer the *Indian Act*.

Here's a list of what chiefs' decision-making powers were reduced to:

- 1 The care of the public health;
- 2 The observance of order and decorum at assemblies of the Indians in general council, or on other occasions;
- 3 The repression of intemperance and profligacy;
- 4 The prevention of trespass by cattle;
- 5 The maintenance of roads, bridges, ditches and fences;
- 6 The construction and repair of school houses, council houses and other Indian public buildings;
- 7 The establishment of pounds and the appointment of pound-keepers;
- 8 The locating of the land in their reserves, and the establishment of a register of such locations.<sup>6</sup>

The two-year election cycle exacerbated the inability of chiefs and councils to make any significant progress on long-term development initiatives, govern and act in the best interests of their citizens, or build effective foundations for community development.

The potential for leadership changes every two years can make it difficult for economic development projects to progress, especially certain resource development projects that are decades in the planning phase. Political instability and economic development are not good

bedfellows. The two-year election cycle also makes it difficult for tribal groups to work together on larger initiatives because elections are all held at different times. Different chiefs, who may not be up to speed on an initiative or who may have a different vision, join the group at different times, which can impede the progress of the initiative.

Another impact of the imposed European-style elections and short term of office is the unending cycle of divisiveness that elections foster within communities. The constant manoeuvring and strategizing for power in the next election pits community members, and frequently family members, against one another. The cohesive, traditional belief that rights are collectively held tends to get lost in the quest to win an election. Not all elected chiefs share the same priorities for how resources should be distributed within the community.

As the goal of the elected band council system was to undermine traditional governance and augment assimilation, many Indigenous people refuse to vote in band elections. Additionally, many refuse to vote in federal elections, although that trend is slowly changing and Indigenous individuals are increasingly running for office in municipal, provincial, and federal elections.

## 2 Denied women status

1869 TO 1985

Provided always that any Indian woman marrying any other than an Indian, shall cease to be an Indian within the meaning of this Act, nor shall the children issue of such marriage be considered as Indians within the

meaning of this Act; Provided also, that any Indian woman marrying an Indian of any other tribe, band or body shall cease to be a member of the tribe, band or body to which she formerly belonged, and become a member of the tribe, band or body of which her husband is a member, and the children, issue of this marriage, shall belong to their father's tribe only.

*An Act for the Gradual Emfranchisement of Indians, 1869*<sup>7</sup>

Prior to European contact, and the ensuing fundamental disruption to the traditional lifestyle of Indigenous communities, women were central to the family. They were revered in the communities that identified as matrilineal societies, had roles within community government and spiritual ceremonies, and were generally respected for the sacred gifts bestowed upon them by the Creator.

In 1742, Joseph-François Lafitau, a French Jesuit missionary and ethnologist, wrote about his observations of the role of women in the Iroquois-speaking nations:

Nothing is more real, however, than the women's superiority. It is they who really maintain the tribe... In them resides all the real authority: the lands, the fields, and all their harvest belong to them; they are the soul of the councils, the arbiter of peace and war... they arrange the marriages; the children are under their authority; and the order of succession is founded in their blood.<sup>8</sup>

The *Indian Act* disrespected, ignored, and undermined the role of women in many ways. This dissolution of women's stature, coupled with the abuses of the residential school system, has been a significant contributor to the vulnerability of Indigenous women.

The *Indian Act* subjected generations of Indigenous women and their children to a legacy of discrimination when it was first enacted in 1867, and it continues to do so today despite amendments. *Indian Act* policies made women unequal to Indian men (who did not lose status when they married non-Indian women) and to non-Indian women (who acquired Indian status by marrying Indian men). Not all, but many, women have faced difficulty in being recognized as both Indians and women in Canada.

Federal law in the late 1800s defined a status Indian solely on the basis of paternal lineage—an Indian was a male Indian, the wife of a male Indian, or the child of a male Indian. Despite amendments, federal law continues to be a quagmire that discriminates against, dishonours, and disrespects Indigenous women.

Under Section 12 of the 1951 *Indian Act*, an Indian woman who married a non-Indian man was not entitled to be registered, and thus lost her status. Section 12 also removed status from a woman whose mother and paternal grandmother had not been status Indians before their marriages. These women could be registered, but they lost their Indian status as soon as they turned 21.

Indian men, however, did not lose their status when they married non-Indian women. Between 1958 and 1968 alone, more than 100,000 women and children lost their Indian status as a result of these provisions.<sup>9</sup>

In 1985, the *Indian Act* was amended by the passage of Bill C-31 to remove discrimination against women, to be consistent with Section 15 of the Canadian Charter of Rights and Freedoms,<sup>10</sup> but gender discrimination remains. For example, in some families Indian women

who lost status through marrying out before 1985 can pass Indian status on to their children but not to their children's children. This is known as the "second generation cut-off." However, their brothers, who may also have married out before 1985, can pass on status to their children for at least one more generation, even though the children of the sister and the brother all have one status Indian parent and one non-Indian parent.<sup>11</sup>

Amendments to Bill C-31 provided a process by which women could apply for reinstatement of their lost Indian status. While such an amendment looks good on paper, in some cases it proved to be extremely difficult for women to actually execute the process. The first of many hurdles for women was navigating the Department of Indian and Northern Affairs' (DIAND) complex documentation system. The numerous requests for additional information combined with the DIAND's significant underestimation of the sheer volume of applicants and its inability to process the applications due to inadequate staffing levels frequently left the applicants in prolonged states of limbo. Besides the daunting magnitude of red tape involved, a more heartless aspect of the reinstatement process was the cost applicants were forced to bear. Many women had to travel from sometimes very remote communities to centres that had DIAND offices. The research and documentation fees and travel requirements simply put the dream of reinstatement, which opened the door to better health and education services for the women and their children, out of reach for many women who were already financially marginalized due to their lack of "status." The *Report of the Royal Commission on Aboriginal Peoples* noted in 1996 that the amendments to Bill C-31 affected all

bands in Canada but did little to change the discrimination against women in the *Indian Act*.

Introduced in March 2010, Bill C-3 was supposed to be the remedy, but it actually continued the discrimination. Grandchildren born before September 4, 1951, who trace their Indigenous heritage through their maternal parentage are still denied status, while those who trace their heritage through their paternal counterparts are not.

*Indian Act* regulations devalue women and are considered the primary cause of the vulnerability of Indigenous women today. The Native Women's Association of Canada states, "These systemic issues have directly caused poor health and mental health, economic insecurity, homelessness, lack of justice, addictions and low educational attainment for Aboriginal women and girls, placing them in precarious situations where the risk for violence is greater."<sup>12</sup>

Peggy J. Blair writes about the rights of Indigenous women on- and off-reserve:

Aboriginal women are more likely to face domestic abuse than other women in Canada. While one in ten women in Canada is abused by her partner, almost one in three Aboriginal women is abused. If an Aboriginal woman leaves the reserve to escape domestic abuse, she can lose her home. There are long waiting lists for housing on-reserve and often a great deal of pressure on band councils to re-allocate housing as soon as possible. Many Aboriginal women who wish to live on-reserve cannot do so, because of a lack of housing... At present, Indian women do not have the same human rights or protection of their rights as Canadian women.<sup>13</sup>