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Gender, Sovereignty, Rights: Native Women's Activism against Social Inequality and Violence in Canada

Joanne Barker

Contemporary Native women's struggles against social inequality and violence and for Native sovereignty and self-determination are mired in histories of sexist ideologies and practices. While these struggles and histories did not begin in the nineteenth century (sexism certainly existed before then), they were fortified in powerful ways by the Indian Act of 1868. The act consolidated under Canadian Parliament authority all previous colonial legislation addressing the status and rights of Native people in Canada. In 1876, the act was amended to establish patrilineality as the criterion for determining Indian status, including the rights of Indians to participate in band government, have access to band services and programs, and live on the reserves.¹ The amendment instanced and reified the sexist ideologies and practices of colonialism in which the act emerged and functioned, and it did so specifically by empowering status Indian men with all of the rights, privileges, and entitlements of status in band government and reserve life. Over time, this led status Indian men to an expectation of entitlement in band government and property rights over Indian women, irrespective of their status. The provisions of the Indian Act and its enforcement by Canada only affirmed and perpetuated those expectations.²

In 1983 and 1985, several different kinds of Indian women's constituencies (status, nonstatus, reserve, urban, rural) and their allies (including Indian men) secured constitutional and legislative amendments that partially reversed the 1876 criterion.³ The amendments were not passed easily. Status Indian men who then dominated band governments and organizations protested vehemently against the women and their efforts. They accused the women of being complicit with a long history of colonization and racism that imposed, often violently, non-Indian principles and institutions on Indian peoples. This history was represented for the men by the women's appeals to civil and human rights laws, and more particularly to feminism, to challenge the

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constitutionality and human rights compliance of the Indian Act, an act the men represented as providing the only real legal protection of Indian rights to sovereignty in Canada. Demonized as the proponents of an ideology of rights based on selfish individualism, and damned for being “women’s libbers” out to force Indian peoples into compliance with that ideology, the women and their concerns were dismissed as embodying all things not only *non-* but *anti-*Indian.⁴ Their agendas for reform were dismissed as not only irrelevant but dangerous to Indian sovereignty. These dismissals perpetuated sexist ideologies and discriminatory and violent practices against Indian women within Indian communities by normalizing the men’s discourses regarding the irrelevance of gender as well as the disenfranchisement of women in Indian sovereignty struggles.

The longer work from which this article is drawn examines the 1983 and 1985 amendments and the activism that led to their development and passage as an instance of the co-constitutive relationship of sovereignty and gender.⁵ By developing how and which specific discourses of rights were mobilized by various constituencies of Indian men, women, and their allies, the article opens up the conflicts surrounding gender politics and women’s rights within Native sovereignty movements. In doing so, it intends to provide a forum for thinking about the kinds of social reformations needed to bring about equity between and for men and women in Indian communities, an essential aspect of any agenda for decolonization and social justice for Native peoples.

Structuring Inequalities: Understanding the Indian Act System

Canada’s Constitution Act of 1867 assigned “exclusive jurisdiction” to Parliament over “Indians, and Lands reserved for the Indians” (Section 91, 24).⁶ Canada’s Indian Act of 1868 enumerated these powers by defining the laws and procedures of band governments as well as the terms of occupancy and use by bands of trust lands or reserves. It commissioned the Department of Indian Affairs and Northern Development (DIAND) to oversee band government operations and the management of reserve lands, resources, housing, and all related program and funding issues, such as education and health care. DIAND agents were also given the authority to remove band officials from office if they felt that the officials had demonstrated that they were not qualified to carry out their duties. Generally, this meant that they had been seen drunk in public, were accused of adultery, or had otherwise broken the law or proven themselves to be of “unchristian character.”⁷ Related to this, DIAND had full authority over the Indian Registry, which listed by band

all of those individuals who were Indian according to the Indian Act. Those qualified as Indian had all commensurate rights as band members to vote in band elections, hold office in band government, live in reserve housing, be employed by the bands, and receive band services.

In an 1876 amendment to the Indian Act, "Indian status" was defined by patrilineal descent. Men with status passed on status to the women that they married, and their children; women with status could not do so. Status women had status in the band of their fathers until they married, if they did so. If a status woman married a nonstatus man, she lost status in the band of her birth. If a status woman married a status man, her status would be determined by his band; for example, if she were status Cree and married a status Mohawk, she would become Mohawk. Upon divorce, she would lose status as Mohawk and not be reinstated as Cree. The only way for a nonstatus woman to (re)gain status was by marriage. Consequently, many status women refused to marry.⁸ The only way for children to gain status was if their father had status and paternity was declared.

Status men could marry non-Indian, nonstatus, or status women and extend status to them and their children. A status man, irrespective of whom he married, could never lose status based on who he married. A status man could lose status, however, under the Indian Act's enfranchisement provisions. Status men were automatically enfranchised as Canadian citizens and lost band status if they served in the Canadian military or were educated in a public school. If a status man was married and/or had children and was enfranchised, his wife and children would also lose band status and be made Canadian citizens.⁹ A nonstatus man could not (re)gain status under any circumstance.¹⁰

The status provisions had a considerable and pervasive impact on Indian peoples.¹¹ Although the Indian Act defined band government and established the reserves in a seeming affirmation of band rights to self-government and territories, it was designed with the explicit intent of assimilating Indians into Canadian society as hard-working, tax-paying, Christian citizens. It anticipated the eventual and total dissolution of band governments and trust lands. As with all assimilation policies, it was based on an inherently racist and sexist assumption that Indian governance, epistemologies, beliefs, and gender roles were irrelevant and invalid, even dangerous impediments to progress. But in the very process of undermining Indian law, land tenure, economics, cultural beliefs, and social relationships in the name of integration, the Indian Act and assimilation policies more generally ended up reproducing the very social conditions of subordination and dependence that they promised to end, since Indians were actually quite unwelcome in areas off-reserve.

Some of the most troubling consequences of the Act were the corrosion and devaluation, however uneven and inconsistent, of Indian women's participation within Indian governance, economics, and cultural life. This may seem an obvious intent and effect of the Indian Act and its ideological predecessors in federal programs of "Christianization" and "civilization" that sought to make men heads of households and women subservient in all of the ways that mattered.¹² But the difficult issue to understand is how patriarchal, heterosexist, and homophobic ideologies came to characterize Indian attitudes and practices and how these attitudes and practices came to define the social conditions of oppression within Indian social and interpersonal relations.¹³ The important conceptual challenge in understanding the impact of these ideologies on Indian peoples is refusing a social evolutionary framework in which pristine, utopian Indian societies degenerate into tragically contaminated ones. Two things are true instead.

First, the Indian Act's provisions for status did not create gender-based inequalities or sexism within Indian communities. The provisions represented and perpetuated a much longer process of social formation in which Indian men's political, economic, and cultural roles and responsibilities were elevated and empowered while those of Indian women were devalued. Within this process, sexist ideologies and practices were normalized and not "for the first time"—patriarchy, sexism, and homophobia within Indian communities being much older than the late nineteenth century. However, in conjunction with an entire social structure defined by colonialism, capitalism, Christianity, heteronormativity, racism, gender inequalities, sexism, and bigotries of various kinds had come to define Indian social and interpersonal relations by 1876 in consequential and lasting ways.

Second, the painful, confusing, and uneven adoption of these practices and attitudes by Indians is incredibly disconnected from their cultural histories. Generally speaking, the majority of Indian societies were organized matrilineally. Gender norms were informed by a more egalitarian value of the place of men, women, and other gendered identities within the community. Opportunities for Indian women and other gendered peoples in governance, ceremonial life, and trade afforded them a relatively much more public, empowered position within their bands and as diplomats and traders with others than in Europe.¹⁴

These social relations and the cultural beliefs on which they were based were directly targeted by colonization efforts, from the period of early missionization through the assimilation of the late nineteenth century. The systematic undermining of everything related to Indian cultural beliefs about

gender took its toll on the structure of Indian societies, specifically social and interpersonal relations.

But even as Indian women's and other gendered roles were being maligned and devalued, men's were not, at least not within the confines of the bands or on the reserves. Although there was certainly much violence and discrimination directed at Indian men within Canada, the social roles and responsibilities of heterosexual Indian men within bands and on the reserves was systematically elevated over that of women and nonheterosexuals by the institutions of Christianity, capitalism, sexism, and homophobia.

The Indian Act's provisions for status encapsulated and catapulted this process. With few opportunities for political power and economic self-sufficiency off of the reserve, heterosexual status Indian men were given opportunities in band government and reserve life. Unfortunately, they took advantage of these opportunities and even came to feel empowered and entitled to them.

Thus, the provisions for status contributed to the normalization and legitimization of Indian male privilege within band government. The consequences are embedded within the assumptions and expectations of status Indian men to the privileges that they were entitled to under the law. Status Indian men came to expect to be privileged and to rely on the material benefits of those privileges; over time they found the law "affirmed, legitimated, and protected" their expectations.¹⁵ For even though they were altogether disenfranchised and discriminated against when compared to European-Canadian men, status Indian men found in the Indian Act system a relative position of power to which they came to feel and be legally entitled.¹⁶ This is indicated in the myriad ways that the sexism of male privilege came to characterize band governments and reserve life. For instance, by the 1960s, only 6 percent of elected council chiefs and council members were women; and certificates of possession, or the legal documents granting status Indians permission to live in reserve housing, were issued by bands and DIAND officials almost exclusively to men.¹⁷

Concurrently, there has been a systematic escalation of violence against Indian women.¹⁸ In "Stolen Sisters: Discrimination and Violence against Indigenous Women in Canada," Amnesty International reports that well over 60 percent of Indian women have experienced sexual violence.¹⁹ Further, a "shocking 1996 Canadian government statistic reveals that Indigenous women between the ages of 25 and 44, with status under the Indian Act, were five times more likely than all other women of the same age to die as the result of violence."²⁰ Community-based and interracial violence against Indian women indicates that a complex social matrix of oppression exists within and between Indian and non-Indian communities. This violence registers the

prevalence of sexist ideologies and practices in band governments and Indian organizations that have chosen to ignore that Indian women are most often the targets of violence.²¹

Conclusions

Given the devastating impact of the Indian Act on Native communities in Canada it is ironic that Indian women who campaigned for the 1983 and 1985 amendments would be dismissed by their band governments and organizations as anti-Indian and anti-Indian sovereignty. These dismissals, and the painful way in which they rationalized sexist discrimination and violence against women within Native communities, demonstrates the urgent need for a much more complex understanding of the relationship between gender and sovereignty than currently dominates Native politics. Native sovereignty struggles are gendered; Native rights to sovereignty are not defined or exercised outside of a historical context of patriarchal colonialism; and, the structures and impact of patriarchal colonialism are neither *post* nor *neo*: we live in them still. Recognizing that is the first step to developing an effect political strategy for decolonization and social justice for and by Native peoples.

Notes

1. *Indian, Métis, and Inuit* are the three legal categories of aboriginal or First Nation peoples in Canadian law. This article is focused on the politics of *Indian* gender and sovereignty. I use the term *Native* when addressing all three and/or including all Native peoples in what is now Canada. *Status* is the term used to designate a person's legal standing as an Indian under the provisions of the Indian Act.
2. See Cheryl I. Harris, "Whiteness as Property," *Harvard Law Review* 106.8 (June 1993): 1710–91; and Kimberlé Williams Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color," in *Critical Race Theory: The Key Writings That Have Formed the Movement*, ed. Kimberlé Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas, 357–83 (New York: The New Press, 1995). Also see the articles by Dian Million and Audra Simpson in this volume.
3. Janet Silman, *Enough Is Enough: Aboriginal Women Speak Out* (Toronto: The Women's Press, 1987); Lillianne E. Krosenbrink-Gelissen, *Sexual Equality as an Aboriginal Right: The Native Women's Association of Canada and the Constitutional Process on Aboriginal Matters, 1982–1987* (Fort Lauderdale, Saarbrücken Press, 1991).
4. Silman, *Enough Is Enough*, 178–79. See also Jo-Anne Fiske, "Native Women in Reserve Politics: Strategies and Struggles," *Journal of Legal Pluralism and Unofficial Law* 30 and 31 (1990): 121–37, and "Child of the State/Mother of the Nation: Aboriginal Women and the Ideology of Motherhood," *Culture* 13 (1993): 17–35; Lillianne E. Krosenbrink-Gelissen, "'Traditional Motherhood' in Defense of Sexual Equality Rights of Canada's Aboriginal Women," *European Review of Native American Studies* 7.2 (1993): 13–16; and Sharon McIvor, "Aboriginal Women's Rights as 'Existing Rights,'" *Canadian Woman Studies* 15 (Spring-Summer 1995): 34–38.

5. For similar attempts, see Susan Applegate Krouse and Heather Howard-Bobiwash, eds., 2003. "Keeping the Campfires Going: Urban American Indian Women's Activism," Special Issue, *American Indian Quarterly* 27.3–4 (Summer-Fall 2003); and Nancy Janovicek, "Assisting Our Own: Urban Migration, Self-Governance, and Native Women's Organizing in Thunder Bay, Ontario, 1972–1989," in the aforementioned Special Issue of *American Indian Quarterly*, 548–65.
6. This section is an excerpt from my article "Gender, Sovereignty, and the Discourse of Rights in Native Women's Activism," *Meridians: Feminism, Race, Transnationalism* 7.1 (2006).
7. See Sidney L. Harring, *White Man's Law: Native People in Nineteenth-Century Canadian Jurisprudence* (Toronto: Osgoode Society for Canadian Legal History, University of Toronto Press, 1998); Curtis Cook and Juan D. Lindau, eds., *Aboriginal Rights and Self-Government: The Canadian and Mexican Experience in North American Perspective* (Montreal: McGill-Queen's University Press, 2000); and Katherine Beatty Chiste, "Aboriginal Women and Self-Government: Challenging Leviathan," *American Indian Culture and Research Journal* 18.3 (1994): 19–43.
8. See *Somewhere Between*, a 1982 film directed by Harvey J. Crossland.
9. Kathleen Jamieson, *Indian Women and the Law in Canada: Citizens Minus* (Ottawa: Advisory Council on the Status of Women/Indian Rights for Indian Women, 1978).
10. D. N. Sprague, "The New Math of the New Indian Act: $6(2) + 6(2) = 6(1)$," *Native Studies Review* 10.1 (1995): 47–60. Furthermore, under Section 6(2) of the Indian Act, the children of two successive generations of status and nonstatus parents are not entitled to become status Indians.
11. For instance, see Andrew Armitage, *Comparing the Policy of Aboriginal Assimilation: Australia, Canada, and New Zealand* (Vancouver, B.C.: University of British Columbia Press, 1995); Evelyn Blackwood, "Sexuality and Gender in Certain Native American Tribes: The Case of Cross-Gender Females," *Signs: Journal of Women in Culture and Society* 10 (1984): 27–42; Nancy Bonvillain, "Gender Relations in Native North America," *American Indian Culture and Research Journal* 13.2 (1989): 1–28; Ron Bourgeault, "The Indian, the Métis and the Fur Trade: Class, Sexism and Racism in the Transition from 'Communism' to Capitalism," *Studies in Political Economy* 12 (1983): 45–79; Bourgeault, "Race, Class, and Gender: Colonial Domination of Indian Women," *Socialist Studies* 5 (1989): 87–115; Bourgeault, "The Development of Capitalism and the Subjugation of Native Women in Northern Canada," *Alternate Routes* 6 (1993): 110–40; Jennifer S. H. Brown, *Strangers in Blood: Fur Trade Families in Indian Country* (Vancouver, B.C.: University of British Columbia Press, 1981); Carol Devens, *Countering Colonization: Native American Women and Great Lakes Missions, 1630–1900* (Berkeley: University of California Press, 1992); Mona Etienne, and Eleanor Leacock, *Women and Colonization: Anthropological Perspectives* (New York: Bergin and Garvey, 1980); Marilyn Holly, "Handsome Lake's Teachings: The Shift from Female to Male Agriculture in Iroquois Culture. An Essay in Ethnophilosophy," *Agriculture and Human Values* 7.3–4 (Summer-Fall 1990): 80–94; Laura F. Klein and Lillian A. Ackerman, *Women and Power in Native North America* (Norman: University of Oklahoma Press, 1995); Marybelle Mitchell, *From Talking Chiefs to a Native Corporate Elite: The Birth of Class and Nationalism Among Canadian Inuit* (Montreal: McGill-Queen's University Press, 1996); Russell Smandych and Gloria Lee, "Women, Colonization and Resistance: Elements of an Amerindian Autohistorical Approach to the Study of Law and Colonialism," *Native Studies Review* 10.1 (1995): 21–46; and Sylvia Van Kirk, *Many Tender Ties: Women in Fur-Trade Society, 1670–1870* (Norman: University of Oklahoma Press, 1983).
12. Bethany Ruth Berger, "After Pocahontas: Indian Women and the Law, 1830–1934," *American Indian Law Review* 21.1 (1997): 1–62.
13. Andrea Bear Nicholas, "Colonialism and the Struggle for Liberation: The Experience of Maliseet Women," *University of New Brunswick Law Journal* 43 (1994): 223–39.
14. See Klein and Ackerman, *Women and Power*.
15. Harris, "Whiteness as Property," 1713.
16. Another layer of historical context is, of course, the way that the roles and responsibilities of Indian men have been so dramatically transformed by colonial processes. See, for instance, Nicholas, "Colonialism and the Struggle for Liberation," who suggests that Indian men came to identify with patriarchy because of how colonialism had stripped them of their once empowered positions within Indian communities as leaders, traders, and providers.
17. Krosenbrink-Gelissen, "Traditional Motherhood," and Christine M. Goodwin, "Human Rights, Women's Rights, Aboriginal Rights: Indivisible and Guaranteed?" *Centrepiece: Newsletter of the Alberta*

- Civil Liberties Research Centre* 8.2 (2002): 1–14, online at www.aclrc.com/Newsletter/centrepiece8no2.html. As Goodwin observes, the consequence of the *certificates* being issued to men is that women seeking help for themselves and their children at shelters against abusive male partners are often punished by band councils, women finding themselves evicted from their homes when they return.
18. Very little study or reporting has occurred on violence against other gendered peoples within Indian communities throughout North America.
 19. Amnesty International, “Stolen Sisters: Discrimination and Violence against Indigenous Women in Canada: A Summary of Amnesty International’s Concerns,” October 4, 2004, Report Index: AMR 20/001/2004; online at <http://web.amnesty.org/library/>; Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide* (Boston: South End Press, 2005). Read also about NWAC’s current Sister’s In Spirit Campaign at <http://www.sistersinspirit.ca/>.
 20. Amnesty International, “Stolen Sisters,” 1.
 21. Gloria Valencia-Weber and Christine Zuni, “Domestic Violence and Tribal Protection of Indigenous Women in the United States,” *St. John’s Law Review* (Winter-Spring 1995).