

Brief to

**House of Commons Standing Committee on Aboriginal Affairs,
Northern Development and Natural Resources**

**Public Hearing into Bill C-7,
First Nations Governance Act:
an Act respecting leadership selection, administration and
accountability of Indian bands, and to make related amendments
to other Acts**

**prepared by
Provincial Council of Women of Manitoba, Inc.**

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Introduction

The Provincial Council of Women of Manitoba (PCWM) is pleased to have this opportunity to speak to Bill C-7, the First Nations Governance Act. Provincial Council of Women of Manitoba is a federation of provincially-organized women, women and men's groups and individuals. We act, on a non-partisan basis, based on the Provincial and National Council of Women of Canada resolution system to improve the quality of life for women and their families in Manitoba.

The Council's interest and concern for improving the quality of life for Aboriginal women and their families arise from our interactions with Aboriginal women over the years. PCWM has two valued Aboriginal organizations as federates. Over the years we have learned about the lives of aboriginal women through joint programs designed to build bridges between our cultures.

In the last two years, a number of First Nation women have asked us for assistance. PCWM is not a service provider but, within its mandate and when asked, PCWM has supported the women in situations involving safety, human rights and democracy.

Why is PCWM addressing Bill C-7 ?

To be clear, PCWM is not speaking on behalf of Aboriginal women. The decision for PCWM to speak publicly on Bill C-7 was not taken lightly. The Provincial Council of Women of Manitoba is a federate member of the National Council of Women of Canada (NCWC) and fully supports the Brief presented by NCWC to this Committee. PCWM's comments should be considered in conjunction with those of NCWC.

What we have learned of the fear, the violence, the violation of human rights, the lack of democracy on a small First Nation in southern Manitoba (XFN); the lack of recourse or remedy and the indifference of government leaders charged with the responsibility for the safety, democracy and human rights of these women is shocking. It would be wrong to be silent given what we know of the conspicuous absence of human rights legislation to protect Aboriginal Peoples and the struggles that a group of women has gone through to be allowed an election and to obtain adequate police service on their reserve. XFN is not alone. We receive calls from women on other Manitoba reserves seeking help with similar issues.

It is difficult for the members of the National, Provincial and Local Councils of Women to attend national and international gatherings and advocate, with a clear conscience, for democracy, human rights and the abolition of violence against women in developing countries knowing full well that here at home we are a long way from measuring up to United Nations Conventions to which Canada is a signatory. PCWM bases the following comments on experiences with Aboriginal women and First Nation communities plus PCWM Resolution: *Freedom of Information* (1999).

Part 1: Governance

a) Leadership Selection Code (Section 5)

A number of Aboriginal women have asked us about elections, for example, how to get an election under Section 74 of the Indian Act; how to challenge alleged election irregularities with the mail-in voting system and vote-buying; and about orders for new elections. In Manitoba, the Winnipeg Free Press and the DRUM newspapers frequently carry articles about First Nation elections which validate the complaints we receive.

Working with individual First Nation's traditional ways (and if needed, the Election Officer of Canada and United Nations bodies) to establish clear band codes on leadership selection should, over time, lead to greater stability of leadership. Where there are traditional ways of leadership selection, including circles of elders, women and youth, it is vital that they are respected and included.

b) Administration of Government Code (Section 6)

Administration of Government codes could do much to reduce the complaints we have heard about band meetings and the consultation, or lack of consultation, of the grassroots concerning Band Council Resolutions. We are pleased that your Committee has invited the Information Commissioner of Canada to assist you with making recommendations for an appeal system for access to information and protection of privacy for band members. This is essential as Band members need to know how their band is being run in order to have an informed say in their community's affairs and to hold their leadership accountable to them.

c) Financial Management and Accountability Code (Sections 7, 8, 9, 10)

One of the areas which has been severely criticized by the Aboriginal women from whom we have heard is that of financial management. On XFN, for example, 3-4 million dollars (mostly from Indian Affairs) is allegedly unaccounted for -- and this is an extremely small community. The 2001-02 financial statement is only just now being released. XFN women also ask how funds intended for housing repairs on-reserve have been used. It is not just federal money. XFN and other First Nation want to know how gambling revenues are being used. The Government of Manitoba has asked the Auditor General of Manitoba to conduct an audit of Native Gaming. A Special Operating Review of XFN gaming has also been commissioned.

These examples bring to mind the engineers in the City of Winnipeg water department. In the 1980's, the engineers looked at the graphs showing the steady increase in water use over the years. They said it was time to think about twinning the aqueduct from Shoal Lake, the source of the City's drinking water. Then the engineers noticed that a lot of water was being lost in places along the line because of leaks. Now, the engineers are getting very good at detecting the leaks and fixing them. They also started a water conservation program called, "Slow the Flow." It wasn't long before the engineers announced that the City didn't need to twin the aqueduct after all.

Every year, a lot of money flows from Indian Affairs, Health Canada, Human Resources Canada, etc. to First Nations but, according to Aboriginal women, the Auditor General and the media, there are leaks along the line. These lines need to be examined for leaks - starting in the federal government departments, through the regional offices and other bodies which are responsible for the distribution of funds, through consultants' offices, into the band office of each First Nation and then to the people. Any leaks which are found should be corrected so that the flow goes to where it is intended and needed. On-going vigilance, openness, routine disclosure of financial matters will improve such financial accountability. And fixing the leaks could help find money for housing and alleviating poverty.

The Auditor General of Canada recently reported that First Nations are required to submit to the federal government 168 financial forms a year, some of which are unnecessary and redundant. It would be very helpful if the Auditor General, Aboriginal people, the accounting profession and Departments could agree on a financial reporting system that does the job with checks and balances but which is not more onerous than necessary.

The above three areas of governance could have positive effects for the Aboriginal women with whom we are working. However, different communities will take varying lengths of time to build capacity to bring about change based on their values and customs. Many will require additional supports. The time frame, as many others have noted, may not be realistic for all First Nations.

Complaints and Redress (Section 11) and Inspection and Search - Band Enforcement Officers (Sections 23-29)

Members of XFN may or may not address your Committee themselves. The first and last time they made an address to a Standing Committee was in the Manitoba Legislature, July 23, 2002. Five band members opposed a Bill to extend aboriginal policing on reserves in Manitoba. Two days later, three of the five speakers were arrested and gaoled overnight by the same Aboriginal Police Service (APS) whose policing they had just openly criticized. Charges, which were laid the day after the arrests, have yet to be dealt with by the Manitoba Justice system.

The decision of the XFN band members to replace the APS with the RCMP was unanimous. There are a number of outstanding Law Enforcement Review Agency complaints against APS officers. Numerous complaints alleging the one-sided and political nature of the APS were sent to the Manitoba Minister of Justice, the Minister of Aboriginal Affairs Canada and the Solicitor General of Canada. There is no doubt that policing XFN is challenging for any police force. The difficulties were compounded in the heavily politicised environment where the aboriginal policing agreement was made by the Chief without consulting the band members. It is worth noting that a survey of police chiefs found that one of the two most important problems in aboriginal policing was "interference by local politicians" (Drs. Clairmont and Murphy, 2000).

It was our observation that the politicization of the police force on XFN was the foundation for the violation of human rights. There was no recourse available. It may be hard to find an impartial person or body to look into complaints or to enforce band laws [s. 11 (1) and s. 23 (1)]. The implications of having untrained Band Enforcement Officers with marked political biases are very serious indeed. First Nation women's advice must be followed.

Human Rights (Section 42)

A number of women on XFN lost their jobs and were denied access to education allegedly for challenging the hereditary chief. There were also human rights complaints about the adoption and application by the Chief of a Workfare Program and a Tenancy Agreement document. Women from XFN asked both the Manitoba and the Canadian Human Rights Commissions for assistance with their complaints but were turned down by Manitoba for jurisdictional reasons and by Canada because of Section 67 of the Canadian Human Rights Act (CHRA).

Besides employment, education, social assistance and housing, a chief and council could also, for political reasons, use their power to deny access to other fundamental services such as health and law enforcement on-reserve. A complaint would have to fall under one or more prohibited grounds for discrimination written into the CHRA, such as age, sex, religion, etc., in order for the Canadian Human Rights Commission to investigate. However, unlike many other countries and most Canadian provinces, the CHRA does not have grounds for "political belief", (Samuel Steinberg, 2000). Including "political belief" in the CHRA would allow complainants recourse and remedy to human rights situations such as those seen on XFN. In addition, such an amendment to the CHRA could help to build a more independent band administration and strengthen governance.

Therefore, further to our support of Section 42 (Related Amendment) of Bill C-7, we would recommend a further amendment to the CHRA to include prohibition of discrimination on the grounds of "political belief".

We wish the Committee well in its important work.

References:

Standing Committee on Law Amendments (Bill 44 - Aboriginal Policing)

http://www.gov.mb.ca/hansard/hansard/3rd-37th/la_08/la_.html and/or Hansard Vol. LII No.8

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Dr. D. Clairmont and Dr. C.J. Murphy. Atlantic Institute of Criminology, Dalhousie University, Solicitor General of Canada. No. 2000-01.

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- The Indian Act Exemption - Options for Reforming the Canadian Human Rights Act.

Larry N. Chartrand.

- Preserving Our Place. Tracey O'Donnell.

- Assessing the Need to protect Political Beliefs under the CHRA. Samuel Steinberg.

Federate Members of the Provincial Council of Women of Manitoba, Inc.

- § Anglican Church: Women's Commissions – Diocese of Rupertsland
- § Business & Professional Women's Clubs (Manitoba)
- § Federation of University Women – Manitoba Council
- § Consumers Association of Canada (Manitoba) Inc.
- § Council of Women of Winnipeg
- § Elizabeth Fry Society of Manitoba
- § Federation of Medical Women of Canada of Manitoba
- § IKWE-Widdjiitiwi, Inc.
- § Immigrant Women's Association of Manitoba (IWAM)
- § Manitoba & NW Ontario Synodical Society, WMS, The Presbyterian Church in Canada
- § Manitoba Association of Home Economists (MAHE)
- § Manitoba Association of Women and the Law (MAWL)
- § Manitoba Association of Women's Shelters
- § Manitoba Child Care Association (MCCA)
- § Manitoba Dental Hygienists Association
- § Manitoba Women in Trades and Technology (MBWITT)
- § NDP Status of Women Committee
- § Original Women's Network
- § Professional Nurses Study Group
- § Reseau Organization de Femme
- § Salvation Army Women's Organizations MB. & W. Ontario Division
- § UN Platform for Action Committee (MB) – UNPAC
- § Ukrainian Women's Association of Canada
- § Women's Health Clinic
- § Women's Health Research Foundation of Canada