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22 year legal fight for Indian registration ends with success at the Court of Appeal

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In a decision released by Ontario Court of Appeal today, the court held that the Department of Indigenous and Northern Affairs (INAC) was wrong to deny Dr. Lynn Gehl registration as an “Indian” under the Indian Act just because she doesn’t know who her paternal grandfather is.

Dr. Gehl first began her journey to be registered as an “Indian” under the registration system in the *Indian Act* in 1985. In 1995, INAC denied her application and Aboriginal Legal Services (ALS) started the appeal process. Prior to this Court of Appeal decision, INAC’s Proof of Paternity Policy said that if the father’s signature was not listed on the birth certificate, he was assumed to be non-Indian.

“We are pleased that the Court of Appeal recognized that the Proof of Paternity Policy is part of that legacy of gender-based discrimination. This recent decision represents a major victory in what so-far has been 22 years of litigation. This has always been a case about a woman’s equal right to pass on her Indian status to her descendants,” said Christa Big Canoe, former Legal Director of ALS and one of Dr. Gehl’s lawyers. “While the law has changed to address the most blatant forms of sex discrimination, other examples of inequality have persisted. Dr. Lynn Gehl has continued the fight led by Mary Two-Axe Early, Jeannette Corbiere-Lavell, Yvonne Bédard, Sandra Lovelace, Sharon McIvor, Stéphane Descheneaux and Susan and Tammy Yantha who all challenged the sexism and racism of the *Indian Act*. Canada needs to stop fighting Indigenous women in court over their identity.”

Lynn Gehl, Ph.D., is an Algonquin Anishinaabe-kwe. She is an advocate, artist, and writer and is an outspoken critic of colonial law and policies that harm Indigenous women, men, children, and the land. Dr. Gehl said, “I am happy that the government is prevented from making the assumption that my unknown / unstated paternal grandfather was not an Indian as defined by the *Indian Act*. This has been a long and arduous 32 year journey and I am happy for this moment. I will continue my work to ensure that Indigenous mothers and children are not excluded from registration due to an unknown or unstated paternity especially in situations of sexual violence and an abuse of power.”

“We look forward to hearing how the Department of Indigenous and Northern Affairs will be incorporating this decision into the amendments of Bill S-3, legislation currently before the Senate designed to address gender discrimination in the *Indian Act*,” said Mary Eberts, co-counsel for Dr. Gehl.

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