

Written Briefing to Standing Senate Committee on Indigenous Peoples re: Bill S-2 BACKGROUND NOTES

1. SCN Treaty Position on Membership, February 2025, attached



Samson Cree Nation Treaty based Position on Treaty Jurisdiction Over Membership and Nationality

We the Nehiyawak Peoples of Nîpisihkopâhk were given our way of life by the Creator who provided us with natural law. The Natural Law is spiritual and is the basis of the relationship between the Creator and the Peoples that is passed from one generation to another through the sacred ceremonies given to the Peoples by the Creator. Natural Law governs how all creation exists, living in balance and harmony with all of creation; and the Creator will provide the gifts of nature to sustain us as long as we do not upset its balance.

We assert our inherent right and authority to govern ourselves, our land, territories, resources and our way of life based on the Natural Law of the Customary International Laws developed through the times based on the teachings of the ancestors. We shall continue to exercise our jurisdiction to provide a safe, peaceful, healing, caring, secure and prosperous environment for our Nehiyawak Peoples now and for the future.

Whereas the Treaty Nations entered into sacred Treaty agreements with the Crown, including but not limited to Treaty No. 6, 7, 8, and others, affirming the recognition of Inherent and Treaty sovereignty, governance, and jurisdiction over their own Treaty Peoples, Lands, Territories and Resources.

Whereas the Indian Act is a colonial instrument that unilaterally imposed colonial definitions of membership and citizenship, violating the original spirit and intent of the Treaty, and undermining the Inherent Rights of Treaty Nations.

Whereas the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Canada has adopted without qualification and passed into law through Royal Assent, affirms the Right of Indigenous Peoples to determine their own identity, membership, and nationality free from external interference¹.

Therefore, the Samson Cree Nation hereby assert the following positions regarding Indian Act membership provisions:

Samson Cree Nation has never given up and continues to maintain Exclusive Authority over Treaty Membership and Nationality and the jurisdiction over the determination of membership and nationality rests solely with the Samson Cree Nation, as this authority was never ceded,

¹ UNDRIP Articles 3, 4, 9, 33

surrendered, or delegated to the Crown, Parliament, or any external entity.

Samson Cree Nation, as a Treaty Nation, affirm that their Treaty based membership/nationality, laws, customs, and traditions predate and supersede the Indian Act and any federal legislation governing Treaty, Indigenous or Aboriginal identity.

Samson Cree Nation rejects the colonial, Indian Act Definitions of "Status" and Membership and the Indian Act's classification of "status" Indians and its associated membership provisions are colonial constructs that do not reflect Samson Cree Nation Treaty based laws, traditions, or understandings of kinship and belonging.

The second-generation cut-off rule, imposed under the Indian Act, is an act of forced assimilation that systematically undermines and erodes SCN Treaty populations and violates Treaty and Indigenous human rights. The removal of individuals from membership due to arbitrary federal rules is an infringement on the Treaty relationship, Inherent and Treaty Rights of Samson Cree Nation.

Samson Cree Nation will exercise its full Treaty authority to define and determine their own membership and nationality criteria based on Inherent and Treaty Rights including but not limited to Natural and Nature's laws, oral traditions, kinship, language, culture, and traditional customary and ceremonial acceptance practices and protocols.

Nationality in Samson Cree Nation shall be transmitted through lineage, customary adoption, and cultural/traditional recognition, ensuring the continuation of Treaty identity without external interference, limitation or arbitrary restriction.

Samson Cree Nation shall re-establish and implement Treaty based membership and nationality and registry systems, independent, distinct and separate from the Government of Canada's "Indian Registry," to uphold our Inherent and Treaty jurisdiction over Treaty identity and nationhood of Samson Cree Nation as affirmed in the UN Declaration² therefore we assert that Treaty Law has paramountcy over federal, provincial and any other laws, policies or regulations that impact Treaty based membership and nationality.

Samson Cree Nation therefore rejects the application of all Indian Act membership provisions including the Second Generation Cut Off Rule, amongst others, as stated in the UN Declaration preambular paragraphs as follows,

Para.4. Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Para.5. Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Para.6. Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their [L]ands, [T]erritories and [R]esources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

² UNDRIP Articles 6, 7, 8, 9, 10, 11

Para.7. *Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their [L]ands, [T]erritories and [R]esources,*

Para.8. *Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in [T]reaties, agreements and other constructive arrangements with States,*

Para.14. *Considering that the rights affirmed in [T]reaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of [I]nternational concern, interest, responsibility and character,*

Para.15. *Considering also that [T]reaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,*

Further, UN Declaration Article 37.2 states, *Nothing in this Declaration may be interpreted as diminishing or eliminating the [R]ights of [I]ndigenous [P]eoples contained in [T]reaties, agreements and other constructive arrangements.,*

Also, UN Declaration Article 45 states, *Nothing in this Declaration may be construed as diminishing or extinguishing the [R]ights of [I]ndigenous [P]eoples have now or may acquire in the future.*

Finally, all of the above, as referenced and strengthened by relevant articles of the Organisation of American States (OAS) Declaration on the Rights of Indigenous Peoples and as declared in the Samson Cree Nation Constitution, Laws and Declarations.

During engagements with First Nations on Bill C-31,

- Minister Crombie at a General Membership Meeting in Hobbema, AB gave a public statement that no First Nation will be worse off (financially).
- Since then, there has been no increase in financial obligations under Treaty including funding for all programs and services i.e. education, housing, trades training, infrastructure and capital new builds and/or improvements, nor has there been an attempt to expand Treaty land mass in accordance with Treaty population growth.
- Resulting in dispossession and displacement trauma of our Peoples.

Second Generation Cut off

- Is the gradual termination of Treaty with direct impacts to Lands, Wills and Estates
- Perpetuates ongoing gender-based violence against Indigenous Women
- Dual Citizenship impacts and Jay Treaty

Data shared to Samson Cree Nation, 2024

	ISC	Samson Cree Nation
Registered under the <i>Indian Act</i>	9,566	9,750
Registered under 6(2)	2028	2072
Percentage impacted by 6(2)	21%	22%

6(2) *Fathers of “Unknown paternity”*

- Fathers of “unknown paternity” cases of incarceration, death, MMIM, or Native American ancestry; Canada does not recognize Native American ancestry like that of a recognized Status Indian, results in many children, many now adults, as a dispossessed population.
- Other reasons for not stating paternity is due to confidential/ criminal situations where a child is conceived criminally without consent.

ISC Ancestry Data records

- These have not been shared with the Nations directly, i.e. in the situation where an individual sought registration outside of the Nation’s knowledge and awareness.
- ISC uses this data to determine eligibility.

ITS 2025 Final Report Recommendations, Calls for Action

62. Address the Indian Act membership provisions including the second-generation cutoff policy that adversely impacting and restricting the Inherent and Treaty Rights of Indigenous Women and their children by **denying membership recognition based on a unsubstantiated, flawed and false mathematical equation intended to deny the ability to pass on sacred ancestral lineage**. These processes directly and adversely impact Indigenous Nationhood, targeting Indigenous Matrilineal systems undermining the importance of our sacred traditional knowledge, customs, laws and protocols. **Indigenous Peoples and their governance systems require financial support to remedy the longstanding, negative financial impact of the numerous and unconsented Indian Act amendments experienced by Treaty Nations, Treaty Family units including Elders, Children, Women, Men, those living with disabilities and those who experienced forced enfranchisement.**

“As long as Treaty mothers are birthing Treaty babies, Treaty Peoples will always be here for as long as the sun shines, the grass grows and the rivers flow”

Bilateral Relationship of Sovereign Nations direct with the successor to the Crown

- This is an opportunity to finally establish a direct Nation to Nation Bilateral relationship with Treaty Peoples, Tribes and Nations.

United Nations Declaration on the Rights of Indigenous Peoples

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
 - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

- (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
- (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
- (d) Any form of forced assimilation or integration;
- (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

2. United Nations Human Rights Council, 28 to 29 May 2025, full submission

<https://www.ohchr.org/en/hr-bodies/hrc/expert-workshop-role-family>

Title under Session 2, Mr. Wilton Littlechild, International Chief of Treaty No. 6, 7, & 8, International organization of Indigenous Resource Development

3. Reintroduction of previously repealed language Section 111 and s.112

The wording for these amendments was not provided within the text of S-2 for review and comparison.

a. Section 111 – R.S.C. 1906, c. 81,

“111. The Minister shall, within fifteen days after the opening of each session of Parliament, submit to both Houses of Parliament a list of the Indians enfranchised under this Act during the previous fiscal year, and the amount of land and money granted and paid to each Indian so enfranchised.”

b. Section 112 – R.S.C. 1970, c. 1-6

*“112. (1) **Where the Minister reports that a band has applied for enfranchisement, and has submitted a plan for the disposal or division of the funds of the band and the lands in the reserve, and in his opinion the band is capable of managing its own affairs as a municipality or part of a municipality, the Governor in Council may by order approve the plan, declare that all the members of the band are enfranchised, either as of the date of the order or such later date as may be fixed in the order, and may make regulations for carrying the plan and the provisions of this section into effect.***

Majority Vote required

(2) An order for enfranchisement may not be made under subsection (1) unless more than fifty per cent of the electors of the band signify, at a meeting of the band called for the purpose, their willingness to become enfranchised under this section, and their approval of the plan.

Agreements with provinces or municipalities

(3) The Governor in Council may, for the purpose of giving effect to this section, authorize the Minister to enter into an agreement with a province or a municipality, or both, upon such terms as may be agreed upon by the Minister and the province or municipality, or both.

Financial assistance

(4) Without restricting the generality of subsection (3), an agreement made thereunder may provide for financial assistance to be given to the province or the municipality or both to assist in the support of indigent, infirm or aged persons to whom the agreement applies, and such financial assistance, or any part thereof, shall, if the Minister so directs, be paid out of moneys of the band, and any such financial assistance not paid out of moneys of the band shall be paid out of moneys appropriated by Parliament. R.S., c.149, s. 111

- Treaty lands become provincial or municipal lands (with Indian Monies)

4. Matters decided under Provincial law

The introduction of Provincial law through federal legislation, bypassing S.88,

- a. Nations have their own laws to preside over matters specific to their Nation members
- b. Nations have the right to decide which laws apply to their Nation members
- c. No other law applies as Treaty is the Supreme law of the land
- d. Province has no authority to define and qualify Treaty matters

5. Property off-reserve

- a. Incorporation of provincial law by reference, bypassing s.88 and legislative delegation within this Act violating Treaty

6. No Liability clauses 9, 10 and 11 only protect Canada

- Commend the Senate: in 2019, APPA calls for a formal apology and calls for the removal of legislated bars to compensation outlined in No Liability clauses 10 and 11
- Call to support Treaty women and children while also ensuring remedy and financial redress for those harms having been perpetuated for so long:

Expert Mechanism has recommended previously that, in providing redress to indigenous peoples for the negative impacts of State laws and policies, States should prioritize the views of indigenous peoples on appropriate forms of redress. (A/HRC/21/53, para. 23)

- We object to the No liability clauses for those people harmed by Indian act membership amendments must be in line with Reconciliation and must include redress and remedy.

- We recommend the inclusion of legally binding no liability and indemnification clauses of equal legal weight specifically for the protection of the council of band i.e. Chief and Council.

7. Illustration of the Administrative and Legal Hurdles

- **1951 Indian Act changes did not give Nations the right to control their registration lists, only the responsibility to manage them**
 - None of the say over who is registered – IA Registration and Registrar bypass the inherent right to Self-determination of our Nation to ensure that those recognized are in fact legitimate members with Treaty ancestral ties; we know nothing about them other than a name on a list
 - Till today, our nations have no idea who's been added to our Nation membership list, what their evidence is to prove ancestry and kinship lineage
- **Bill C-31 created many problems for Treaty Nations**