Federal Human Rights Legislation Now Applies to Reserves

Native reserves have been exempted from the Canadian Human Rights Act (the "Act")[1] for 31 years. This week, final negotiations in the House of Commons have resulted in the passing of Bill C-21, which will do away with the exemption provided in section 67 of the Act.[2]

In 1977, when the Act was passed, Native reserves were only going to be excluded from the Act temporarily while the federal government made significant changes to the *Indian Act*[3], which regulates reserve activities. The legislation, however, remains relatively untouched, leaving natives vulnerable to potential abuses by the federal government or their chiefs and council.[4]

Indian and Northern Affairs Minister Chuck Strahl was opposed to an amendment which required that collective and treaty rights of aboriginals be balanced against the individual rights engrained in the Canadian human rights legislation. He was concerned that this kind of balancing would give chiefs, and other leaders in the communities, an opportunity to refer to cultural traditions in evading accusations of abuse.[5] The Minister also wanted the bill to be passed expediently, but has agreed to the opposition's insistence on amendments that will take up to three years. He has since conceded on both points. [6]

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[1] Canadian Human Rights Act, R.S.C. 1985, c. H-6 [the Act].
[2] Bill Curry, "Native law loophole to be closed" The Globe and Mail (26 May 2008), online.
[3] Indian Act, R.S.C. 1985, c. I-5.
[4] Supra note 2.
[5] Simon Doyle, "Strahl gets change of heart on C-21" First Perspective (26 May 2008), online.
[6] Supra note 2.