



Indian and Northern
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REPORT ON THE ENGAGEMENT PROCESS

August to November 2009



Changes to the *Indian Act* affecting Indian Registration and Band Membership

Mclvor v. Canada

December 2009

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LIST OF ACRONYMS

AFN	Assembly of First Nations
CAP	Congress of Aboriginal Peoples
INAC	Indian and Northern Affairs Canada
NAFC	National Association of Friendship Centres
NWAC	Native Women's Association of Canada
MNC	Métis National Council

REPORT

The engagement process regarding Canada's response to the decision by the Court of Appeal for British Columbia in the matter of *Mclvor v. Canada (Registrar of Indian and Northern Affairs)*, announced on August 24, 2009 by The Honourable Chuck Strahl, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, has been completed.

On the same day, a [discussion paper](#) setting out the Government's proposed legislative amendment to certain registration provisions of the *Indian Act* was released and posted on the Department's website. Following the launch of the discussion paper, INAC officials traveled throughout Canada to participate at engagement sessions with Aboriginal organizations, Aboriginal women's groups, and regional organizations.

The purpose of these engagement sessions was to seek input from Aboriginal participants on Canada's preferred approach to moving forward with legislative amendment. Technical briefings were held with the AFN, CAP, MNC, NWAC, and NAFC. Three co-sponsored national sessions were held with CAP, NWAC and the NAFC. INAC held 12 engagement sessions throughout the country and Canadians were invited to submit written comments to INAC by

November 13, 2009. Over 150 written submissions were received by the end of the engagement process.

INAC officials are reviewing input from each session, as well as all written submissions. This input will allow the federal government to consider any concerns in finalizing legislation and to prepare for the Parliamentary process.

BACKGROUND

On April 6, 2009 the Court of Appeal for British Columbia ruled in the case of *Mclvor v. Canada* that the *Indian Act* discriminates between men and women in regard to registration as an Indian. The Court of Appeal for British Columbia did not order a particular remedy, leaving that to Parliament. It suspended its declaration of invalidity of paragraphs 6(1)(a) and (c) of the *Indian Act* for 12 months to give the Government of Canada time to take legislative action to remedy the discrimination in the *Indian Act* by April 6, 2010.

On June 2, 2009 Minister Strahl announced that the Government of Canada would not appeal the Court of Appeal for British Columbia's ruling on the *Mclvor* case and that it would proceed with a legislative amendment to Section 6 of the *Indian Act* that deals specifically with the registration provisions that the Court declared unconstitutional.

Ms. Mclvor filed for leave to appeal to the Supreme Court of Canada. On November 5, 2009, the Supreme Court of Canada ruled that it would not hear Ms. Mclvor's appeal, meaning that the decision of the Court of Appeal for British Columbia remains in effect.

TECHNICAL BRIEFINGS

Following the launch of the engagement process, INAC conducted technical briefings with the following Aboriginal organizations:

- Assembly of First Nations
- Congress of Aboriginal Peoples
- Métis National Council
- Native Women's Association of Canada
- National Association of Friendship Centres

These technical briefings were an opportunity for INAC to meet with senior officials from Aboriginal organizations to provide an overview of the engagement process strategy and hear their views.

ENGAGEMENT SESSIONS

As part of the engagement process, INAC officials traveled throughout Canada to hold national and regional engagement sessions with First Nations leadership, Aboriginal women's organizations and Aboriginal organizations. The purpose of these engagement sessions was to provide information on Canada's preferred approach to moving forward with a legislative amendment and to seek comments from participants.

INAC held 12 engagement sessions, as well as three co-sponsored national sessions with CAP, NWAC and the NAFC, with approximately 900 individuals in total.

- November 4, 2009 - Assembly of Manitoba Chiefs, Winnipeg, Manitoba
- November 3, 2009 - Assembly of the First Nations of Quebec and Labrador, Montreal, Quebec
- October 30, 2009 - Saskatchewan Chiefs, Saskatoon, Saskatchewan
- October 29, 2009 - Council of Yukon First Nations, Whitehorse, Yukon
- October 27, 2009 - National Association of Friendship Centres, Ottawa, Ontario
- October 26, 2009 - Union of British Columbia Indian Chiefs, Vancouver, British Columbia
- October 24, 2009 - Ontario Native Women's Association, Thunder Bay, Ontario
- October 22, 2009 - Dene Leadership Meeting, Dettah, Northwest Territories
- October 18, 2009 - Quebec Native Women's Annual General Assembly, Montreal, Quebec
- October 14, 2009 - Atlantic Policy Congress of First Nation Chiefs, Dartmouth, Nova Scotia
- September 25, 2009 - Native Women's Association of Canada - 35th Annual General Assembly, Ottawa, Ontario
- September 24, 2009 - First Nations Summit, North Vancouver, British Columbia

- September 12, 2009 - Congress of Aboriginal Peoples Annual General Assembly, Ottawa, Ontario
- September 10, 2009 - Gwich'in Tribal Council, Inuvik, Northwest Territories
- September 2, 2009 - Assembly of Treaty Chiefs, Edmonton, Alberta

Over the course of the engagement process, the comments received from organizations and individuals throughout Canada extended well beyond the scope of the proposed legislative amendment. The feedback obtained during the engagement sessions and in written submissions referred to broader Bill C-31 impacts such as registration, membership and citizenship issues affecting all First Nations.

Concerns were also raised about potential financial implications for communities due to increased membership should the legislation be passed by Parliament and on the impact of the amendment on treaty rights.

NEXT STEPS

Following the conclusion of the engagement process, INAC is continuing its review of the comments and correspondence it has received in order to move forward with a legislative response to the *Mclvor v. Canada* decision with the goal of having the proposed amendments in place by the court-imposed deadline.

There will be further opportunities for groups or individuals to provide input once the proposed legislation has been introduced in Parliament and is being reviewed by a Parliamentary committee.

In the coming months, INAC is committed to providing updates on developments and to responding to any questions. Enquiries can be sent to:

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