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Political Status of Native Indian Women: Contradictory Implications of Canadian State Policy¹

JO-ANNE FISKE

INTRODUCTION

For more than a century, anthropological interest in the status of aboriginal² women of North America has been shaped primarily by theoretical debates concerning the complex relationships between women's changing social position, social evolution, and economic transformation and, more recently, the penetration of colonizing state societies.³ Since the 1970s, however, feminist scholars have redirected theoretical attention either to interpretations of how gender categories are conceptualized, symbolized, and privileged or to historical materialist analyses of women's status as measured by their relative autonomy and dependence, their control over human and economic resources, and their capacity to exercise public authority.⁴ Historical materialists have concentrated on documentary research in their efforts to assess the impact of colonialism on women's sociopolitical status.⁵ They have embarked on case studies to understand how the articulation between marginal community economies and capitalism establishes the material bases of women's empowerment.⁶

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The latter body of literature reveals contradictions and ambiguities in women's lives that defy easy generalization. On the one hand, case studies suggest that contemporary aboriginal women have relatively high political status vis-à-vis men within their own communities. That is to say, women are not disadvantaged in comparison to men in regard to access to elected office, appointment to administrative positions, employment, and economic advantages within domestic units.⁷ On the other hand, these same studies also disclose the constraints women frequently confront: domestic violence, abuse related to alcohol dependency, the stress of parenting without male partners, and lack of intimate, stable relationships. It is evident, furthermore, that women within a community may experience a wide range of differences in their status, while individual women encounter considerable changes in their political position consequent to changing kinship statuses.⁸ Discrepancies between actual functions women perform and the prevailing gender ideology create further paradoxes in women's status relative to men.⁹ Moreover, in some instances women may have attained political advantage consequent to surmounting extraordinary hardships wrought by poverty.¹⁰

In the eyes of some, the excessive affliction of domestic violence, registered as the number one concern of women reporting to the Royal Commission on Aboriginal Peoples,¹¹ renders any analysis of the contradictions of women's status suspect. How, they ask, can factors indicating female empowerment be weighed fairly against the debilitation of domestic and sexual violence? Indeed, strong statements, supported by unequivocal evidence of the extent of violence, are made to this effect. Nahanee, for example, speaks of "the almost total victimization of women and children in Aboriginal communities" and states, "Violence against Aboriginal women has reached epidemic proportions according to most studies conducted over the past few years. This violence includes the victimization of women and their children, both of whom are seen as property of their men (husbands, lovers, fathers), or of the community in which they live."¹² At the same discussion before the Royal Commission, Patricia Monture-OKanee and Mary Ellen Turpel reiterated their perceptions that violence leads the list of women's justice concerns. In Monture-OKanee's words, "We must also accept that in some circumstances it is no longer the descendants of the European settlers that oppress us, but it is Aboriginal men in our communities who now fulfill this role."¹³ The truth of this oppression, viewed by

these scholars as consequent to internalizing colonial oppression, which invariably foists a sexist/racist regime on the oppressed even while it privileges male power within the colonized community, cannot be questioned. Nonetheless, it is also seemingly apparent to many outside observers, and to some community members, that women do retain considerable influence and power even while they confront their male and colonial oppressors. Women's influence appears to derive from their education, which leads them to paraprofessional, administrative, and clerical positions in the First Nations' administration and social, health, and educational services. (Some Canadian data support this general view of positive influence: In 1986, 29 percent of working aboriginal women, as compared to 16.1 percent of men, were in managerial or professional positions.)¹⁴

These contrary views beg the question, Is either view a misrepresentation or is the situation so complex that both may account truthfully for some aspect of women's shifting, complex experiences? This article explores the contradictory and ambiguous nature of women's political status vis-à-vis men within the internal political processes of Canadian Indian¹⁵ reserve communities up to 1990. It examines the linkage between economy, domestic organization, and political processes on the one hand, and the relationship between Indian women and the state on the other.

Indian women have had their lives disrupted by state intervention to a greater degree than any other women of Canada and more extensively than their male aboriginal peers. The very fact of this extensive intervention raises questions about the legacy of colonialism that has left aboriginal women suffering a double jeopardy of sexist and racist discrimination, which are so intertwined that one can hardly be discussed without consideration of the implications of the other. Here a caveat is in order. It is true that many of the conditions described herein have not altered since 1990. However, 1991 marks a turning point in the degree to which provincial public policies have affected First Nations' political and economic practices.¹⁶ To date, we have neither case studies nor comparative analyses on how these changes have affected gender relations in reserve communities. The most compelling situation, according to Nahanee, has been the transfer of judicial powers to communities, wherein a range of alternative sentencing practices and alternative justice systems has given rise to dubious treatment of male offenders at the expense of women's safety and well-being.¹⁷ Moreover, as First Nations have gained greater ad-

ministrative autonomy and have selected diverse strategies for decolonization, nationwide generalizations have been rendered more difficult.

The complex relationship between economic marginality, state intervention—which in itself is contrary, for the state can be the site of both oppression and protection—and the ambivalent status of Indian women calls for a feminist analysis of the ways in which the state organizes Indian women's daily lives and creates competing interests between women and men.¹⁸ It also directs our attention to women's strategies and goals in political struggles engendered by state intervention, most significantly women's opposition to the state's enduring efforts to assimilate Indians and the more recent actions of some to reduce them to just another disadvantaged group within a multicultural society.

While it has been recognized that "state policy towards the Indians, more than anything else, stands out as the most salient factor in explaining the relationship between Native and white Canadians"¹⁹ and that Indian women, in particular, have been subjected to destructive racial and sexist policies, no systematic analysis has been offered of the impact of state policy on gender relationships. The paternalistic relationship between the state and Indian women is of particular salience in understanding their social position, for the Canadian Parliament has assigned Indian women fewer fundamental rights than their male peers and has subjected them to different definitions of their legal Indian status for more than a century. I suggest that assimilationist policies constitute elements of state patriarchy, in this case state organization of and control over reproductive relations that serve to define Indian identity.²⁰ Patriarchal policies and practices impinge upon marital and parental relations and constrain women's sexual and reproductive freedoms. Before analyzing this coercive relationship, I will provide some useful definitions and a brief synopsis of relevant legislative history.

DEFINITIONS AND A BRIEF HISTORY OF LEGISLATION

It has been more than a century since the first Indian Act (1876) consolidated colonial Indian policies and established the framework for Canada's administration of Indian people. This framework was premised on the paternalistic notion that, although Indian people were "wards of the state" requiring "protection,"

they would eventually become “civilized” and assimilate into broader society. The Indian Act (administered by the Department of Indian and Northern Affairs Canada [DINAC])²¹ exercises exclusive power (allocated to the Canadian Parliament by the Constitution Act, 1867²²) to determine who shall be recognized as Indian, the criteria by which this status shall be accorded or lost, and the conditions under which said Indians must live in order to benefit from special treatment in federal law. From 1876 onwards, the terms *legal*, *registered*, and *status* have been used interchangeably to denote Indians recognized by the federal government and regulated by the Indian Act.

Status Indians are organized by the state into “bands,” which were intended to function as the equivalent of municipalities (a curious notion, given that municipal governments are concerned with the administration and protection of private property and that some bands are an amalgamation of more than one community). Moreover, as government-designated administrative units, bands did not necessarily represent their members’ perceptions of appropriate social boundaries. The term *First Nation* has gradually displaced *band*, although the two are not always congruent; some First Nations comprise a number of bands, while others do not. Bands (which are organized for administrative purposes by the state and which the minister of Indian affairs can create and destroy regardless of historical connections, cultural differences, or kinship affiliation) share corporate rights to lands and funds held in trust for them by the federal government. Federal aboriginal-specific programs are largely confined to the status Indian population ordinarily residing on these reserves.²³ As resident reserve members, status women (and men) enjoy specific rights and privileges: membership in the band electorate, a share of the band’s common resources, financial support for tertiary education, housing assistance, and financial aid from special native economic development funds.

In contradictory efforts to assimilate Indians into mainstream society while allegedly protecting their lands from Euro-Canadian encroachment, the state has frequently revised the criteria it uses to assign legal status.²⁴ From its beginning, the Indian Act embraced the patriarchal terms of the Enfranchisement Act of 1869, which stipulated that Indian women who married non-Indian men would have their and their children’s legal status revoked. At the same time, upon marriage to a status man, a non-Indian woman became a status Indian and consequently ben-

efited from federal Indian programs. Children whose mothers were status Indians but who lived off the reserve were also deemed status Indians. In 1941, however, the father's status came to determine the fate of children living away from the reserve. The act was amended again in 1951 to further disadvantage women; now any woman losing status through marriage also lost her band membership and her rights to reside on the reserve, to inherit reserve property, and to share in the band's resources.²⁵

Prior to amending the Indian Act in 1985, the state had imposed universal patrilineal criteria for band membership. Upon marriage, a woman was reassigned to her husband's band. Children born in wedlock were assigned to their parents' band; children born out of wedlock to status women became members of their mother's band (providing that no objections were raised and the ministry approved); sons born out of wedlock to non-Indian women and Indian men were registered in the father's band, but daughters of these unions were denied registration.²⁶

Other early provisions of the act reinforced women's subjugation. Until 1951, women were excluded from the band electorate and barred from public meetings. Indian Affairs agents exercised considerable discretionary power over property inheritance. They allocated housing, agricultural land, and other valued resources to the benefit of men.

In 1985, following a long and bitter political struggle, efforts were made to redress the sexually discriminatory sections of the act and to make it conform to the equality provisions of the Charter of Rights and Freedoms, 1982.²⁷ New legislation, popularly known as Bill C-31 (an Act to Amend the Indian Act), redefined who is and who is not a registered Indian. The sexually discriminatory passages of the old Indian Act were rescinded. Now marriage no longer affects legal status. Women who had lost status upon marriage became eligible for reinstatement to band membership and for reregistration as Indians under the act. Their children also qualified for registration and were granted contingent band membership, the latter to be ratified by the bands themselves. Bill C-31 also defined eligibility for various state benefits.

The new provisions created two official categories of Indians: (1) a charter group of reinstated women and all who had band membership prior to 17 April 1985 (when Bill C-31 took effect); and (2) a group of registered status Indians who are not guaranteed band membership and all its attendant rights and privileges,

but who must apply to the band itself. The situation is further complicated by the act's provision that bands may now formulate and enact their own membership regulations. Consequently, a third category emerged: unregistered Indians with band membership.²⁸ In short, salient distinctions now exist between three sociolegal categories of Indians and band members—differences that generate unequal entitlement to valued resources and to special treatment under federal law.

At first blush, Bill C-31 appears to be an awkward compromise between guaranteeing individual equality rights and recognizing collective aboriginal rights to self-determination. But it is much more than that. It empowers the Canadian state with new ways to intervene in reproductive relations; in fact, it expands the state's interest in where, when, and with whom women form intimate relations and rear their children. But these powers were not confined to the direct authority of the state. As elected band councils have assumed more authority over their members, their identity has altered and, with it, both their self-identifying discourse and their political strategies vis-à-vis their membership. To understand fully the impact of state interventions on gender relations, we must address the economic and political relations that have prevailed between reserve communities and the state, paying particular attention to the links between political processes and domestic organization. At this juncture, a second caveat is in order: Much of what follows, in particular the impoverishment of rural and small bands, remains the case for many First Nations. Lack of recent statistical data and comparative information on resource-rich and urban First Nations since 1991 precludes applying this study beyond 1990.

THE DOMESTIC SECTOR OF PRODUCTION AND THE ORGANIZATION OF DOMESTIC LIFE

With rare exceptions, prior to 1990, the 596 Indian bands of Canada were wholly dependent on the federal government, which, in turn, limited economic and social benefits to status, reserve residents and (notwithstanding the actual number of reserve residents) calculated each band's fiscal entitlement according to this designated population base. Consequently, by devising new sociolegal categories with differing entitlement to benefits, the state aggravated community tensions. Even as populations grew²⁹

and resources dwindled, the state initiated the devolution of responsibilities, and First Nations assumed increasing responsibility for administering social and economic programs, putting further pressures on limited human and capital resources.

Analyses of the political processes in reserve communities suffering economic and social deprivation have led to the conclusion that internal political influence was gained by individuals acting as power brokers between the state and their community. Political influence is said to have rested on the ability to control scarce resources that circulated from the state.³⁰ These resources include funds for community administration, grants for community development projects and temporary job creation schemes, and subsidized housing for reserve residents. The degree of dependency generated is indicated by the high reliance on public sector jobs. In 1983, 63 percent of on-reserve workers made their living from the public sector.³¹

Due to the paternalistic practices of "welfare colonialism" or "wardship," a larger power base could not be created by the band council.³² Compounding the restrictions of economic dependency was the fact that the state resisted relinquishing its bureaucratic control. The strict legal regime of the Indian Act limited local government authority to enacting minor bylaws and to routine administrative obligations. With very few exceptions, the First Nations lacked an independent fiscal base, such as the right to levy taxes or royalties on resources.

With the few exceptions of the Northwest Coast fishing villages, the large, semiurban reserves, and those blessed by resource royalties, unemployment and underdevelopment have characterized reserve life. In rural and northern areas in particular, wage labor opportunities were minimal, often sporadic, and consisted of relatively poorly paid or short-term jobs. Here the primary source of personal cash income came from programs administered by federal agencies. Community administration of social, educational, and cultural programs created the band's limited employment opportunities.³³ State assistance, either in the form of personal incomes or community development projects, rarely incorporated native workers into the mainstream economy. Nor did it seem to alleviate substantial economic hardship. Reliance on state transfer payments meant that reserve communities primarily constituted a domestic sector of production, where the production of use-values was paramount. They operated at the periphery of capitalism. In areas where native populations domi-

nated, land-based productive activity was paramount.³⁴ Elsewhere, subsistence production combined with unearned income in the creation of use-values. As Peter Usher notes, "The capitalist mode has been superimposed on the preexisting domestic mode, but the latter survives in modified form. The two coexist not as isolated, unconnected enclaves, but rather as interrelated parts of a larger social formation, that of industrial capitalism. . . ." ³⁵

Beginning in the 1960s but emerging more clearly in the 1970s and 1980s, the articulation of the domestic and capitalist modes of production generated complex ramifications for women. Within the domestic sector, reproduction and production overlapped and affected kin relations and household organization. In the First Nation reserve communities, individual households were rarely self-sufficient. Extended families, whether sharing a common household or otherwise, were the most stable economic unit. Kinship units were drawn together by a common need to share cash income, subsistence production, and labor. Exchanges of labor, goods, and services were reciprocal. An ethos of generosity and sharing prevailed across native societies. Earned income and subsistence goods found their way into interhousehold exchanges, thereby lessening the economic disparity of individual households and providing stability when household membership fluctuated and when access to resources was seasonally erratic.³⁶

Cooperation and sharing enhanced women's social mobility. Collective responsibility for child care, for example, allowed women to pursue wage employment and education away from their communities. Similarly, pooling a range of subsistence goods and cash meant that women who were absent from seasonal subsistence production, whether they resided elsewhere permanently or only occasionally, could expect to share essential domestic provisions. Through collective labor and mutual support, women were relieved from performing domestic services for men and were protected from systematic economic dependence upon them. In fact, marriage did not necessarily improve women's economic well-being, since men often could not regularly or adequately support dependents. Indeed, marriage might be detrimental. A husband without either a cash income or the means to intensify use-value production became a drain on already limited resources. Faced with a difficult choice in circumstances over which they had little or no control, many women resigned themselves to forming autonomous households.³⁷ Wotherspoon and Satzewich, citing figures from the National Council on Welfare,

report that, in 1986, 16 percent of aboriginal families were female headed. Because of the difficulty in obtaining accurate figures and the reluctance of some First Nations to participate in census enumerations, this figure may be low, as indicated by several case studies that report on the frequency of female-headed households.³⁸

First Nation women's domestic choices were never entirely free of state intervention. State policies and practices directly and indirectly organized their daily lives in complex ways. State support for individuals has been organized around the provision of essential resources for women, children, and the elderly, which fostered development of uterine-based kin networks. Whether married or single, women favored residing with or near their mothers, while single men, unable to be self-sufficient, relied on their own female kin.³⁹ Female-headed households were common; mothers raising children established their own homes or shared dwellings with female kin who distributed the burden of child care and economic resources.⁴⁰ Where women had relative wealth—for example, access to state transfer payments—and because they exercised control over essential provisions on which others depended, they played significant roles in interhousehold relations.⁴¹ The greater a woman's cash or subsistence contributions to the household economy, the larger the number of kin who depended, directly or indirectly, on her support.

Just as social assistance benefits bolstered women's inter-household influence, so, ironically, did coercive state policies. State interventions into family affairs was a case in point. Women lobbied the federal government for improved housing and essential community services, such as health care, recreation facilities, and education. Child apprehension practices, in particular, spurred women's kin networks and grassroots organizations into political action. Native families have been more likely than any others in Canada to have children removed to foster care or placed for adoption, primarily with Euro-Canadian homes.⁴² In response, female-centered kin networks provided care when parents could not, while women's associations and band administrations formed child welfare committees and engaged in political lobbying.⁴³

Confrontation with the criminal justice system also drew women into the political arena. According to the Canadian Human Rights Commission, the odds of aboriginal women and men being imprisoned are higher than for any other Canadians.⁴⁴ With the

extraordinary frequency of civil and criminal charges laid against their kin and the inordinately high rates of incarceration that disrupted their families, women and their associations politicized their distress and appealed to the state for alternative solutions.⁴⁵ Similarly, women challenged the state in order to protect aboriginal resource rights, not infrequently arguing that, as nurturers and providers, women bear a particular obligation to oppose state encroachment.⁴⁶

Nevertheless, the autonomy women gained from the relative security of their economic status, when compared to that of men, was not without paradox. In many ways, women paid dearly for their independence. Chronic poverty has been associated with health and social problems, not the least of which is alcoholism, an affliction that continues to generate considerable despair and interpersonal violence.⁴⁷ Conflict-ridden relationships have been common and brittle.⁴⁸ In the face of frequent domestic violence, women formed their own households or shared residences with female kin. (For one aboriginal woman's viewpoint on violence, see Monture [1989].) As women established independent households, men were alienated from their children. Whether they desired it or not, women often had little choice in shouldering the primary, if not sole, responsibility for child care.⁴⁹ Not only were many women rearing their own children; they also gave economic and emotional support to their male kin's children. Nor did their maternal responsibilities end when children reached adulthood; rather, in a variety of ways, women continued to bear maternal responsibilities. Grandchildren had to be cared for when parents were unable to do so. Domestic conflicts had to be resolved. Domestic provisions and cash needed to be supplied in times of scarcity.

It is also true that within and between communities, women experienced their poverty and responsibilities differently. Due to internal, institutionalized divisions of rank, status, and prestige, some kin networks enjoyed greater benefits than others. Some women found themselves isolated from cooperative networks because of lack of kin. Elderly and middle-aged women without adult children and grandchildren, for example, suffered greater alienation and hardship than those with large extended families. Similarly, women's access to housing varied within communities. Here again, women of extended kin networks were more likely to secure a home as a consequence of their own and their kin's capacity to influence resource allocation.⁵⁰

The pains of autonomy for women were rendered more problematic by the intrusive, patriarchal terms of the Indian Act, which further divided and harmed women. Most vulnerable were young women who had married into another band. Until they had adult children, or unless they had female kin within the band, they often endured considerable social isolation. They were perceived as outsiders, and their isolation was particularly pronounced if they were widowed, separated, or divorced.⁵¹ Returning to their natal band was not easy. Prior to 1985, married women were automatically transferred to their husbands' bands; amendments to the Indian Act did not make returning to their natal band any easier. New membership provisions still empowered band councils with the right to decide if and under what terms former members might return. Isolated women experienced difficulty obtaining employment, securing educational assistance, acquiring a new home, or retaining a marital home following separation. Lack of access to education had long-term ramifications; as women's educational levels rise, the more likely they are to participate in community administration and politics. In contradiction, women lacking these social resources were pushed to the community's margins.⁵²

Gender conflicts were exacerbated by the return of reinstated women and their children to reserve communities. With reserve population increases of 32 percent between 1985 and 1990, of which 60 percent was due to Bill C-31, band administrations could not meet demands for postsecondary education.⁵³ In 1987, DINAC introduced a system of priorities for allocating funds that was meant "to assure that students who would come from the regular stream for post-secondary education were not disadvantaged by taking funds and transferring them to Bill C-31 students."⁵⁴ In consequence, when funds were exhausted, reinstated women suffered.⁵⁵ As women's associations report, in some regions reinstated women received lower rates of assistance than charter members of their bands. Furthermore many women who were unable to return to a reserve were excluded altogether.⁵⁶

Administrative staff, acting on behalf of elected councils, regulated home ownership and occupancy. However, house allocation was constrained by DINAC policy dictating the number of units and eligibility and by previous practices of DINAC agents. Historically, Indian agents favored men when allocating home and land ownership. In most areas of Canada, ownership was registered with DINAC by "certificates of possession." Widows

usually inherited their husbands' properties, but it was uncommon for single or divorced women to possess homes. Likewise sons, married or single, were favored over daughters when inheriting parental property. In some communities, women remained unaware of their entitlement to certified possession.⁵⁷ Elsewhere, reinstated women face greater constraints. For example, at the Sawridge Reserve—a small band that is wealthy because of resource royalties—councils have specifically denied reinstated women the right to residency, thus denying them access to the social housing programs; on other reserves faced with housing shortages, elected councils have granted priority to original charter members at the expense of reinstated members and their families. Despite promises to the contrary, in the five years succeeding Bill C-31 the federal government failed to provide sufficient revenue to ensure homes for both reinstated women and charter members.

There is no federal legislation directly addressing the relationship between the Indian Act and provincial and federal family law, marital property laws, or marriage and divorce legislation (*Paul v. Paul* [1986] 1. SCR. 306; *Derrickson v. Derrickson* [1986] 1 SCR 285).⁵⁸ Because provincial laws could not be enforced on Indian reserves (since reserve property falls under federal jurisdiction), women's access to stable housing varied from reserve to reserve. A First Nation government determined whether women were granted homes on the same basis as men and with the same security of possession. Such has been the case for the Stoney Creek Carrier, where mothers are granted housing priority.⁵⁹ In contrast, among the Maliseet of Tobique, New Brunswick, the quest for decent, secure housing and rights to marital property resulted in a political confrontation with the band council and the federal government. Unable to obtain homes, women resorted to an occupation of the council's offices and then, in July 1979, organized a protest march that drew nationwide attention and participation.⁶⁰ Women without home ownership were denied a source of power in domestic and economic arrangements, which had grave repercussions. Where women could not obtain certificates of possession to reserve land, for example, they could not establish businesses that required special premises. Consequently, they competed somewhat unequally with men for the financial and economic resources of the reserve.⁶¹ And, of course, they were subjected to local politics as well as to formal state-level politics. They could not avoid the maneuvers and manipulations of local politics.

WOMEN'S POLITICAL STATUS

Despite the contradictions women experienced and their uneven access to essential resources, women's domestic functions and status often facilitated rather than hindered their opportunities for political participation.⁶² Because of the corporate interest in household provisions, the multiple demands on individuals' incomes, and an administrative priority to secure a living for community members, political considerations underlay virtually every decision concerning the allocation of common resources.

Political organization in reserve communities was by and large informal, characterized by face-to-face negotiations and subtle pressures radiating from kin-based social networks that perceived themselves to be in competition with each other.⁶³ Increasingly, however, through the 1970s and 1980s, these kin networks were female-centered. As female-headed households increased, so women's influence within the community rose. Similarly, as women's economic contributions grew relative to men's, women acquired greater control over the resources necessary to advance family status and political interests. Their influence over kin networks allowed women to shape and even to direct the course of public decision-making, whether it was through holding political or administrative offices or through promoting candidates for elected office.⁶⁴

Women frequently achieved influence through their positions on advisory committees established by elected councils. Indeed, as the administrative responsibilities of reserve governments expanded, women were finding new opportunities to exert influence. Paraprofessional and managerial jobs created by the newly founded local bureaucracies not only generated employment for women; they fashioned new avenues for directing public affairs and public office.⁶⁵ From these administrative positions as well as from their voluntary associations, women sustained enduring influence over state officials.

In their struggle to improve the quality of family life, women faced many of the same pressing economic and social issues confronted by the elected band council: improving employment, housing, health, education, and recreational services and protecting resource rights from state and capitalist encroachment. This overlap of domestic and public concerns led women to present their political actions as an extension of their familial responsibilities, saying that their public behavior carried the same meaning as

their roles as women, mothers, and grandmothers.⁶⁶ In the eyes of the community, claims for houses, jobs, and development projects were closely tied to women's moral obligations to improve their own or their kin's immediate circumstances.

Women adopted diverse strategies to meet these objectives on a communitywide level. On their reserves, women's voluntary associations and service committees raised funds for community services, job creation programs, and community facilities. When the voluntary associations obtained funds for job creation, their leaders forged client/patron relationships with supraparochial interests, further augmenting their political influence. Women's associations also created opportunities to inform women of tribal political issues, to generate female solidarity, and to deal directly and independently with intervening state agencies.⁶⁷ In consequence, acquired political and organizational skills and knowledge prepared women for public office and for political advocacy in a larger political arena.

Women also formed voluntary associations that embraced both status and nonstatus members in order to preserve social cohesion and to afford a sense of cultural continuity. Benefits from federal funds could be allocated by voluntary associations to status and nonstatus persons whether they were reserve residents or not. Among the Stoney Creek Carrier, for example, building projects sponsored by women's groups and funded by the Canada Employment and Immigration Commission and Canada Health and Welfare employed residents and nonresidents regardless of their sociolegal status.⁶⁸

Provincial and federal aboriginal associations, such as the Homemakers of British Columbia and provincial and territorial member associations of the Native Women's Association of Canada, established reserve-based chapters representing both status and nonstatus interests. These and like-minded associations confronted compelling issues like child apprehension and family violence, providing a unifying forum for status and nonstatus women. But their strength must not be exaggerated. State-imposed definitions of status and identity were never readily overcome; their effects on women have been divisive and enduring.⁶⁹ Although voluntary associations were effective in mitigating tensions within kin networks or small communities, they were less successful in bridging large-scale rifts between status and nonstatus groups. The scale of personal tensions and social strains created by state-imposed definitions of sociolegal status loomed

too large for an easy solution. The crux of the contradictory base of women's empowerment lay in the patriarchal foundation of state definitions of Indian status.

GENDER IMPLICATIONS OF SOCIOLEGAL STATUS AND SELF-DETERMINATION

Just as the consequences of domestic organization were contradictory and unevenly experienced within and between communities, so, too, were the social consequences of Bill C-31. Devised as a compromise between meeting the equality provisions of the Charter of Rights and Freedoms and granting limited recognition of aboriginal demands for self-determination, Bill C-31, in fact, exacerbated gender tensions by imposing severe restrictions on women's personal lives and by bolstering state patriarchy. Once again, the issue was gender discrimination residing in state control over transmission of legal status. To start, as of 1985, Bill C-31 entitled children of persons holding status prior to 17 April 1985 to pass on status, while children of reinstated women could not do so unless they married registered status Indians. At the same time, Bill C-31 prevented reinstated females born out of wedlock to status fathers and non-Indian mothers from transferring status, while permitting their brothers born in the same manner to do so. Thus status has been effectively cut off after two generations of status/nonstatus unions.

Even more problematic for women has been the provision that children born out of wedlock are unable to transmit status to future generations unless their mothers could prove that the father was a status Indian. To do so, a woman was required to present a sworn affidavit of paternity to DINAC. Since, on average, 50–60 percent of status women's children were born out of wedlock,⁷⁰ the ramifications of this intrusion were far-reaching. Overall, the policy undermined women's marital choices—for example, whether to adhere to customary marriage practices or to refrain from a legally sanctioned marital relationship. Because band administrations registered births and applications for status and because the federal state did not provide for unregistered children, increasingly women found themselves subjected to community surveillance. Band councils and administrators had a new interest in registering infants of unwed mothers and hence in having women divulge paternity. In consequence, women suffered further ero-

sion of their domestic autonomy, and many faced conflicting pressures from their bands and the fathers of their children.⁷¹

Although state regulations disproportionately affected reinstated women, all status women faced new tensions as Indian peoples encountered contradictory demographic and economic pressures. The state was not the only interest group to benefit from regulating gender relations. Status Indian communities also had a vested, yet contradictory interest in regulating population growth and/or decline. In fact, the narrowly defined entitlements of Bill C-31, combined with high rates of intermarriage to non-status and non-Indian persons, may eventually result in a declining status Indian population.⁷² More immediately, some families may find, within the next two generations, that they have no status members remaining.⁷³ With Bill C-31, reproduction of a status population established compelling household imperatives that, in turn, affect selection of marriage partners and women's choices concerning when and with whom to bear children.

Indeed, the legacy of Bill C-31 is a veritable Gordian knot that continues to confront Indian peoples. First Nations with few resources and little hope of economic development may, in the short term, suffer from population increases; ironically, in the long term, they may face a serious decline in a population for whom the government has a constitutional responsibility. This paradox is inextricably tied to First Nations' responses to women's demands for sexual equality and for state legislation compelling bands to devise membership rules and self-government structures consistent with the Charter of Rights and Freedoms.⁷⁴ Perpetuation of sexually discriminatory practices—whether perceived as customary laws or as internalized state practices—is likely to discourage women from remaining reserve residents and may carry the unintended consequence of further diminishing the status population.⁷⁵

At the heart of this conundrum lies the conflict between Indian peoples and the Canadian state regarding self-determination. While the state continued to conceive of bands only as its designated administrative units, Indian peoples came to perceive themselves as First Nations whose aboriginal rights included determination of citizenship, which has been seen as the necessary condition to prevent assimilation.

The struggle against assimilation lies at the core of gender tensions and the paradoxes confronting women. Women's organizations have consistently argued that total removal of sexual

discrimination from the Indian Act should take precedence over self-determination. This position brought NWAC into conflict with the Assembly of First Nations (AFN), which had as its primary objective First Nation control over citizenship.⁷⁶ While NWAC and the women's associations it represented maintained that the various forms of differential treatment violated national and international human rights legislation, especially the Canadian Charter of Rights and Freedoms and the International Covenant on Civil and Political Rights, the AFN officially opposed (as did most status Indian groups) sexually discriminatory legislation. Nonetheless, its leaders argued that amendments to the Indian Act and appeals to state authority could not redress former wrongs or determine future conditions of citizenship. The AFN worried that the individualistic values of the charter would take priority over collective rights, the latter being, in the eyes of the AFN, consistent with aboriginal tradition and essential to preservation of the special status of First Nations.

Aboriginal communities were slow to address tensions related to Bill C-31. The Canadian Human Rights Commission recorded growing numbers of complaints from women about violations of human rights, while, in January 1990, the Ontario Native Women's Association released media reports of increasing violence against women, in particular reinstated women seeking access to band resources. As of 1990, 232 of 596 bands controlled their own membership via band-designed membership codes. Codes varied in their restrictions, some calling for blood quantum, others adhering to patrilineal descent or other social criteria of eligibility. Some First Nations denied women educational assistance and residency rights, while others proposed membership codes that would exclude reinstated women from specific benefits.⁷⁷ The Sawridge band in Alberta, for example, not only proposed prohibiting Bill C-31 registrants from reserve residency; it turned to the courts in an effort to have Bill C-31 declared in violation of constitutional guarantees of aboriginal rights.⁷⁸

Community dispute settlement mechanisms were unable to resolve gender conflicts. Furthermore, the state retained power to override internal decisions. Gradually, women turned to the federal court system for redress of their wrongs.⁷⁹ Nonetheless, many reinstated women felt too vulnerable to contest gender discrimination, particularly recent residents on the reserve and women who experienced widespread opposition to their claims to corporate resources and state benefits.⁸⁰

The ultimate irony was that women found themselves assimilating in order to resist state policies of assimilation; that is, they felt impelled to turn to the tools and rules of the state in order to secure their Indian status and its benefits. Appeals to external powers may well undermine aboriginal autonomy and hence diminish the cultural and economic benefits of Indian identity. Turpel, for example, argues that internal challenges to aboriginal government "would be a dangerous opening for a Canadian court to rule on individual versus collective rights vis-à-vis aboriginal peoples[;] it would also break down community methods of dispute resolution and restoration." She further asserts that "any case which presents a Canadian court with the opportunity to balance or weigh an individual right against a collective right . . . will be an opportunity to delimit the recognition of Aboriginal Peoples as distinct cultures."⁸¹

The struggle for self-determination, however, holds no guarantees of sexual equality. The state-imposed structure of elected band councils and the imposed definitions of *Indianness* have been internalized and institutionalized within the status Indian political structures. Interband unity of cultural groups has been effected primarily within political mini-bureaucracies variously known as tribal councils, confederacies, or unions, whose executive bodies comprise elected band chiefs or their delegates. This structure has been carried through to the provincial and national levels; AFN membership, for example, is composed of elected chiefs from most Canadian Indian bands. It remains male dominated and committed to status Indian interests.

The Assembly of First Nations has been legitimated by the government as a representative voice of the Indian peoples.⁸² It has existed without any further conditions of identity imposed on its membership. Other political organizations, however, never proceeded as freely with respect to defining membership and goals. Organizations representing Indian women and nonstatus peoples as a whole have been subjected to state specifications as to their memberships. Moreover, government funding often determined the constituency of an organization as well as its mandate. In the 1970s, for example, funding regulations stipulated that Indian Rights for Indian Women represent both status and nonstatus women, a condition, according to Weaver, that brought about its demise.⁸³

For a people who find themselves economically, politically, and culturally on the margins, the crucial issue is to develop forms

of organization that express communal interests and neutralize the divisive effects of state policies. Aboriginal women faced the dilemma of identity and membership as defined by state sociolegal categories, while struggling to maintain and develop their collective sense of self as aboriginal women. They have had to guard continually against the existential ambiguity and ambivalence heightened by Bill C-31.⁸⁴

The struggle for self-determination and for clarification and protection of aboriginal rights has carried further contradictions for women that are bound to open up social divisions and status conflicts. Federal responses to demands for self-determination resulted in greater decentralization of administrative control and increased fiscal responsibility of tribal councils. With DINAC money being targeted to tribal councils and their umbrella organizations, women's associations were denied direct funding, with the expectation that they would receive assistance from male-dominated political organizations.

What, then, are the implications of self-governing bands or tribal entities in light of the state's strategies of administrative decentralization and new definitions of Indian and aboriginal identities? The first and most optimistic possibility is that self-determination will provide status female band members with greater political and social opportunities, as has been the case in the United States.⁸⁵ The second possibility is maintenance of the status quo. The already-entrenched patriarchal strategies of the state authorities will continue. As noted, the disunity engendered by the Indian Act is now embedded in the Constitution. Recognition of Indian, Métis, and Inuit as distinct categories of aboriginal peoples has exacerbated conflicts and cleavages between status and nonstatus groups. As status Indians and Métis fight for aboriginal rights attached to a land base, they are moving to exclude nonstatus Indians, who apparently fail to qualify for a claim to a land base and fail to persuade the state of their own inherent aboriginal rights. Nor do status Indians and Métis share common perceptions of their aboriginal rights. Boldt and Long contend that "inclusion and equation of Métis with Indian in the constitutional definition of aboriginal peoples . . . represents a dilution of special status for Indians . . . [and] undermines the special rights of Indians and the exclusive jurisdiction of the federal government over Indians."⁸⁶

Deepening divisions between various aboriginal groups are likely to escalate gender conflicts as well as to create rifts between

networks of female reserve residents. Women's kin networks may fracture, and women's political status will be further jeopardized. In all likelihood, these strains will intensify as women seek to establish unifying associations of their own. Potentially, gender and intragender conflicts will deepen before they improve.

The third possibility is that divisive state policies will result in unbridgeable rifts among aboriginal women and will weaken social links between female reserve residents and their migrant female kin. This may unfold as a consequence of state policies and/or from internal native politics that unequivocally divide "special rights groups" (status Indians and/or aggregations of status and nonstatus Indians with band membership) from "special needs groups" (nonstatus and status women marginalized by lack of band membership, urban residence, and economic and social marginality). Special needs groups are not perceived as corporate bodies with moral rights and legal status accorded them as collectivities; rather they are seen to be informal aggregates of individuals with individual needs and rights essentially coterminous with the rights and needs of any individual member of the democratic state. As a special needs group, Indian women can expect to be treated as any other body of minority women: individuals to be considered as beneficiaries of affirmative action programs and community programs aimed at ameliorating their cultural and social disadvantages. Should this be the case, their similarities to other minority women will become more marked, and a tendency to homogenize their problems will prevail. Clearly, special needs groups face unique structural barriers in their struggle to retain cultural identity and to further their social position within the dominant society. Associations of minority, economically disadvantaged women are often limited to a type of political activism based on strategies of public pressure and political embarrassment in their challenges to ethnic/racial/gender discrimination. As members of marginalized ethnic groups, women derive strength from the informal influence of female-based kin networks and/or individual influence derived from material advantages. Theirs is not the strength of rights and duties devolving from state-recognized special status; furthermore, they lack access to and influence over local political structures of Indian band councils and First Nations associations.

In conclusion, the ambivalent position of women is, to a large measure, explained by contradictory outcomes of the welfare practices of the state, which unintentionally disempowered male

kin by limiting their control over women's access to the means of livelihood, and by the explicitly patriarchal policies embedded in assimilationist strategies, which subjugated women to public authority exercised by the state and the political structures it supported. Not only do the assimilationist strategies constitute elements of state patriarchy; some First Nations argue that it is now in their communities' interests to regulate women's reproductive choices. Patriarchal policies embedded in the state's assimilationist strategies have created a paradoxical situation for women. Even as they struggle against state efforts to reduce them to just another disadvantaged group—threatened as they are with the possibility of being absorbed into mainstream society as an urban minority group—Indian women face the possibility that, in so doing, they will undermine the as yet fragile power of their reserve communities to recreate themselves as self-determining First Nations.

NOTES

1. The research for this paper was supported by Senate Research Grants of Saint Mary's University. An earlier version of the paper was delivered to the twelfth World Congress, International Sociological Association, Madrid, Spain, 9–12 July 1990.

2. In keeping with common usage, I use the terms *aboriginal*, *indigenous* and *native* interchangeably to refer to the descendants of the original peoples of North America. The term *Indian* is limited to the legal uses deriving from federal legislation that distinguishes registered Indians from all other aboriginal peoples of Canada. For the most part, aboriginal peoples have shed this usage, preferring *aboriginal* and *First Nations* as identifying categories. *First Nations* more accurately reflects their social identity and historic relationship to one another and to the European colonizers with whom they first traded and signed treaties. The notion of First Nationhood also reflects their aboriginal title to their traditional lands and resources and their struggles for self-determination. Throughout, I employ *Indian* and *First Nation* interchangeably where it is pertinent to restrict discussion to the legal category created by legislation and the ensuing self-identification of "Indianness."

3. Lucien Carr, "On the Social and Political Position of Women among the Huron-Iroquois Tribes," *Harvard University Peabody Museum of Archaeology and Ethnology Report* 16(1887): 105–24; William Beauchamp, "Iroquois Women," *Journal of American Folklore* 13(1889): 81–90; Judith Brown, "Economic Organization and the Position of Women among the Iroquois," *Ethnohistory* 17:3–4(1970): 151–67; Laura Klein, "Tlingit Women and Town Politics" (Ph.D. dissertation,

New York University, 1975); Louise Lamphere, *To Run after Them: Cultural and Social Bases of Cooperation in a Navajo Community* (Tucson: University of Arizona Press, 1977); Eleanor Leacock, "Women's Status in Egalitarian Society," *Current Anthropology* 19(1978): 247-75; idem, "Montagnais Women and the Jesuit Program for Colonization," in *Women and Colonization: Anthropological Perspectives*, ed. Mona Etienne and Eleanor Leacock (New York: Praeger, 1980).

4. Peggy R. Sanday, "Female Status in the Public Domain," in *Women, Culture and Society*, ed. Michelle Z. Rosaldo and Louise Lamphere (Stanford, CA: Stanford University Press, 1974); Patricia Albers, "From Illusion to Illumination: Anthropological Studies of American Indian Women," in *American Anthropological Project on Gender and the Curriculum* (American Anthropology Association, 1988).

5. Ron Bourgeault, "The Development of Capitalism and the Subjugation of Native Women in Northern Canada," *Alternate Routes* 6(1983): 110-40, and "Race, Class and Gender: Colonial Domination of Indian Women," *Socialist Studies/Études Socialistes* 5(1989): 87-115; Leacock, "Montagnais Women and the Jesuit Program for Colonization"; Alan Klein, "The Political-Economy of Gender: A 19th Century Plains Indian Case Study," in *The Hidden Half: Studies of Plains Indian Women*, ed. P. Albers and B. Medicine (Washington, DC: University Press of America, 1983).

6. Christine Conte, "Ladies, Livestock, Land and Lucre: Women's Networks and Social Status on the Western Navajo Reservation," *American Indian Quarterly* 6(1982): 105-24; Albers, "Autonomy and Dependency in the Lives of Dakota Women: A Study in Historical Change," *Review of Radical Political Economics* 17:3(1985): 109-34; idem, "From Illusion to Illumination"; Jo-Anne Fiske, "Fishing Is Women's Business: Changing Economic Roles of Carrier Women and Men," in *Native Peoples, Native Lands: Indian, Inuit and Métis in Canada*, ed. Bruce Aldan Cox (Ottawa: Carleton University Press, 1987); Martha C. Knack, "Contemporary Southern Paiute Women and the Measurement of Women's Economic and Political Status," *Ethnology* 28:3(1988): 233-48.

7. Albers, "Sioux Women in Transition: A Study of Their Changing Status in Domestic and Capitalist Sectors of Production," in *The Hidden Half: Studies of Plains Indian Women*; Conte, "Ladies, Livestock, Land and Lucre"; Knack, "Contemporary Southern Paiute Women"; Robert N. Lynch, "Women in Northern Paiute Politics," *Signs* 11(1986): 352-66; Marla Powers, *Oglala Women: Myth, Ritual, and Reality* (Chicago: University of Chicago Press, 1986); Fiske, "Native Women in Reserve Politics: Strategies and Struggles," *Journal of Legal Pluralism and Unofficial Law* 30&31(1990): 121-37.

8. Conte, "Ladies, Livestock, Land and Lucre."

9. Powers, *Oglala Women: Myth, Ritual and Reality*

10. Lynda Lange, "Some Contradictory Effects of Internal Colonialism on the Situation of Dene Women of the Northwest Territories" (Unpublished paper presented to the annual meeting, Canadian Ethnology Society, May 1988, Saskatoon, Saskatchewan).

11. Teressa Nahanee, "Dancing with a Gorilla: Aboriginal Women, Justice and the Charter," in *Aboriginal Peoples and the Justice System: Report of the National*

Round Table on Aboriginal Justice Issues, Royal Commission on Aboriginal Peoples (Ottawa: Minister of Supply and Services, 1993); Patricia A. Monture-OKanee, "Reclaiming Justice: Aboriginal Women and Justice Initiatives in the 1990s," *Aboriginal Peoples and the Justice System*; Emma D. LaRocque, "Violence in Aboriginal Communities," in *The Path to Healing: Report of the Round Table on Aboriginal Health and Social Issues*, Royal Commission on Aboriginal Peoples (Ottawa: Minister of Supply and Services)

12. Nahanee, "Dancing with a Gorilla," 360–61.

13. Monture-OKanee, "Reclaiming Justice," 115.

14. Terry Wotherspoon and Vic Satzewich, *First Nations: Race, Class, and Gender Relations* (Scarborough, ON: Nelson, 1993), 14.

15. The Constitution Act, 1982, recognized three categories of "aboriginal peoples": Indians, Métis, and Inuit. These categories do not accurately reflect the social identity and cultural boundaries of aboriginal peoples; rather they constitute a complex intertwining of ethnic and juridical meanings that have changed over time. Because the state has created statutory distinctions between these groups and because race-specific laws and policies have been applied differently to Indian women and men, this discussion is restricted to peoples recognized by the state as Indians.

16. Defeat of the Meech Lake Accord on constitutional reform and the Oka crisis in 1990 were dramatic signs of changing intergovernmental relations and, in themselves, signaled the urgency of the need for further changes. Responses varied from federal department to federal department, from province to province, and between aboriginal associations. Although the struggle for constitutional change was defeated again in 1992, reform of intergovernmental relations quickened. One of the most controversial moves was the establishment of the tripartite British Columbia Treaty Commission. Devolution of social, educational, health, and justice services by the federal government, already in motion, hastened and has been alternatively criticized for dumping complex responsibilities on under-resourced communities and praised as a step toward self-government. Local control of justice, moreover, has been criticized as an explicit transfer of state patriarchy to "brown patriarchs," and aboriginal feminists fear that this particular surrender of power will further devastate women. The Inuit Women's Association's position was broadcast on *Sunday Morning*, CBC Radio, 25 March 1995 and reinforces the views expressed by Nahanee in "Dancing with a Gorilla." To date, however, we have no comparative studies of the impact of these changes on women as professional administrators, employees, or clients of this new order of services. Fiscal restraint doubtless has had negative ramifications as well, and these also need analysis.

17. Nahanee, "Dancing with a Gorilla."

18. Aboriginal women are divided on the issue of feminist analyses and their contribution to understanding the unique history and social position of aboriginal women. Aboriginal legal scholars (Teresa Nahanee and Sharon McIvor, for example) associated with the Native Women's Association of Canada have espoused the need for an aboriginal feminist perspective that will analyze "brown patriarchy" and identify solutions, while others have es-

chewed feminism altogether. Monture-OKanee adopts the position that feminist theories need careful scrutiny; what is useful in their analysis—but not necessarily ill-fitting solutions—must be taken up. She shares this position with Winona Stevenson, who states that she is not a feminist yet is not averse to looking for intersections with feminist analysis.

19. Peter Li, "Introduction," in *Race and Ethnic Relations in Canada*, ed. Peter Li (Toronto: Oxford Press, 1990), 13; Kathleen Jamieson, *Indian Women and the Law in Canada: Citizens Minus* (Ottawa: Advisory Council on the Status of Women, reproduced by the minister of supply and services Canada, 1978); and "Sex Discrimination and the Indian Act," in *Arduous Journey: Canadian Indians and Decolonization*, ed. J. Rick Ponting (Toronto: McClelland and Stewart, 1986).

20. Use of the concepts *state* and *patriarchy* has been strongly contested in feminist scholarship. Both concepts have been perceived to obscure or distort the disparate, contradictory, and diffuse powers and practices of formal legitimate bureaucracies and of routine gender relations. While I acknowledge the constraints of these terms, I also recognize that no other terms adequately speak to the scope of power that legislated authority wields over women's reproductive roles and gender subordination. Like Pateman, I hold that state patriarchy refers to the government of women by men and that, "[i]f we abandon the concept of patriarchy, the problem of the subjection of women and sexual domination will again vanish from view within individualist and class theories. The crucial question, therefore, is the sense in which it can be said that our own society is patriarchal." Similarly, I maintain that to follow Allen's call to abandon feminist theories of the state is premature. Rather, what is needed is continuing, detailed study of the power relations that issue from legislated and bureaucratic intrusions into women's lives as authorized and implemented by various sites of state power. (See Judith Allen, "Does Feminism Need a Theory of the 'The State?'" in *Playing the State: Australian Feminist Interventions*, ed. Sophie Watson [London: Verago, 1990] and Carole Pateman, *The Disorder of Women: Democracy, Feminism and Political Theory* [Cambridge: Polity Press, 1989], 35.)

21. Reorganization and renaming of the federal department responsible for Indian affairs is not always reflected in popular usage of acronyms; most commonly, the department is still referred to as DIAND, Department of Indian Affairs and Northern Development.

22. Originally known as the British North America Act 1867, this legislation established the terms of Canadian confederation and designated the statutory jurisdictions of the federal and provincial governments.

23. Despite the state's efforts to impose universal regulations on all status Indians, considerable differences prevail. Indians of the Yukon and Northwest territories, for example, do not reside on reserves; however, the same federal programs are available to them.

24. Sally M. Weaver, "The Status of Indian Women," in *Two Nations, Many Cultures: Ethnic Groups in Canada*, ed. Jean Leonard Elliot (Toronto: Prentice Hall, 1983); "Federal Policy-making for Métis and Non-Status Indians in the Context of Native Policy," *Canadian Ethnic Studies* 17:2(1985): 80–102.

25. Not all the provisions for "enfranchisement," loss of legal Indian status, were directed against women. Provisions for voluntary enfranchisement, which promised full Canadian citizenship, attracted more men than women (although wives and minor children were involuntarily enfranchised with their husbands/fathers), and more men than women were involuntarily enfranchised upon receiving a professional education or residing away from the reserve in order to obtain employment. The effect of the enfranchisement policies has been to define Indian status more narrowly than was envisaged by the Constitution Act of 1982.

26. An extensive body of scholarship is available. For example, see Jamieson, *Indian Women and the Law*; Lilianne Ernestine Krosenbrink-Gelissen, *Sexual Equality as an Aboriginal Right: The Native Women's Association of Canada and the Constitutional Process on Aboriginal Matters, 1982-1987* (Saarbrücken, Germany: Verlag breitenbach Publishers, 1991); Joyce Green, "Sexual Equality and Indian Government: An Analysis of Bill C-31 Amendments to the Indian Act," *Native Studies Review* 1:2(1985).

27. These changes did not come easily for disenfranchised women. As early as the 1950s, women were protesting against the gender discrimination inherent in the enforced enfranchisement that accompanied marriage to a non-Indian man. It was not until the 1970s, when native women's organizations gained state funding and the support of non-Indian women's groups, that the issue went before the courts. Following a heated lobbying campaign and facing the hostility of male-dominated political associations that labeled them "white-washed women's libbers," two women sought protection under the Canadian Bill of Rights. In 1973, the Supreme Court of Canada ruled that the act was exempt from the Canadian Bill of Rights, leaving women no recourse but to take their complaint to the United Nations Human Rights Committee. Embarrassed internationally in the face of the U.N. committee's ruling that the Indian Act breached the Covenant of Civil and Political Rights, the federal government finally amended the offending provisions.

28. Because of the high rates of miscegenation in some areas, a fourth category may emerge as non-Indian spouses are granted band membership and/or reserve residency rights.

29. Demographic data, generated by federal agencies, on the status Indian population are plagued with inconsistencies deriving from the problematic definition of *Indian* and from the absence of data regarding various bands that did not participate in census surveys. The most reliable estimates indicate that the 1986 population was 350,000, with 61-72 percent ordinarily residing on reserves. Estimates of the number of individuals eligible for reinstatement range from 118,000 to 130,400. Data cited by DINAC in 1990 indicate that 15 percent of the status population were registered under Bill C-31 Canada, C-31, *Fifth Report of the Standing Committee on Aboriginal Affairs and Northern Development* (Ottawa: House of Commons, issue no. 46, 1988); *Impacts of the 1985 Amendments to the Indian Act (Bill C-31)* (Ottawa: Minister of Supply and Services, 1990), module 4:ii.

30. Yngve Georg Lithman, *The Community Apart: A Case Study of a Canadian Indian Reserve Community* (Winnipeg: University of Manitoba Press, 1984), 185;

Tod Larsen, "Negotiating Identity: The Micmac of Nova Scotia," in *The Politics of Indianness: Case Studies of Ethnopolitics in Canada*, ed. Adrian Tanner (St. John's: Institute of Social and Economic Research, Memorial University of Newfoundland, Social and Economic Papers no. 12, 1983), 107.

31. Wotherspoon and Satzewich, *First Nations*, 62, citing Indian and Northern Affairs Canada, Task Force on Indian Economic Development, 1986, 12.

32. Adrian Tanner, "Introduction: Canadian Indians and the Politics of Dependency," in Tanner, ed., *The Politics of Indianness*, 2.

33. DINAC reported in 1990 that 498 of the 596 bands administered social assistance funds (Canada 1990b, module 4:54).

34. The significance of male/female reciprocity in the domestic sector is made clear by Paul Driebein. He demonstrates the economic and social salience of women in traditional Ojibwa households by showing the losses felt by two husbands (and their children) on the sudden death of their wives in an airplane accident in 1983. Driebein notes, "[The women] were, in no exaggerated sense, the glue that bonded their families together, not only into a social unit but into an economic one as well, and when they were killed those bonds were destroyed." Paul Driebein, "A Death in the Family: The Strategic Importance of the Women in Contemporary Ojibwa Society," *Native Studies Review* 6:1(1990): 83.

35. Frances Abele and Davia Stasiulis, "Canada as a 'White Settler Colony': What about Natives and Immigrants?" in *The New Canadian Political Economy*, ed. Wallace Clement and Glen Williams (Montreal: McGill-Queen's University Press, 1989), 254.

36. Hugh Brody, *Maps and Dreams: Indians and the British Columbia Frontier* (Harmondsworth, Canada: Penguin Books, 1981); Fiske, "Gender and Politics in a Carrier Indian Community" (Ph.D. dissertation, University of British Columbia, 1989); Kathleen Mooney, "Suburban Coast Salish Inter-household Cooperation, Economics and Religious Movements," *Culture* 7(1988): 49-58.

37. Fiske, "Carrier Women and the Politics of Mothering," in *British Columbia Reconsidered: Essays on Women*, ed. Gillian Creese and Veronica Strong-Boag (Vancouver: Press Gang, 1992), 205; Julie Cruikshank, "Matrilocal Families in the Canadian North," in *The Canadian Family*, rev. ed., ed. K. Ishwaran (Toronto: Holt, Rinehart and Winston, 1976), 109; Lange, "Some Contradictory Effects"; Janet Silman, *Enough Is Enough: Aboriginal Women Speak Out* (Toronto: The Women's Press, 1987), passim.

38. Wotherspoon and Satzewich, *First Nations*, 101.

39. Fiske, "Carrier Women and the Politics of Mothering," 205; Silman, *Enough Is Enough*, passim; Cruikshank, "Matrilocal Families in the Canadian North," 115.

40. Statistics Canada reports that, in 1981, 20 percent of families were headed by lone parents, while 18.8 percent of family households were extended, that is, included adults other than marital partners. Pamela White, *Native Women: A Statistical Overview* (Ottawa: Department of the Secretary of State, Canada, 1986), 21.

41. Women's and men's access to cash incomes varies greatly across Canada. Although Statistics Canada reports higher average earnings for men than for

women, the relative stability of women's incomes is greater on reserves where unemployment is high and where men migrate for casual labor. In 1980, 51 percent of status Indians either had no income or relied on government transfer payments. In 1986-87, 79 percent of bands administered their own social assistance programs. *Final Report: Task Force on Aboriginal Peoples in Federal Corrections* (Ottawa: Minister of Supply and Services for the Solicitor General, 1989), 72; White, *Native Women*, 22.

42. Patrick Johnston, *Native Children and the Child Welfare System* (Ottawa: The Canadian Council on Social Development, 1983); Patricia A. Monture, "A Vicious Circle: Child Welfare and the First Nations," *Canadian Journal of Women and the Law* 3:1(1989): 1-17.

43. Monture, "A Vicious Circle."

44. Canadian Human Rights Commission, *Annual Report* (Ottawa: Canadian Human Rights Commission, 1988).

45. *Creating Choices: The Report of the Task Force on Federally Sentenced Women* (Ottawa: Minister of Supply and Services for Correctional Services, Canada, 1990).

46. Fiske, "Child of the State, Mother of the Nation: Aboriginal Women and the Ideology of Motherhood," *Culture* 13:1 (1993): 17-36; Monture, "The Violence We Women Do: A First Nations View" (unpublished ms., 1989); Marie Anne Battiste, "Mikmaq Women: Their Special Dialogue," *Canadian Woman Studies/les Cahiers de la femme* 10:2&3(1989): 61-63; Osennontion and Skonaganleh:rá, "Our World," *Canadian Woman Studies/les cahiers de la femme* 10:2&3(1989): 7-19.

47. Ontario Native Women's Association, *Breaking the Silence: Report on Domestic Violence* (Thunder Bay: Ontario Native Women's Association, 1989); Nahanee, "Dancing with a Gorilla"; Monture-OKanee, "Reclaiming Justice"; Silman, *Enough Is Enough*, passim.

48. Ontario Native Women's Association, *Breaking the Silence*.

49. Lange, "Some Contradictory Effects"; Ontario Native Women's Association, *Breaking the Silence*, passim.

50. Marjorie R. Mitchell, *Women, Poverty, and Housing: Some Consequences of Hinterland Status for a Coast Salish Reserve in Metropolitan Canada* (Ph.D. dissertation, University of British Columbia, Vancouver, 1976); Silman, *Enough Is Enough*; Fiske, "Native Women in Reserve Politics."

51. Joan Holmes, *Bill C-31: Equality or Disparity?* (Ottawa: Advisory Council on the Status of Women, 1987), 26.

52. Jennifer Blythe, "Career Choices by Women in Mosonee/Moose Factory" (Unpublished paper presented to the First National Symposium on Aboriginal Women, Lethbridge, Alberta, October 1989); Fiske, "Native Women in Reserve Politics."

53. *Impacts of the 1985 Amendments to the Indian Act*, module 4:72.

54. C-31, *Fifth Report of the Standing Committee*.

55. George Erasmus, "Introduction," *Drumbeat: Anger and Renewal in Indian Country* (Ottawa: Assembly of First Nations and Summerhill Press, 1989), 36.

56. C-31, *Fifth Report of the Standing Committee*, 56-57.

57. Personal communication, Native Women's Association, Nova Scotia (1988, 1990) and Indian Homemakers, British Columbia (1990); Holmes, *Bill C-31: Equality or Disparity*; Silman, *Enough Is Enough*; Ontario Native Women's Association, *Breaking the Silence*.

58. For a discussion of case law and the social and legal implications, see Ontario Native Women's Association, *Breaking the Silence*; Bradford W. Morse, "Aboriginal Peoples and the Law," *Aboriginal Peoples and the Law: Indian, Métis and Inuit Rights in Canada*, ed. Bradford W. Morse (Ottawa: Carleton University Press, 1985), 8; Richard Bartlett, "Indian Self Government, The Equality of the Sexes and Application of Provincial Matrimonial Property Laws," *Canadian Journal of Family Law* 5(1986): 188-95.

59. Fiske, *Gender and Politics in a Carrier Indian Community*, 190; idem, "Carrier Women and the Politics of Mothering."

60. Silman, *Enough Is Enough*, 229.

61. Personal communication with Joan Holmes, October 1989; The Indian Homemakers Society, July 1990; The Native Women's Association, Nova Scotia, September 1989. Also see Krosenbrink-Gelissen, *Sexual Equality as an Aboriginal Right*, 65; Holmes, *Bill C-31: Equality or Disparity*.

62. See Albers, "Autonomy and Dependency," for comparable analysis of Native American women in the United States.

63. See, for example, Lithman, *The Community Apart*, 149ff; Fiske, "Native Women in Reserve Politics," 125; Larsen, *Negotiating Identity*; Silman, *Enough Is Enough*.

64. Silman, *Enough Is Enough*; Blythe, "Career Choices by Women in Mosonee/Moose Factory"; Fiske, "Native Women in Reserve Politics."

65. Fiske, "Native Women in Reserve Politics"; Nora Bothwell, "The Life of a Chief," *Canadian Woman Studies/les cahiers de la femme* 10:2&3(1989): 33. Blythe, "Career Choices by Women in Nosonee/Moose Factory," 12.

66. Fiske, "Carrier Women and the Politics of Mothering," 205; Silman, *Enough Is Enough*, 234; Shirley O'Connor, Patricia Monture, and Norissa O'Connor, "Grandmothers, Mothers, and Daughters," *Canadian Woman Studies/les cahiers de la femme* 10:2&3(1989): 39; Marlene Brant Castellano, "Women in Huron and Ojibwa Society," *Canadian Woman Studies/les cahiers de la femme* 10:2&3(1989): 45.

67. Fiske, "Native Women in Reserve Politics"; "B.C. Native Women's Society," *Canadian Woman Studies/les cahiers de la femme* 10:2&3 (1989); Silman, *Enough Is Enough*, passim.

68. Fiske, "Native Women in Reserve Politics"; idem, "Carrier Women and the Politics of Mothering."

69. Jamieson, *Indian Women and the Law in Canada*; Holmes, *Bill C-31: Equality or Disparity*; Krosenbrink-Gelissen, *Sexual Equality as an Aboriginal Right*, 55ff.

70. James Frideres, *Native People in Canada: Contemporary Conflicts* (Toronto: Prentice-Hall, 1988), 144; C-31, *Fifth Report of the Standing Committee*, 30.

71. I have spoken with women in ten communities representing four provinces. In each community, the women have divulged the stress imposed

upon them either by men who do not wish to be identified as the fathers of their children or by councils whose interests are not consistent with those of the women. This stress is amplified when children are born of incestuous unions; women fear disclosure of this abuse, and councils desire to increase population through infant registration.

72. C-31, *Fifth Report of the Standing Committee*, 28–29.

73. *Ibid.*; Holmes, *Bill C-31: Equality or Disparity*, 25.

74. This position brings women into direct confrontation with First Nations' representatives, who argue that the charter will disempower and constrain self-governance rather than protecting aboriginal rights. For a discussion of this viewpoint, see Menno Boldt and J. Anthony Long, "Tribal Philosophies and the Canadian Charter of Rights and Freedoms," *Ethnic and Racial Studies* (1984): 478–93.

75. To my knowledge, no systematic research has been conducted on this issue. I rest my statements on personal conversations and general discussions arising in several conferences of First Nation women.

76. Fiske, "Child of the State, Mother of the Nation"; Krosenbrink-Gelissen, *Sexual Equality as an Aboriginal Right*.

77. C-31, *Fifth Report of the Standing Committee*, 47, 57, 65.

78. Holmes, *Bill C-31: Equality or Disparity*, 20–21, 33.

79. At the time of this writing, women of the Hobbema band in Alberta are discussing court redress of their band's refusal to accept reinstated women and families as residents and to share band resources with them.

80. Holmes, *Bill C-31: Equality or Disparity*, 34.

81. Mary Ellen Turpel, "Aboriginal Peoples and the Canadian Charter of Rights and Freedoms," *Canadian Woman Studies/les cahiers de la femme* 10:2&3(1989): 153.

82. As an anonymous reviewer reminded me, legitimation by the state is no guarantee of credibility. The AFN was unable to persuade First Nations to adopt its stance on constitutional reform; it has lost members and continues to suffer internal discord.

83. Weaver, "The Status of Indian Women," 70.

84. The aftermath of Bill C-31 continues to be identified as the leading dilemma for First Nations. See Katherine Beaty Chiste, "Aboriginal Women and Self-Government: Challenging Leviathan," *American Indian Culture and Research Journal* 18:3 (1994), citing a 1993 survey by *Native Issues Monthly*, December 1993.

85. Albers, "Autonomy and Dependency"; Powers, *Oglala Women*; Knack, "Contemporary Southern Paiute Women"; Miller, "Women and Politics."

86. Boldt and Long, "Native Indian Self-Government: Instrument of Autonomy or Assimilation," *Governments in Conflict? Provinces and Indian Nations in Canada* (Toronto: University of Toronto Press, 1984), 275.