The Honourable Marc Miller,
Minister of Indigenous Services Canada

The Honourable Carolyn Bennett,
Minister of Crown-Indigenous Relations

The Honourable David Lametti
Minister of Justice and Attorney-General of Canada

The Honourable Maryam Monsef
Minister for Women and Gender Equality

July 29, 2021

Re: Sharon Nicholas, Terra Jean Nicholas, Nicole Eileen Nicholas, James Edward Nicholas, Joan Martha Ward, Jack Ray Ward, Royce Sagar Ward, Wanda Alexis Salmaniw, Nadia Alexis Salmaniw, Nicholas Alexander Salmaniw, Edith Fournier, Kathryn Fournier, Gabrielle Héroux, Philippe Héroux, Mervin Smith, James Hanson and Attorney General of Canada

Dear Ministers Miller, Bennett, Lametti, and Monsef,

We have learned, to our dismay, that the Government of Canada intends to contest a Charter challenge filed by sixteen plaintiffs who allege that their right to sex equality has been violated by the status registration provisions in the *Indian*

Act. The plaintiffs are denied status today because they are descendants of women who lost their status when their husbands were enfranchised.

It is very troubling that the Attorney General of Canada will soon appear in the Supreme Court of British Columbia to defend Canada's refusal to grant full Indian status to women and their descendants who were involuntarily enfranchised. After 50 years of litigation and petitions to the United Nations challenging the sex discrimination in the status provisions of the *Indian Act*; after women and their descendants have won their cases repeatedly, and Canada has repeatedly been directed by courts and UN treaty bodies to eliminate the sex discrimination; and after the Government of Canada has reported to Parliament and to the United Nations that the sex discrimination has been removed from the *Indian Act*, it is shocking that the Government of Canada would defend, in court, this blatant piece of outstanding sex discrimination. We understand that the plaintiffs asked for a settlement of this matter, and that, so far, their request has been denied.

Bill C-31 reinstated women who had been enfranchised with their husbands, but to a lesser status than they had before enfranchisement. It treated them the same way it treated women who lost their status for 'marrying out'. However, subsequent remedial legislation did not treat the women who automatically lost their status when their husbands enfranchised, and their children, in the same way as the women who lost their status because they married out, and their children. The '6(1)(a) all the way' provision of Bill S-3 has not been applied to the automatically enfranchised women and their children.

But there is surely no reason why it should not be. The Purpose Clause, Section 9 of Bill S-3, reads as follows:

> The provisions of the *Indian Act* that are amended by this Act are to be liberally construed and interpreted so as to remedy any disadvantage to a woman, or her descendants, born before April 17, 1985, with respect to registration under the *Indian Act* as it read on April 17, 1985, and to enhance the equal treatment of women and men and their descendants under the *Indian Act*.

Additionally, the United Nations Human Rights Committee notes, in paragraph 9 of its January 2019 decision on the petition of Sharon McIvor and Jacob Grismer, in which it found that Sharon McIvor's right to equal protection of the law and to equal enjoyment of her culture were denied by

Indian Act sex discrimination, that Canada is "under the obligation to take steps to avoid similar violations in the future."

The sex discrimination which the plaintiffs challenge in *Nicholas v. AG Canada* is certainly "a disadvantage to a woman or her descendants" within the terms of Section 9 of Bill S-3, and certainly a "similar violation" of rights to those at issue in *McIvor v. Canada*.

The sex discrimination in the *Indian Act* has been an effective tool of forced assimilation, and it is time to end it, not continue it.

We request that the Government of Canada decline to defend the discriminatory provisions in the *Indian Act* that bar the plaintiffs from entitlement to status, and instead ensure 1) that the plaintiffs are granted status immediately, and 2) that the '6(1)(a) all the way' amendment is liberally applied to ensure entitlement to status for all others similarly situated.

We look forward to your response.

Sharon McIvor
Jeannette Corbiere Lavell, C.M.
Dawn Lavell Harvard, President, Ontario Native Women's Association
Viviane Michel, President, Quebec Native Women's Association/Femmes Autochtonnes du Québec
Mary Hannaburg, Vice President, Quebec Native Women's Association/Femmes Autochtonnes du Québec
Chief Judy Wilson, Secretary-Treasurer, Union of B.C. Indian Chiefs
Dr. Lynn Gehl
Dr. Pamela Palmater, Chair in Indigenous Governance, Ryerson University
Dr. Gwen Brodsky
Mary Eberts, O.C.
Shelagh Day, C.M., Chair, Human Rights Committee, Canadian Feminist Alliance for International Action