

# CANADIAN INDIGENOUS WOMEN'S CIVIL AND POLITICAL RIGHTS: PROSPECTS AND CHALLENGES

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**Abstract:** Indigenous women in Canada traditionally served as the chief providers and sustainers of their families and enjoyed certain rights and duties at par with men. As mothers and daughters, they directed and managed their community's affairs, reflecting a social system that permitted social, economic and political equality for men and women. In short, gender relations in indigenous societies were based on egalitarian principles and women had a very crucial role to play.

However, the advent of White-Europeans on Canadian land altered indigenous ways of life and with it the gender equation in the indigenous family structure, which resulted in women being relegated to a lower status than men in social hierarchy. The influence of white-European culture on indigenous social and political life led to marginalization of these women, both in terms of their identity as indigenous people and then as women.

It was not before 1960's that indigenous women movement in Canada started, seeking recognition of their civil and political rights that they were traditionally allowed under the ancestral society. For them, the recognition of these rights will pave the way for right to self-determination and self-government, which are indispensable to their identity. These lay the foundation for re-affirmation of traditional gender roles and of governing indigenous communities while allowing them social validity and the right to exist at par with the popular European culture.

This paper makes an attempt to examine the undercurrents of thoughts and ideologies that frame indigenous women's political rights and self-governance.

**Keywords:** Indigenous, Women, Rights, Identity, Self-Government, Indigenous Movements.

**Introduction:** Historically, gender dichotomy in the Canadian traditional indigenous societies was almost nonexistent in contrast to the western patriarchal system where masculinity occupied the highest position and femininity was exploited. However, imposition of binary gender norms on indigenous peoples by colonisers resulted in detrimental effects on indigenous gender roles, as the women were relegated to the margins of a society transiting into a patriarchal and colonial culture. Such a change ushered in low status for indigenous women and deprived them of the rights they had held before the arrival of Europeans to Canadian land.

The recent history has witnessed indigenous women being further marginalized via various colonial and post-Confederation legislations. After the 1876 Indian Act [1], indigenous women were denied the right to vote in band elections or even to participate in any decision making processes. Their cultural identity solely depended on their husbands and they were discouraged from marrying non-Indians because "a woman who married a man without Indian status lost her own status....and the children of such a marriage would not be recognized as Indian either". [2]

Indigenous women continue to experience discrimination through the Indian Act, they are inadequately represented in indigenous and mainstream organizations, lack official representation in discussions on self-government, face unequal employment prospects while the educated indigenous women suffer from ghettoization. It is understood that in modern democracy, gender equality and a violence-free society are a part of women's fundamental rights. Yet, the last few decades have witnessed violation of such rights, with a surge in crimes against them. In year 2004, Amnesty International released a report on mounting violence and discrimination against indigenous women in Canada, according to which the missing and murdered indigenous women cases told of unsolved crimes committed against them. The

report states: "The social and economic marginalisation of Indigenous women, along with a history of government policies that have torn apart Indigenous families and communities, have pushed a disproportionate number of Indigenous women into dangerous situations that include extreme poverty, homelessness and prostitution". [3]

Though, section 15 and 28 of Canadian Constitution guarantees equal rights and opportunities for indigenous men and women; section 35(4) ushers "Aboriginal and Treaty rights" equally to indigenous women and men and prohibits any kind of discrimination against any citizen on grounds of caste, religion, sex, race or class. Yet, indigenous women continue to face discrimination and they are victims of societal and institutional racism and sexism in the recent times, which have robbed them of their rights as representatives of distinct cultures. Discrimination, both explicit and implicit, has worked towards eliminating cultural diversity over time through various legal and policy approaches.

**Indigenous Women Movements in Canada:** The movements against such discriminatory practices started after 1960's when indigenous women started to struggle against century-old Indian Act which prohibited them to exercise their civil and political rights which define their indigenous identity and reaffirm their traditional roles as mothers, sisters, daughters and grandmothers in their communities. Sharon D McIvor, a critic writes that indigenous women rights, both civil and political rights, are their fundamental human rights. These rights, according to Sharon D McIvor, will bring "forward the recognition and affirmation of the participatory right" that these women enjoyed under traditional matriarchies as "the inherent right to self-government recognizes and affirms matriarchal governments". [4]

Moreover, indigenous women's rights to participate politically, socially, culturally, and militarily is part of their custom and traditions which are "recognized and affirmed within the existing right to Aboriginal self-government in section 35(1) of the Constitution". These participatory rights when at par with those of men in government making, "will restore gender relations that existed between Aboriginal women and men since time immemorial". [5] It is within the human rights framework that indigenous women have long advocated their civil rights and restoring them will help in reviving indigenous women's rights to self-determination.

Even though amendment to Indian Act in 1985 restored their indigenous status and gave band membership to indigenous women, they continue to suffer as "sex discrimination [which] still exists in the property rights" for example, "in cases of Indian divorces involving land on Indian reserves, the wife is legally disadvantaged compared to other Canadian women. There is no federal law granting rights to women in cases of marital dispute or separation". Along with this, the continuing sex discrimination against Indigenous women prohibits them from voting and exercising their political rights for vying for the post of Chiefs and representation in the Council, as they do not live on the reserve. Though, many indigenous women have regained their status on Indian reserves since then, their children are still discriminated against their cousins from male Indians. Sex discrimination continues in the Indian Act.[6]

It is against this background that indigenous women in Canada started to mobilize themselves from the decade of 1970s. The movement led to formation of Native Women Association of Canada in 1974, which has been actively involved in promoting indigenous women's civil and political rights, and advocates their participation at both national and international forums. For example, to have equal participation in discussion of Charlottetown Accord, Native Women's Association of Canada (NWAC) lobbied federal government in year 1992 to take part in drafting of the Charlottetown Accord as NWAC participation would have ensured a share in the compensation indigenous men organization received for their active participation in drafting the Charlottetown Accord. But due to some reasons, NWAC failed to convince the government about its participation. Sharon McIvor, states the reason: "The Canadian government has a habit of financially supporting organized Aboriginal men's groups to suppress the Aboriginal women of Canada in Court, in public forums, and even on the streets".(McIvor 2006:256) This in turn has excluded indigenous women from high level negotiations among indigenous and Canadian political leaders. It seems both have colluded in excluding indigenous women from participation in governance

and denied indigenous women the right to hold leadership positions within their communities. [7] These biases have distorted the perception of indigenous women's rights. Indigenous Women Rights Groups are viewed as divisive and influenced by western feminists. Their advocacy for women rights is perceived as being alien to the traditional society, corrupting the indigenous culture and communities. Thus, they face scorn and their issues more often than not are considered as non-essential and to be addressed later when other compulsive issues like collective self-determination have been achieved. [8]

What is imperative here is that the discourse on indigenous self-determination incorporates an understanding of the individual in relation to the society, as well as an autonomous, self-defining individual. This is necessary for the progress of collective self-determination from the rhetoric to a political concept closer to realization wherein aboriginal people become an egalitarian, organic society. Indigenous rights of self-determination hold little value without the incorporation of indigenous women's civil and political rights. It is worth noting that indigenous women claim that their civil and political rights are based on historical differences that form their indigenous identity. It "refers to the attachment that people have to particular communities, ways of life, set of beliefs, or practices that play a central role in their self-conception or self-understanding". Referring to their primordial occupancy, indigenous peoples, especially indigenous women, have often reflected on their belongingness, their sense of who they are, and the importance of their traditional lifestyle in their identity. Without their distinct culture, they cannot grapple with their self-image as the race, gender, and ethnicity remains central to their identity. [9] Thus, indigenous men and women in Canada have claimed their rights as "existing rights", which were never extinguished or surrendered to anybody. Therefore, their rights including the right to practise traditional self-government have remained intact.

Hence, it can be stated that indigenous women's civil and political rights are essentially the rights enjoyed by them from the indigenous peoples' occupancy of Canadian land since time immemorial. A glimpse of these rights is manifest in their traditional roles and responsibilities. They are also recognized by the Canadian Constitution and definitions of such rights have come to include rights to develop traditional, self-defining life-style and economy. Therefore, a case can be made that the indigenous women's civil and political rights fall under the domain of human rights and, therefore, they need to be addressed promptly, yet with sensitivity.

## References:

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