

Issue Update

Bill C-38 (Citizenship)

History

Through the imposition of the *Indian Act*, the Government of Canada enforced an oppressive system of legislative assimilation that continues to impede First Nations identities. The *Indian Act* system of membership is a denial of First Nations self-determination and has caused severe harm to First Nations, including generations of First Nations women and their descendants.

In response to litigation from First Nations, the Government of Canada has incrementally removed certain discriminatory elements of the *Indian Act* through policy, regulatory, and legislative measures. In 2017, the Government of Canada initiated Bill S-3, *An Act to Amend the Indian Act, in response to the Superior Court of Quebec decision in Descheneaux c. Canada (Procurer general)*. Bill S-3, which was designed to remove all gender-based discrimination in the *Indian Act*, came into force in 2019. That Bill failed to address the broader denial of self-determination in the registration provisions of the *Indian Act*.

In 2021, a group of plaintiffs launched a constitutional challenge (*Nicholas v. AGC*) to address ongoing inequities faced by individuals with a family history of enfranchisement under the *Indian Act*. After a brief period of engagement, the Minister of Indigenous Services, Patty Hajdu, introduced Bill C-38 in Parliament to remedy the impacts of historical enfranchisement under the *Indian Act*. Bill C-38 completed its first reading in Parliament in December 2022. Bill C-38 will proceed to a second reading at an undetermined date.

AFN's recent advocacy

First Nations-in-Assembly passed AFN Resolution 42/2022, *Demand for Consultation on Amendments to the Indian Act (1985)*. That resolution called on the Government of Canada to halt legislative amendments until Canada has adequately consulted with First Nations and provided the necessary resources for community engagement. The AFN continues to monitor Bill C-38 and has called on the Government of Canada to provide adequate resources to all First Nations to engage with their community members. AFN National Chief RoseAnne Archibald sent a letter to Minister Hajdu in March 2023 calling for the immediate withdrawal of Bill C-38 until further engagement could take place.

Next Steps

The AFN will continue to monitor Bill C-38 and any actions that may impact First Nations citizenship. The AFN will seek opportunities to intervene and update First Nations-in-Assembly. The AFN will also continue to call on the Government of Canada to provide First Nations with adequate resources to engage with their community members and exercise self-determination over their citizenship processes.