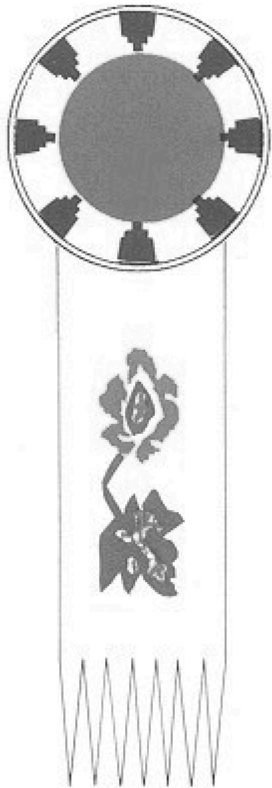
Native Women's Association of Canada



STATEMENT ON THE CANADA PACKAGE

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An NWAC Statement

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STATEMENT ON THE "CANADA PACKAGE"

1. Aboriginal Constitutional Process

The Native Women's Association of Canada believes Aboriginal women have a right to represent themselves in all future constitutional meetings on Aboriginal and treaty rights. Under sections 15, 28 and 35(4) of the Constitution Act, 1982, Aboriginal women are entitled to substantive equality rights. Aboriginal women are 52 per cent of the Aboriginal population. We are organized into 13 provincial and territorial organizations. There is a separate organization for Inuit women, and a newly formed organization for Métis women.

Aboriginal women have been discriminated against on the basis of sex by governments of Canada for the past 100 years. Our legal struggle as Aboriginal women began after the enactment of the Canadian Bill of Rights, and before the advent of section 15 of the Canadian Charter of Rights and Freedoms. Aboriginal women were among the first women to benefit legislatively from the Charter in the Constitution. When Aboriginal men were fighting for collective rights, women were struggling for sexual equality within the collective. These concurrent struggles have checkered the constitutional processes since 1979. When the Chiefs went to London, England to lobby the House of Lords on patriation, women were marching 100 miles from Oka, Quebec to Ottawa for sexual equality rights. We have never wavered from our objectives. We want to be part of this process. We bring a woman's perspective to the Constitutional debate. We want your support.

2. History of Sexual Discrimination

For 100 years, Aboriginal women who married non-Indians were banished from their communities, barred from their families and stripped of their legal rights. This disqualification was first introduced into federal law in 1869 and evidences the intrusiveness of the law in Aboriginal life in Canada. More so than most Canadians, the life of an Indian in Canada is shrouded in law.

The Indian Act governs an Indian's life from birth to death. In fact, the law follows the Indian into the grave by establishing the parameters of wills and estates on reserve lands. What Aboriginal women said in the 1970s was that they did not want the government in their private affairs. The Indian Act concerned itself with whom an Indian woman married. The Indian Act also allowed other Aboriginal community members to protest the paternity of any Aboriginal child suspected of having a white, or other non-Aboriginal father. This is still practised today in our communities. Such a child could be removed from the Indian registry and would not be allowed to be an Indian. In the minds of most Aboriginal women of the 1970s concerned with sexual equality, the interest of government in the sexual partnering of Aboriginal women went too far. And, it discriminated based on sex. All offspring of Aboriginal men -- legitimate or illegitimate -- gained Indian status and a right to band membership.

The legal struggle by Aboriginal women was brought almost to a standstill by the loss in the Lavell case in the Supreme Court of Canada. One reason why Jeannette Lavell lost her case was because there was no constitutional guarantee of sexual equality for women in Canada, except in the Canadian Bill of Rights. Lavell, however, lost her case because the Bill of Rights was simply another statute which could not override another statute. Undaunted by this loss, Aboriginal women later won a semi-victory in the Lovelace case at the United Nations Committee on Human Rights. These Aboriginal women of the 1970s never wavered in their battle for sexual equality. The Aboriginal women of the 1990's whom we represent, also, will never give up the struggle for sexual equality. What we are saying here today is that this struggle includes the right to represent ourselves in constitutional discussions. We want to remind you that our women of the 1970s took their struggle to the international arena, to national meetings every year from 1971 to 1985, to feminist meetings, to Parliament and finally to the streets and highways.

The legal and political struggle by Aboriginal women was not only against an insensitive federal government. It was also against the Aboriginal male establishment created under the Indian Act. The Indian Act has imposed upon us a patriarchal system and patriarchal laws which favour men. Only men could give Indian status and band membership. At one time, only men could vote in band elections. By 1971, this patriarchal system was so ingrained without our communities, that "patriarchy" was seen as a "traditional trait". In other words, even the memory of our matriarchal forms of government, and our matrilineal forms of descent were forgotten or unacknowledged. Some legal writers argue that it was the federal government alone, and not Aboriginal governments, which discriminated against women. In fact, the Aboriginal male governments and organizations were part of the wall of resistance encountered by Aboriginal women in their struggle to return to their communities.

Aboriginal women have historically been legally, politically and socially subordinated by the federal government and by Aboriginal governments. That subordination continues today. You may have thought that sexual discrimination against Aboriginal women ended in 1985 with the passage of Bill C-31. The political struggle for sexual equality for Aboriginal women was both a male/female struggle, as well as one which pitted collectivist self-government rights against female individual rights to equality. It was the political struggle, aligned with the advent of the Charter of Rights and Freedoms, which resulted in the passage of Bill C-31. This Bill amended the Indian Act to repeal sexually discriminatory provisions. As a result of passage, more than 70,000 men, women, boys, girls, old and young people have been added to the federal Indian registry and band lists.

Of the 70,000 registrants, 13,000 were women who originally lost their status under section 12(1)(b) of the Indian Act. An additional 40,000 are the children of section 12(1)(b) women. Between December 1985 and June 1990, the status Indian population grew from 360,000 to 487,000. The on-reserve population grew by 12 per cent. At the same time, the off-reserve population grew by 84 per cent, with 70 per cent of those persons being Bill C-31 registrants. It is estimated that 90 per cent of Bill C-31 registrants live off reserve. Over a period of five years since the passage of Bill C-31, only 2 per cent of the registrants were successful in moving back to the reserves!

Within 20 years, half of the status Aboriginal population will live in urban centres off reserves even though many prefer to remain within their communities. Our women want to live within their communities. It does not matter which organization appears before you to say they represent us. Aboriginal women are here. Aboriginal women are entitled, and we do, represent ourselves. Aboriginal women are not living in Aboriginal communities because there is no land. Aboriginal women are not living in Aboriginal communities because there is no housing. Aboriginal women have been shut out from Aboriginal communities because they do not wish to bear the costs of programs and services to which we are entitled as Aboriginals. Are the male leaders taking responsibility for our Aboriginal women in the cities? Our urban women are asking themselves why they do not have access to programs and services to which they are entitled. Do we have aboriginal and treaty rights because we are Aboriginal citizens, or do we have rights only because we live on designate Indian lands? Aboriginal women live in the slums. Aboriginal children prostitute themselves in Canadian cities. Our Aboriginal women, young people and children are killing ourselves with drug and alcohol abuse on the Indian lands and in the Canadian cities. Some of our women say that our governments-white and Aboriginal-don't give a damn about us! We are telling you that this situation will not change without our involvement in self-government and in the Constitutional discussions. Aboriginal men could take the initiative and give us a place at the table. Have they done that? No they have not.

Aboriginal women want to take their rightful place at the constitutional table. We are a "distinct and insular" minority belonging to another culture from which we have been separated. Our case is no different from that of Sandra Lovelace who claimed continuing discrimination because she was separated from her Maliseet culture, Maliseet language, and from her people. We want to reiterate that the majority of women we represent also suffer under this continuing discrimination. When our women are relegated to living in cities instead of among their own peoples, that is discrimination. It is a denial of fundamental rights guaranteed to us in international instruments signed by Canada. We demand justice. We demand substantive equality. Give us our seat at the table and we will continue to fight for ourselves because no one else is doing it. As women, we are the keepers of the culture. We want to raise healthy children.

3. Inherent Right to Self-Government

The Native Women's Association of Canada supports recognition by the Government of Canada of the inherent right to self-government. By "inherent right" we mean that Aboriginal peoples of Canada have enjoyed this right since time immemorial, and still possess it today. As acknowledged in the "Canada Clause", the right to self-government predates Confederation and the Constitution Acts of Canada. The inherent right to self-government has never been explicitly taken away from Aboriginal peoples and continues to exist today. Canadian courts have decided that an existing aboriginal and treaty right cannot be extinguished except by explicit reference in law. This has never been done with respect to the inherent right to self-government.

The Native Women's Association of Canada takes the position that the inherent right to self-government is an "existing" treaty and aboriginal right within the context of section 35 of the Constitution Act, 1982. We are asking the Government of Canada to recognize and affirm the inherent right to self-government. In other words, we are not asking for the creation of a new right. We are asking Canada to recognize and affirm the absolute right to self-government. The Government of Canada may choose to recognize and affirm that the right to self-government is an inherent right within the context of section 35. If that was the case, the Government of Canada could place this recognition in section 35, for example, as s.35(5). This would be acceptable to the Native Women's Association of Canada.

The creation of Band Councils in the Indian Act set up a regulated scheme for local governance. This is a delegated form of government established to further the purposes of the Government of Canada. Such action amounts to regulation which has not extinguished our inherent right to self-government.

What we want to get across to Canadians is our right as women to have a voice in deciding upon the definition of Aboriginal government powers. It is not simply a case of recognizing that we have a right to self determination and self-government. Aboriginal women also have sexual equality rights. We want those rights respected. Governments cannot simply choose to recognize the patriarchal forms of government which now exist in our communities. The band councils and the Chiefs who preside over our lives are not our traditional forms of government. The Chiefs have taken it upon themselves to decide that they will be the final rectifiers of the Aboriginal package of rights. We are telling you, we have a right, as women, to be part of that decision. Recognizing the inherent right to self-government does not mean recognizing and blessing the patriarchy created in our communities by a foreign government. Aboriginal women are not asking for chaos in our communities. We want the equality to which we are entitled as women.

Some Aboriginal women have said no to self-government. Some of our women do not want more power, money and control in the hands of men in our communities. It is asking a great deal to ask us as women to have confidence in the men in power in our communities. We do not want you to create Aboriginal governments with white powers and white philosophies in our communities. We do not want the western hierarchal power structure which you have given us. We do not want Chieftain overlords created by the Indian Act.

We want community decision making. We want consent powers. We want the people in the communities to decide upon their form of government. We want those Aboriginal women who are still banished from their communities to have a vote, some land, and a house in their homeland, in the community in which they were born. There are those among the Chiefs who would deny us a voice, who would deny us a place and those who wish we would simply go away until they have settled this political business. We are not going to go away. We want our male leaders to make a place for us at the bargaining table.

When Aboriginal women demand sexual equality, we are accused of being feminists. We are accused of dividing our community along sexist lines. But we are not leaving our men. Our men are at the table. They have been well-funded to participate in this constitutional debate. They are the ones with all the seats at the table. They are the ones with the money, power and control. And we are reminding them, that we are here. Aboriginal women are equal. Aboriginal women are ready. Aboriginal women want to participate.

4. Aboriginal Women and the Charter

Our Aboriginal leadership does not favour the application of the Canadian Charter of Rights and Freedoms to self-government. That position has not changed since 1982, when the Assembly of First Nations stated the following to the Standing Committee on Aboriginal Affairs:

> *As Indian people we cannot afford to have individual rights override collective rights... The Canadian Charter is in conflict with our philosophy and culture.*

The opinion is widely held that the Charter is in conflict with our Aboriginal notions of sovereignty, and further that the rights of Aboriginal citizens within their communities must be determined at the community level.

The Charter is an individual-rights based document recognizing and guaranteeing fundamental human rights to Canadians. This notion of fundamental rights and freedoms emanates probably from time immemorial. It is captured in the Charter of the United Nations and the Universal Declaration on Human Rights. These international instruments of law celebrate the individual nature of fundamental rights and freedoms. These are the rights which attach to individuals. They are the legal, political and constitutional rights which attach to human beings because they are human beings. The Native Women's Association of Canada supports individual rights. These rights are so fundamental that, once removed, you no longer have a human being. Aboriginal Women are human beings and we have rights which cannot be denied or removed at the whim of any government. That is how fundamental these individual Charter rights are. These views are in conflict with many Aboriginal leaders and legal theoreticians who advocate for recognition by Canada of sovereignty, self-government and collective rights. It is their unwavering view of the male Aboriginal leadership that the 'collective' comes first, and that it will decide the rights of individuals.

As Aboriginal women, we can look at nations around the world which have placed collective and cultural rights ahead of women's sexual equality rights. Some nations have found sexual equality interferes with tradition, custom and history. Sexual equality rights have been guaranteed to women around the world. But, like Canada's Charter, the United Nations has allowed nations to "opt out" of these international instruments. We are speaking of international human rights instruments stating that women are entitled to sexual equality with respect to their human, civil and political rights.

Women have a right not to be tortured. Women have a right not to be dominated by men and Government to their detriment. But there are many, many nations around the world which have refused to implement United Nations guarantees of sexual equality. This country...called Canada... cannot exempt itself from this example. One of our own Aboriginal women, Sandra Lovelace, a Maliseet from New Brunswick, took our nation to the United Nations Committee on Human Rights. She won her case because this nation cannot deny us, as women, access to our people, to our communities, to our languages and to our cultures. Yet, as we have said, Canada is still doing it to us today. Yes, we are denied the right to live within our communities. We are the beggars in our own land. We are the ones, as women, doing without houses. Many of our women are denied their rights and we are helpless in our struggle.

This is why the application of the Charter should not be left to Governments. The federal government has mistreated us as women for 100 years. If there is a legacy we will leave for women in the future, it is their right to enjoy all of the rights granted to us by the United Nations. We want our First Nations to act within the spirit and intent of the United Nations, and not do as so many nations have done before them... opt out of sexual equality rights.

The Native Women's Association of Canada recognizes that there is a clash between collective rights of sovereign Aboriginal governments and individual rights of women. Stripped of equality by patriarchal laws which created "male privilege" as the norm on reserve lands, Aboriginal women have a tremendous struggle to regain their social position. We want the Canadian Charter of Rights and Freedoms to apply to Aboriginal governments.

5. Section 33 & Aboriginal Self-Government: Women’s Rights

The Native Women's Association of Canada takes the position that all human, civil and political rights guaranteed under Canadian and International law must be protected equally between male and female Aboriginal persons. If the recognition and affirmation of the inherent right to Aboriginal self- government falls outside the Charter and outside section 35, we need to ensure the protection of Charter rights under section 2 and sections 7 to 15 to all Aboriginal persons. We are particularly concerned because the Government of Canada offered Aboriginal governments the use of section 33 in 1987.

The Assembly of First Nations and other national Native organizations may take the position that section 33 should apply to Aboriginal governments as it does to the federal and provincial governments. In other words, section 2 and sections 7 to 15 could be suspended by laws passed by Aboriginal governments. This would be of concern to Aboriginal women, and indeed, would be opposed by Aboriginal women. We will now list the rights which could be suspended by Aboriginal governments under section 33 powers.

If the Government agrees that the Charter does apply to Aboriginal governments, and if the Government agrees that Aboriginal governments may use section 33, the following rights of Aboriginal citizens could be suspended: freedom of conscience and religion; freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; freedom of peaceful assembly; and freedom of association. Aboriginal governments could also suspend legal and equality rights guaranteed under the Charter. With these powers an Aboriginal government could decide the religion of the entire community. Political dissent could be quashed with a by-law by denying freedom of thought, belief, opinion and expression. How many band offices have been occupied over the past 10-20 years by political dissenters demanding financial audits, or demanding an elective or traditional system of government. All of this could be stopped with a by-law which calls for an end to peaceful assemblies or an end to freedom of association. That is what section 33 could mean within Aboriginal communities governed by Aboriginal governments.

With section 33, Aboriginal governments could pass laws forbidding their citizens to vote in federal and provincial elections. It would not be a matter of individual choice, but collective fiat. The Charter mobility rights could be denied to Aboriginal citizens by Aboriginal governments. People could be forbidden to move out of the territory, or forbidden to move into the territory. Right now, only two per cent of Bill C-31 reinstatees have moved back to their reserves because of lack of land and housing. Section 33 could be used to ensure that no more reinstatees or urban peoples move back to their homelands and reserves.

The powers of suspension under section 33 should not even be allowed to federal and provincial governments, let alone to Aboriginal governments. The suspension of section 7 rights could deny Aboriginal citizens their right to "life, liberty and security of the person". We do not have to describe what an awesome power that would be in the hands of Aboriginal patriarchs. As elsewhere in Canada, the law of privacy protects the homelife from close scrutiny by the State. Often that means women and children are subject to physical and sexual abuse within the home, including wife battering, incest and other crimes which go undetected and unpunished by the State.

The suspension of section 8 rights which protect citizens against "unreasonable search and seizure" could mean the violation of these rights by tribal police. Even today in some communities, homes of private citizens are searched for liquor on dry reserves, or for incriminating evidence which is not legal under the Charter. Do we want Aboriginal governments which have the power to "arbitrarily detain and imprison" Aboriginal citizens by the suspension of section 9 of the Charter? Do we want Aboriginal governments which can subject their citizens to cruel and unusual treatment or punishment? Some women and some Aboriginal peoples may say that this already occurs, but do we want this condoned by giving section 33 powers to Aboriginal governments? This list is by no means exhaustive.

The Native Women's Association of Canada agrees that there should be an extended negotiation period to define self-government. We strongly recommend that the governments agree that Aboriginal women be part of the self-government process. It is Aboriginal women who will live with self-government. We are 52 per cent of the population. There will not be self-government in our communities without the support of Aboriginal women. Our male Aboriginal leaders must realize that they cannot negotiate self-government without us, any more than they can leave out the elders, the young people and the people living in urban centres.

Why are we so worried as women? We have never discussed self-government in our communities. There is much to be learned. We are living in chaos in our communities. We have a disproportionately high rate of child sexual abuse and incest. We have wife battering, gang rapes, drug and alcohol abuse and every kind of perversion imaginable has been imported into our daily lives. The development of programs, services, and policies for handling domestic violence has been placed in the hands of men. Has it resulted in a reduction in this kind of violence? Is a woman or a child safe in their own home in an Aboriginal community? The statistics show this is not the case. As one woman said, people are killing each other in our communities. Do they want to govern that? Men rarely speak of family violence. Men rarely speak of incest. Men rarely speak of gang rape and what they are doing about it.

Yes, we want rights - individual and collective rights. But we want our governments to have responsibilities, too. The Federal government does not get off so easy, either. We are not asking the Federal government to dump us out the door. Self-government is not going to solve our social, economic, cultural and political problems. After 400 years of colonization, Aboriginal communities, Aboriginal families, and Aboriginal structures are devastated. Self-government will be meaningless without the land, money and resources to ensure our self-determination.

6. Recommendations

1. That the Canadian Charter of Rights and Freedoms apply to all Aboriginal governments.

2. That the Government of Canada not extend section 33 rights to Aboriginal governments.

3. That the Native Women's Association of Canada take their seat at the constitutional table.

4. That the Native Women's Association of Canada must participate as equals in the definition of Aboriginal governments, their forms, structures and powers.

5. That there be recognition of the inherent right to self-government.

6. That during an extended negotiation period the Government of Canada and male Aboriginal leaders ensure that the Native Women's Association of Canada have an equal role with Aboriginal men in defining the powers and structures of Aboriginal self-government.

ENDNOTES

1. *Those sections read as follows:*

   Equality rights
   15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

   General
   28. Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

   Rights of the Aboriginal Peoples of Canada
   35. (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

2. *S.C. 1960, c. 44, reprinted in R .S .C .1970, App .II.*

3. *Part I of Constitution Act, 1982, as enacted by Canada Act (U.K.) 1982, c. 11, Schedule B.*

4. *Constitution Act, 1982 as enacted by Canada Act (U.K.) 1982, c. 11, Schedule B.*

5. *Much of this portion of the paper is taken from an article by Teressa Nahanee, entitled "Indian Women, Sexual Equality and the Charter" to be published by McGill- Queen's University Press in a record of the "Canadian Women and the State Conference" held at the University of Ottawa Law School, November 1990. Paper with the Author.*

6. *An Act for the Gradual Enfranchisement of Indians, the Better Management of Indian Affairs and to Extend the Provisions of Act Thirty-First Victoria Chapter 42, S.C. 1869, c.6.*

7. *Indian Act, R.S.C. 1985; R.S.C. 1970, c. I-6, as am. 1956, c.40, s. 2; R.S.C. 1952, c. 149.*

8. *s. 12(1) (b) - Indian women who married white men lost their Indian status, Band membership and Indian rights.*

9. *Attornev-General of Canada v. Lavell (1973), [1974] S.C.R. 1349.*

10. *[1982] 1 C.N.L.R. 1.*

11. *Mary Two Axe Early of Kahnawake succeeded in obtaining a resolution from the International Women's Year convention in Mexico City in 1976. See Chatelaine Magazine, August 1976, article by Teressa Nahanee.*

12. *The Report of the Royal Commission on the Status of Women, Chairperson, Florence Bird (Ottawa: The Commission, 1970) recommended the repeal of section 12(1) (b) of the Indian Act.*

13. *Canada, House of Commons, Standing Committee on Indian Affairs and Northern Development, Minutes of Proceedings and Evidence, 1st Session, 30th Parliament, 25 May 1976, 53:7; Canada, House of Commons, First Report of the Sub-Committee on Indian Women and the Indian Act, in Standing Committee on Indian Affairs and Northern Development, Minutes of Proceedings and Evidence, 20 September 1982,58; resolution by women Parliamentarians, Canada, House of Commons, Debates, 17 July 1980, p. 2999. Document: Appendix B, p. 3072.*

14. *Indian Women's March from July 14 to July 19, 1979, fro Oka, Quebec to Ottawa documented in J. Silman, Enough is Enough: Aboriginal Women Speak Out (Toronto: The Women's Press, 1987).*

15. *Menno Boldt and J. Anthony Long, "Tribal Philosophies and the Canadian Charter of Rights and Freedoms" in Boldt and Long, eds., The Quest for Justice: Aboriginal Peoples and Aboriginal Rights (Toronto: University of Toronto Press, 1985), 170. The authors note: "...the Canadian government was found guilty of denying 'Indian rights' to Indian women who married non-Indians." They also note "the Charter was exploited to create a public perception that Indian leaders are insensitive to human rights." Ibid.*

16. *R.S., c. I-6 as am. c. 10 (2nd Supp.); 1974-75-76, c. 48; 1978-79, c. 11; 1980-81-82, cc. 47, 110; 1985, c. 27.16.2*

17. *This is a record or registry held by the Department of Indian Affairs and Northern Development which contains the names of all "registered Indians" in Canada. The provisions for entitlement are contained in the Indian Act.*

18. *Each Indian "Band" (defined in the Indian Act) maintains a registry of its members, and this list is also kept, by Band, by the federal Department of Indian Affairs and Northern Development. The list is important for determining who may benefit from Indian rights, programs and services.*

19. *Section 35 reads:*

    35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

    (2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.

    (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.

    (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

20. *This proposal was developed in 1984-85 by the Quebec Native Women's Association and was adopted as the national position of the Native Women's Association of Canada. For purposes of this paper, the word "Native" in the 1984-85 position has been changed to "Aboriginal" to make the provision consistent with the working of the Constitution Act, 1982. The word "Aboriginal" is used in that constitutional document instead of the word "Native". The amendment is clear that all groups mentioned in section 35 would enjoy equal rights. In other words, Inuit, Métis and Indians would enjoy the same constitutional rights. The amendment also proposed equality between male and female Aboriginal persons. To adopt the wording of the Quebec Native Women's Association from 1987, what we are seeking now is coexistence both within our communities and in Canadian society. The Quebec Native women in 1987 said that:*

    > *the development of aboriginal government and the exercise of self-government powers should take place on the basis of equality between aboriginal persons.*

    The Quebec Native women said that:

    > *the balance between collective and individual rights of aboriginal peoples and persons should be reflected in both Parts I and II of the Constitution Act, 1982 to cover both existing aboriginal governments and future self-government arrangement.*

    In the event that the right to self government is recognized and affirmed in a new section 35(5), the Native Women's Association of Canada requests the following change to section 35(4):

    > *(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) and (5) are guaranteed equally to male and female persons.*

    In other words, Aboriginal self-government would be recognized in such a way as to guarantee the sexual equality rights of Aboriginal women.

    The way the "Canada Package" now reads does not lead to the conclusion that Aboriginal self-government will be contained in section 35(5). It suggests that the right to self-government will be outside the Charter and outside section 35. If the right to self-government is outside the Charter and outside section 35, the Native Women's Association of Canada insists that the following amendment be made to section 25:

    > *25. (2) Notwithstanding anything in this Charter, all rights and freedoms of the Aboriginal peoples of Canada are guaranteed equally to male and female Aboriginal persons.*

    It was the position of the Quebec Native Women's Association and that the of the Native Women's Association of Canada that section 25(2) be added to protect the sexual equality rights of Aboriginal women.

21. *33. (1) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter.*