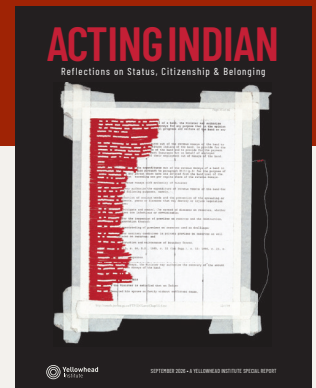


Bill S-2

A Brief Explanation



This resource is from the
Yellowhead Special Report,
**Acting Indian: Reflections
on Status, Citizenship
& Belonging.**

Bill S-2 is the latest attempt to address discrimination in the *Indian Act*. The Bill, introduced in the Senate, responds to court cases and the legacy of policies that have severed Indigenous identity, belonging, and kinship across generations; specifically, the practice of enfranchisement. While Bill S-2 takes important steps toward constitutional compliance, it is still unclear which elements of the Senate's Bill the government will adopt. It also raises a question on accountability: Can the law repair what the law has broken?

WHAT MIGHT S-2 ADDRESS?

Addressing the Legacy of Enfranchisement

For over a century, the Indian Act used enfranchisement to strip First Nations people of their status and expedite assimilation. Many were forced to choose between keeping Indian status or accessing the same rights and privileges Canadians enjoyed. Although it was often described as voluntary, enfranchisement was fundamentally coercive. Bill S-2 offers to restore status to descendants of those affected by enfranchisement.

Elimination of Second-Generation Cut-off

Addressing a key and discriminatory feature of the blood quantum approach to status, S-2 proposes moving toward a one-parent rule. Anyone with at least one status parent is eligible for status. This would re-make the status architecture by eliminating the status classifications, thus creating a new framework based on lineal descent (similar to how Inuit and Métis recognize members of their communities).

Unstated/Unknown Paternity

The *Indian Act* has historically punished women who refused to disclose the father of their children (there is a long list of reasonable causes for this refusal, including sexual assault, community relationships, and fear of violence, to name just a few). This issue has been recognized and addressed through the one-parent rule.

Restoring Community Ties

Before 1985, First Nations women who married a man from another band were required to leave their own community and become members of their husband's. Bill S-2 allows these women and their descendants the opportunity to reaffiliate with that original community if they choose.

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WHAT REMAINS UNRESOLVED?

It is still unclear if the government will pass S-2 with amendments. Without those amendments most of the above will remain unresolved. But if they do, there are some lingering issues.

Federal Control

While some First Nations (through Section 10 of the Indian Act) can control who is a member of their communities, status and the Indian Register remains controlled by the federal government. Despite years of calls for First Nations to determine status themselves, S-2 neglects to engage with these calls. Moreover, there is little support for the First Nations that have opted to create membership codes.

Lack of Restitution

While S-2 goes some way to opening the door to Crown liability for the decades of discrimination and racism, there is no mechanism in the proposed law for those impacted by this violence to seek restitution. Moreover, with an extended 12-month timeline for the restoration of status, the backlog of those waiting for review of their status applications will not be resolved quickly.

What Happens Next?

The Carney Government effectively supports S-2, having been compelled to introduce it by the Courts. However, the Senate's amendments, including the second-generation cut-off, have less support. Minister of Indigenous Services, Mandy Gull-Masty, has repeatedly argued that consultation is required (even though there have already been three years of consultation). So, the unanswered question is: Which version of S-2 will the government pass – the narrow version focused on enfranchisement, or the more expansive version that also addresses the second-generation cut-off?
