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## BC activist wins right to restore status rights for First Nations women

For close to 20 years, Sharon Mclvor, a First Nations woman from Merritt, BC, has fought to have her case challenging sex discrimination in the *Indian Act*, heard in court. Mclvor is a member of the Lower Nicola Band, a Professor of Aboriginal Law, and a long-time feminist activist. She was recently recognized with the *Carole Geller Human Rights Award* for her advocacy work.

BCGEU Vice President Lorene Oikawa  
with Sharon Mclvor

In June 2007, Mclvor won a groundbreaking BC Supreme Court judgment that stands to restore equal Indian status for 200,000 or more Aboriginal women and their descendants.

Judge Carol Ross has ruled that ongoing discrimination in the *Indian Act* violates the Canadian Charter of Rights and Freedoms. She has ordered the Canadian government to remove sex discrimination from the determination of Indian status, and to restore equal Indian status to First Nations women and their descendants.

The federal government is appealing this ruling, while eliminating funding for the Court Challenges program that would financially assist Mclvor with taking her case forward.

The BC Government and Service Employees' Union supports Mclvor's efforts, and urges other unions and allies to contribute resources to assist this case through its next stages in the Court of Appeal and beyond.

### Government perpetuates discrimination against aboriginal women

Before 1985, the *Indian Act* said that Indian men who married non-Indian women could confer Indian status on their wives and children, but Indian women who married non-Indian men lost their status and their children also lost their entitlement to status.

When the *Canadian Charter of Rights and Freedoms* came into effect, amendments were made to the *Indian Act* in 1985, supposedly to address long-standing discrimination against First Nations women. However, the government



of Canada only fixed this inequity in part. The continuing discrimination is the subject of Mclvor's case.

The government's way of fixing the overt discrimination was to reinstate Indian women who had lost status because of sex discrimination to a second-class category. This means that today the men who never lost status can confer Indian status on their children and grandchildren, while the reinstated women have a diminished status that they can confer on their children, but not on their grandchildren.

### **Families divided, generations lose rights**

Sharon Mclvor's family continues to suffer from status discrimination. She has three sisters and two brothers, all children of the same parents. Her brother who married out is entitled to full Indian status, which he can give to his children and grandchildren. But Sharon Mclvor, who also married out, has second class status and can only confer half status on her children, and no status on her grandchildren. Thus, while her brother's grandchildren will be full status Indians, Mclvor's grandchildren will have no status.

Mclvor is also challenging the way in which the *Indian Act* continues to give preference to those who trace their Indian identity from male ancestors rather than female ancestors. The history of the *Indian Act* is that an Indian was defined by the colonizing government as "a male Indian, the wife of a male Indian or the child of a male Indian." This preference for the male line is continued in the current *Indian Act* because descendants of female Indians may have no status or diminished status, while descendants of male Indians have full status.

Mclvor is disputing the *Indian Act* under section 15 of the Charter on the grounds it discriminates against First Nations women on the basis of sex and marital status.

United Nations human rights bodies have repeatedly noted that Canada must remedy its ongoing discrimination against aboriginal women because it violates our country's international human rights obligations.

### **Support this important legal struggle**

The BC Government and Service Employees' Union is contributing resources to advance Sharon Mclvor's landmark case for equity and human rights.

Union members and Canadian allies are urged to speak up for justice for Aboriginal women. Tell Prime Minister Harper to:

- **drop the appeal of the Mclvor case;**
- **if the government refuses to drop the appeal, then provide funding for the Sharon Mclvor case equal to the amount the government spends appealing it;**
- **re-establish the Court Challenges Program so that rights in the Charter are not upheld only for those who can afford it;**

- establish an open, accountable process to put United Nations recommendations to address discrimination against Aboriginal women into practice.

Please send any donations to support Sharon McIvor's case to: "*Heenan Blaikie, in trust for Sharon McIvor*"  
Attention: Rob Grant c/o Heenan, Blaikie, Suite 2200, 1055 West Hastings Street, Vancouver, BC V6E 2E9.

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