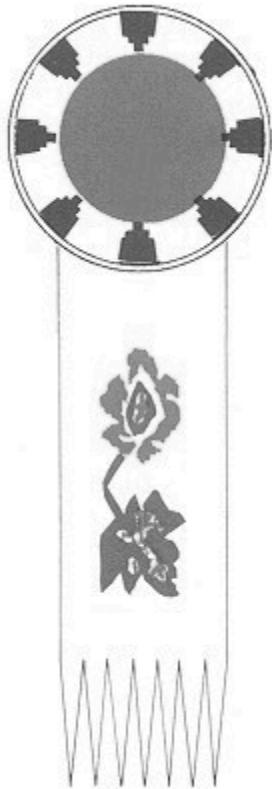


Native Women's Association of Canada



MATRIARCHY & THE CANADIAN CHARTER



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Funding provided by: Canada's
Department of the Secretary of State

An NWAC Discussion Paper

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Matriarchy and the Canadian Charter "An Equalitarian Society"

1. Introduction to the Iroquoian Matriarchy

The purpose of this document is to encourage a dialogue and to consult Aboriginal women on the one of many constitutional issues concerning Aboriginal people, "Matriarchy and the Charter", in order to formulate a comprehensive constitutional proposal which will shape Canada's future.

In this discussion paper, we will depict a historical overview and the modern-day status of the Iroquoian Matriarchy, its structures, powers, and functions and a brief examination of other indigenous matriarchies. Lastly, we will discuss the operation of the matriarchal/equalitarian system within the framework of the *Canadian Constitution* and the *Charter* and recommendations for discussion.

"Matriarchy" social organization in which the mother is head of the family and descent is reckoned through female line.

"Matriarch" woman corresponding in status to "patriarch" who is the ruler or head of the family or tribe.

Any perception that a matriarchy is an authoritarian form of government should be dispelled. It must be understood that the words have been defined by men and that a matriarchal system is based on the positive concepts of equality and caring in human relations, most importantly at the community and family level and a respect for the environment (Mother Earth). Matriarchy is a form of equalitarian social system based on kinship. Therefore, the word "matriarchy/equalitarian" is more appropriate in the description of matriarchal indigenous systems.

Canada, in order to attain its core values such as a belief in the need for equality and fairness, a belief in consultation and peaceful dialogue, the importance of accommodation and tolerance, a respect for diversity, the need for compassion and generosity, the value of Canada's natural beauty, and the importance of a national conscience that spurs it to make its contribution to global peace and development and to improve its democracy, *must strengthen the voice and participation of Aboriginal women, by implementing constitutional reform based on matriarchal/equalitarian principles.*

2. Historical Overview of the Iroquoian Matriarchy and other Indigenous Matriarchies

The Iroquoian Matriarchy operated within the system of the Iroquois Confederacy which was organized by the *Iroquois Constitution* (Gayanerekowa¹). The Iroquois Confederacy was a political system of Six Indian Nations: the Mohawk, Oneida, Onondaga, Cayuga, Seneca and Tuscarora. These Indian Nations now live on lands reserved for their use in southern Quebec and Ontario and the state of New York. In the Royal Proclamation of 1763 and the Six Nations Treaties, both the Americans and the British promised their allies, the Indian Nations, that they would be undisturbed in their occupation of these reserved lands. But this promise was not kept and the political and legal system of the Indian Nations was continually interfered with by force and legislation because the lands of Indians were desired for the needs of non-Indians and the exploitation and development of natural resources by projects such as the St. Lawrence Seaway and hydroelectric development.

When the Europeans came to the North American continent, the Iroquois woman had great economic, political and legal power enshrined in the *Iroquois Constitution*. Whereas the European patriarchy had successfully suppressed the power of their own women. The European woman upon marriage came under the total bondage and control of her husband who then made all decisions regarding her property, social life, body and children.

The *Iroquois Constitution* organized Iroquois society by large kinship groups or clans. The decision making power was exercised equally by both the male and female councils in each clan. Since women were considered the progenitors of the Nations, they held the property and hereditary title. Through her clan family, the Iroquois women held the titles of Chieftainship and War Chief and the privilege of clan membership with the power to depose and bestow. The clan families lived together in Longhouses and depended greatly upon each other for emotional, political, and economic support. Generally, upon marriage the man moved into Longhouse of his wife and her family and provided game and fish.

The women kept close control over the public treasury, food, land and buildings of the community as they had primary responsibility for agriculture. The Iroquois Constitution prescribed that women had the right to hold their own councils and act independently when necessary. By their influence, they could both start and stop a war. The position of the Iroquois woman was maintained through her participation in various communal activities, the annual festivals, the medicine societies, and as a midwife and herbalist. Into her hands fell the main task of educating the children and it was she who negotiated their marriages. Marriages were not permitted within the maternal family.

¹ It is also referred to as the Great Law of Peace or the Constitution of the Iroquois Confederacy.

Other indigenous matriarchies were similar to the Iroquois society, in that, kinship groups were the focus of their organized societies. The family life of Hopi Indians of the southwestern United States was centred around the woman and the eldest woman was honoured as head of the family. But her brother or maternal uncle commonly held the most authority in the family. The hunter-gatherer societies of the Inuit, Cree and Métis had the characteristics of kinship ties and equalitarian principles and they were organized around the seasonal migration of animals.

The interdependency of both the female and male roles was crucial for survival. They actively participated in the fur-trade economy by treating of animal skins and cooking of meats. The Pacific West Coast tribes also had elaborate economic and political systems similar to the Iroquois. The families accumulated and distributed the wealth via ceremonial activities such as the potlatch. Also, the Atlantic East Coast tribes were similar to the Iroquois and the women were sometimes chiefs.

The political systems of the tribes of the African continent were either patrilineal or matrilineal but both were organized on the principle of kinship. An African chief never had absolute power and decisions were the result of some consensus with varied forms of consultation. The chief could be removed and his title was hereditary in the sense that the successor had to come from a certain kinship lineage. This organizing principle followed the African slaves who were forced to North America. As a rule, the Afro-American woman was the dominant person in the household. But in the 1800's, the woman was forced into dependency on the Afro-American man who was given the right to purchase the freedom of his female relatives and children and furthermore for full legal freedom, he had to grant them a deed of manumission². As one can imagine, the granting of this deed of freedom was more theoretical than actual.

The Iroquois Matriarchy may be the only equalitarian system with a comprehensive constitution predating the arrival of the Europeans. However, other matriarchal/equalitarian indigenous societies had not formed a union or confederacy of nations but the principles of true participatory democracy were put in practice and not in theory.

3. Modern Day Status of Matriarchy

Equal and effective democratic participation in society by Aboriginal women of North America was in place when the newcomers came to the continent.

To attain the control of the vast resources and lands of the new world, the system of the newcomers had to suppress the Aboriginal systems which were based on matriarchal/equalitarian values of equal decision making by both sexes, caregiving and respect for the environment and preservation of resources for the future generations.

² *The act of liberating a slave from bondage and giving freedom.*

The newcomers insisted on dealing only with men (chiefs and warriors) and although the Aboriginal women wielded substantial control over the property of the tribe, dealings with women were minimized and gradually eliminated. Many traditional systems including ceremonies were criminalized by legislation but they were preserved by clandestine activities and societies.

Legislation such as the Indian Act, first enacted in 1800's, was patriarchally monopolized as women were not persons and could not vote. So Aboriginal women had no participation in this legislation which quelled the political power of the women and compelled dependency on the legal and administrative structures controlled by men. One example is the discriminatory sections of the Indian Act which resulted in the loss of Indian status of women who married non-Indians. Although these sections have been repealed and status of these women has been restored, the discriminatory effects are still felt in Aboriginal communities. Another is the fact that lands reserved for Indians are generally allotted to the male spouse and due to the paramountcy of federal landholding schemes under the Indian Act, upon marriage dissolution the non-titled spouse, generally the woman, has no recourse under provincial matrimonial property regimes because federal law regulates the holding of reserve lands. By the imposition of individual property ownership, the maternal group influence was disrupted. The spouses became more dependant on each other for emotional and financial existence. The husband became the sole provider of the food supply because he had taken over the role of the woman in agricultural or had become the sole income earner. Since the Aboriginal communities are economically depressed and dominated by patriarchal structures, an Aboriginal woman was kept in the lower economic rung and subject to domination by her husband or the patriarchal systems now in place in Aboriginal communities.

Legislation has suppressed the power of the woman in Aboriginal society. The bureaucratic structures and the political and justice systems ignore any influential matriarchal/equalitarian power. However, this has not lead to the demise of her influence in Aboriginal society as women still wield great influence as proven in the successful passage of Bill C-31 in 1985 and the role of prominent female Aboriginal figures during the Mohawk Crisis of the Summer of 1990.

The roles of Aboriginal women in traditional systems of Aboriginal communities are further revitalized in renewed modern functions. Aboriginal women are breaking new grounds such as controlling financial boards of Caisse Populaires (a first in Quebec) and initiating major economic ventures which reflect the tradition of Aboriginal women as true participants in the economy of Aboriginal communities.

Although, the number of band councils led by Aboriginal women was 58 of 594 (9.8%), any assessment of the political role and influence of women in Aboriginal communities must go beyond their numerical representation on band councils. In the near future, Aboriginal women must reclaim their rightful influence by greater participation in the decision making bodies of major Aboriginal institutions now monopolized by men.

4. Future Operation

The matriarchal/equalitarian system can operate within the Canadian Constitution and the Charter and shape a future together in partnership with Canada. The matriarchal/equalitarian system has the principles and requirements of equality and fairness, consultation and peaceful dialogue, accommodation, tolerance, and respect for diversity, compassion and generosity, respect for Canada's natural beauty, and the ability to make a contribution to global peace and development and to improve its democracy, by strengthening the voice and participation of Aboriginal women whose priorities are their families, kinship ties and communities in the constitutional reform process. The matriarchal/equalitarian system operates on a horizontal level, instead of a dominant hierarchical level.

There may be challenges to the matriarchal/equalitarian system on the basis that it discriminates against men and contravenes section 15 of the Charter. Such a challenge would probably fail in light of interpretations by the Supreme Court of Canada. The purpose of equality rights is to remedy or prevent discrimination against groups suffering social, political or legal disadvantage. Many groups in our society have faced or continue to face formidable barriers to being included in our society as themselves, for what they are. The physically and mentally disabled, Aboriginal peoples, visible minorities, official language minority groups and others face daily challenges not always understood by the rest of society. Equality aims to eliminate the barriers of discrimination. The goal of equality is not to achieve identical treatment; rather, by ridding laws of discriminatory distinctions, equality rights aim at equality of opportunity for disadvantaged individuals or groups. Aboriginal women have suffered discriminatory distinctions under the Indian Act and this position of inequality must be accommodated in Aboriginal self-government arrangements of the constitutional reform process.

In collective Aboriginal societies, kinship or group identification is strong and individuals find self-fulfillment by membership. In order to protect these group structures in Aboriginal collectivities, a dominant Aboriginal political structure must not oppress minority groups in Aboriginal communities. The goal is to prevent the breach of human rights and to guarantee enjoyment of all civil and political rights in international covenants one of which is for minorities to enjoy their own culture, to profess and practice their own religion, or to use their own language, in community with other members of their group. Major Aboriginal organizations, professional Aboriginal women, and any traditional structures in the Aboriginal communities must support and research the application of matriarchal/equalitarian systems, the application of customary law, and dispute resolution and appeal mechanisms in the constitutional reform process.

5. Recommendations for Discussion

In order to achieve the goal of equality by the participation of Aboriginal women in constitutional amendments the following positive actions are recommended, funding must be allocated under the control of Aboriginal women's organizations, seats designated for Aboriginal women at any constitutional negotiations, and Aboriginal organizations actively place Aboriginal women in leadership positions.

Furthermore, to protect individual groups in the Aboriginal collectivities the following is recommended:

1. The Canadian Charter of Rights and Freedoms must apply to all arrangements negotiated pertaining to self-government and self-determination.
2. "Gender Specific" legislation pertaining to the protection of Aboriginal women's rights must be enshrined into the Canadian Constitution. Such legislation must contain provisions that enforce court decisions pertaining to family property, employment equity and the Charter.³ Traditional Aboriginal government based on matriarchal/equalitarian principles must obtain recognition in the Canadian Constitution.