



Unknown or Unstated Paternity

What is Unknown or Unstated Paternity?

- Since 1985 The Indian Act is silent on issue regarding children born out-of-wedlock to Indian women and therefore children born of unstated, unreported, unnamed, unacknowledged, unestablished, unrecognized, and unknown paternity.
- In 1985, Indian and Northern Affairs Canada (INAC), now Aboriginal Affairs and Northern Development Canada (AANDC), established an unstated paternity policy/procedure whereby an assumption is applied that the paternity is non-Indian as defined by The Indian Act.
- Mothers registered under section 6 (2), thus unable to pass on Indian status entitlement in their own right, are at risk of losing status for their children.
- All situations of unknown paternity, unrecognized paternity, unestablished paternity, unreported paternity, and unacknowledged paternity are subsumed under AANDC's unstated paternity policy, where the assumption is that the paternity is a non-Indian as defined by the Indian Act.

Who does Unknown and Unstated Paternity affect?

- Between 1985 and 1999, 37 300 children of unknown and unstated paternity were born to Aboriginal women registered under section 6(1) (Clatworthy).
- Between 1985 and 1999, 13 000 children of unknown and unstated paternity were born to Aboriginal women registered under section 6(2) (Clatworthy). Section 6 (2) mothers cannot pass on Indian status entitlement in their own right.
- Extrapolating from Clatworthy's figures, Gehl calculates that between 1985 and 2012 as many as 25,000 children have been denied Indian status registration, First Nation Band membership, First Nation Citizenship, and thus their treaty rights that include health and education rights.
- The rates of unknown and unstated paternity are higher for younger Aboriginal mothers. Between 1985 and 1999, for subsection 6(1) Aboriginal mothers aged under 15 years, 45% of their children were of unstated paternity; Aboriginal mothers aged 15-19 years, 30% of their children were of unstated paternity; Aboriginal mothers aged 20-24 years, 19% of their children were of unstated paternity; and Aboriginal mothers 30-34 years, 12% of their children were of unstated paternity. It is not unreasonable to assume these figures also reflect 6(2) mothers (Mann).

- The conflation of Indian status, with First Nation Band membership, First Nation Citizenship, and treaty rights is a real concern. “Especially in light of the fact that in less than 75 years some First Nations will be legally extinct” (Palmater).

Unknown and Unstated Paternity and Violence Against Aboriginal Women?

- It is well known that Aboriginal women, and young Indigenous women in particular, are at a higher risk of domestic abuse, and of sexualized violence such as stalking, rape, incest, sexual slavery, and sexual extortion where it is likely children are conceived and born. AANDC registration requirements fail to capture this lived reality where an increased number of children born out of these situations do not have access to their inherent treaty rights.
- Given that many of these Indigenous women need to protect their children born through this colonial constructed reality; and further given that many Indigenous women may not know the paternity of their child, and are thus unable to gain their signature on their child’s birth registration form certificate – The Indian Act and AANDC’s policy/procedure that the “unstated” paternity is a non-Indian serves to perpetuate the violence Indigenous women are exposed to, as well as contributes to the third world conditions that many of these Indigenous women and children are forced to live under.
- AANDC’s unstated paternity policy also affects an Aboriginal person’s ties to their community, without this support system they may become more vulnerable to issues of poverty and violence.

What Can I Do?

Dr. Lynn Gehl, an ONWA Local Member, currently has a charter challenge on this issue. To learn more and provide support please visit www.lynngehl.com or her Facebook page, Unknown and Unstated Paternity and the Indian Act.