

COMMUNITY DECISION-MAKING PROCESS PHASE 1 – COMMUNITY HEARING (4)

**REQUEST FOR LEGISLATION: KAHNAWÀ:KE JUSTICE ACT
KAHNAWAKE PK STATION**

**Ahensénhaton/Wednesday, 25 Kenténhkó:wa/November 2009
6:00 – 9:00PM**

RECORD OF DISCUSSION

FACILITATORS:

Karonhiénhawe Linda Delormier (Lead)
Teiokaraiéhson Melanie Mayo (Group 1)
Konwén:ni Melanie Gilbert (Group 2)
Tekahnetóntie Joe Delaronde (Group 3)

RESOURCE PEOPLE:

Shakoshennakéhte Ron Skye (Lead)
Tekara'tén:sere Davis Montour (Group 1)
Karonhí:io Mike Bush (Group 2)
Vicky Jocks (Group 3)
Sophia Dupont (Resource Support)

CHIEFS OVERSIGHT:

Kawinéhtha Peggy Mayo-Standup (Group 1)
Ohnawentekhka John Dee Delormier (Group 2)
Kahsennenhawe Sky-Deer (Group 3)

RECORDERS:

Kawennákwas Brittany Diabo (Lead/Logistics)
Karonhiahá:wi Coreen Delormier (Group 1)
Courtney Montour (Group 2)
Leah Phillips (Group 3)

6:00 PM Opening:

Kahsennenhawe Sky-Deer

Chief Kahsennenhawe Sky-Deer opened with the Ohén:ton Karihwatéhkwen.

6:10 PM Welcome/Opening Remarks: Karonhiénhawe Linda Delormier

Linda Delormier recapped previous Community Hearing session conclusions. She thanked the group for their continued dedication and participation. She also reviewed the meeting guidelines stressing the need for respect.

6:15 PM Pre-Discussion

Linda Delormier along with Ron Skye then facilitated a short question and answer period prior to starting the session content. The following were questions brought up at that time:

Have the elders and longhouses been invited? How are they being invited? They don't seem to be invited directly.

We invited the community as a whole. The purpose is not to individualize anyone.

Laws? What laws are enforced in Kahnawà:ke?

The minutes weren't completed, why not?

Linda Delormier stated that the notes are "Record of Discussions" and not minutes. Therefore, discussions were put in point form.

6:30 PM Introduction to Evening's Topic: Karonhiénhawe Linda Delormier

"Should judgments, orders and decisions from a Kahnawà:ke Justice System be recognized outside the territory?"

6:30 PM Begin discussions

PROCESS BEGINS:

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 1 – First Round

Facilitator:	Teiokaraiéhson Melanie Mayo
Resource Person:	Tekara'tén:sere Davis Montour
Chiefs Oversight:	Peggy Kawinéhtha Mayo-Standup
Recorder:	Courtney Montour
Group Speaker:	Jeremiah Johnson

DISCUSSION/QUESTIONS/CONCERNS:

- They should start at the top, with Canada. Not with Quebec or Chateauguay. They (outside governments) want it to be exactly like theirs but if we have a white person come into the community and not recognize our laws, then we are back at square one. It may take 20 years. The MCK has to deal with the 2 major governments. The justices of the peace are probably going to be retired before this process is complete.
- We want it to be recognized on the outside, because the outside is still going to come in here every day. I want them to recognize it if they are going to come in here and break it. If we break their laws, we go to their jails.
- We are talking about reciprocal agreements.
- We are in 2009 that's what we have to do.
- CSST versus MSI – comparing reciprocity. Little steps that we have to take.
- They might want us to mimic a system that is close to their own. That emulates theirs.
- Ensure that these discussions (discussed at the meetings) are reflected in whatever agreement is reached. Never mind mimicking.
- If we had 2 separate systems that don't communicate, people would sabotage the system here thinking they can get a better deal out there.
- We didn't develop the laws themselves yet. All we are trying to decide is if we have the mandate to move forward. Imagine we already have our mandate but we made a law that anyone that doesn't support their children, we tie them to the cross and stone them every day. That same person goes to Montreal and they look at the file. Is the person going to be tied to the cross on Mont-royal? It sounds stupid but should we? We should have more of a parallel system where the police in the city should have to contact our community if they see that they have a file here.
- The most important thing is for our people to recognize it.
- When we're talking about recognition, like deadbeat dads/moms, if they relocate somewhere else, in that situation I would expect our judgments to be recognized for the benefits of whom they are rendered for. We don't want to impose our laws on the outside but we want it to follow the people that are trying to escape it. If people commit outside and come back here trying to avoid the courts out there, are we going to reciprocate? Are we going to support the decision out there for those kids' sake? That's part of reciprocity. You have to use concrete cases as examples, to help people understand.
- At times our values would clash, say for example something like capital punishment. We have to decide what would happen in conflict.
- Non-natives breaking the law within the community; would be dealt with by the Kahnawà:ke Justice System.

Q: What happens if the Justices of the Peace retire before this process is over?

A1: Anything heard here would have to go directly to Longueuil, is this what we want?

A2: We could leave Canada and Quebec and say we were here first. Would the MCK be willing to give up all of their jobs because of this?

A3: What you are contemplating is an absolute state of sovereignty but it comes at a cost. The reality of life might have a different impact on that question.

A4: It is a giant leap. None of us have a clue what tomorrow will bring. We can't function without money.

A5: It's 2009 we're not all planters. The reality is something else for us. Sovereignty is great but what are we trying to achieve?

Q: Why should judgments, orders, decisions from a Kahnawà:ke Justice System be recognized outside the territory? Think about it.

A: If they recognize that they would be recognizing us as a distinct people. I don't think they do that now.

A: They would recognize this community as having the jurisdiction or authority to impose our own laws. That question, the issue is in order for us to progress further we need to create a system that meets the needs of the community. We need to go back in history. In the late 80s, we asked these same questions and had workshops with the 207 Longhouse asking the same questions. The only difference was we didn't have groups. We had 100s of people over maybe a setting of 10. We did surveys. The number one answer always was we want our own system by the people. We want it done in our own community. And how do we get there? And once we ask that question 'how,' no one comes back to the meetings. The most important thing is what kind of laws are going to be drafted. Do we use the criminal code already in existence, civil code, etc? We have so many drafts that we worked on, even with tobacco laws. We live in an urban society, 10 min from Montreal. Are we going to do a sentencing circle and send a person out on the ice, if they kill a child or murder someone? It's unrealistic. We are in an urban centre. We all know what we want but we are all on different roads. It's how to get there and how to achieve it. Everyone's opinion counts. I'm frustrated with the slowness. It's not just here. It's everything.

Q: Should we dig up those old records?

Q: What if Quebec or Canada said that's fine but we want something in return. What would be agreeable for us to give in return?

A1: We would be imposing our laws on them.

A2: The jurisdictions can exist like 2 canoes (i.e. they have their landlord tenant law, we have ours)

A3: There's going to be things that are going to be useful here as well.

Q: Have other communities tried to create or do what we are doing here?

A: Navahos and Oneida of Wisconsin. But it is recognized by the State. (Explains Navaho system).

Q: If someone fell within our justice system. If they serve outside, should that come back to our system, community service would they come back to our community? If it

is a community or non-community member should that person have the choice of who can try them?

A1: If they're being fined outside, yes, they should have the choice. We are creating a system where no one is involved. It is a council initiative. People are feeling this is being done with our without them anyway.

A2: I don't think that's the overall opinion. I think we should have faith in ourselves whether MCK or whatever. I'm a community member.

A3: Certain things should be left up to us. MCK is under federal government. The MCK entity should be responsible to the federal government. If someone wants to take MCK to court they should have to take them to federal court, not a community made court.

A4: The government is not creating the system. The people are creating the system.

A5: When the Federal Government is sued where do they go? They go to the Superior court. Why can't we put those in place? A judiciary in a democratic society is there for life. And usually the government appoints them. If the community selected a judge, where's the tie? Those issues would be further discussed when you get further into the nuts and bolts. How do we select these individuals?

A6: I view the MCK as the white man's system. The white mans law. Only 1200 people vote. The MCK only represent a small fraction of the community. That's a big problem for me.

A7: Those people have a choice; they can be here at this meeting right now. I may not agree. I could stay at home but I come.

A8: MCK didn't have to do this, is it for them?

A9: I think it is. (Explains)

A10: The bottom line is what we've tried to do with our council is try to get away from the Indian act since 1987. Even our audit is completely different than what they tell us to do. I firmly believe that we are here for the community. I believe that everyone is treated equally. I hoped that there were more people here.

A11: There's always been a division in this community but we do that to ourselves. If it happens in 20 years, then my grandchildren will benefit from it. We have to get along and take away those barriers.

A12: I guess one of the challenges of direct democracy is that not everyone participates in the community. We did a consultation with the longhouse. They self participated and said that fewer than 600 people; in the 3 longhouse voted, even less than that in the elected system. And the rest of the community is just silent. So that leaves a small amount who tries to figure out a way to come together and develop something we can live with. It's more of a transition over time. I don't think council is going to end soon. This is something that's not generated by the elected system. We want something that's going to be the bridge that's going to get us where the community needs to go. It's not MCK or longhouse.

RESPONSE/POSITION:

"Yes, we want our justice system and our judgments to be recognized by outside territories as a separate judicial system but with agreements to cooperate with other jurisdictions."

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 2 – First Round

Facilitator: Konwén:ni Melanie Gilbert
Resource Person: Karonhí:io Mike Bush
Chiefs Oversight: Ohnawentekhka John Dee Delormier
Recorder: Karonhiahá:wi Coreen Delormier
Group Speaker: Heather Jacobs-Whyte

DISCUSSION/QUESTIONS/CONCERNS:

- Concern about progress on political front re: enforcing laws outside the boundaries of Kahnawà:ke. I.e.: Land filling law we have our own law but an individual can go outside courts and fight at present.
- A community member requested clarification on the difference between law and policy. Policy is the rule of the house and law is within a community/jurisdiction. Community policy has to be created under a law.
- Kahnawà:ke no longer sends their by-laws to INAC since 1982.
- Johnny Montour mentions that in 2004, INAC offered us a municipal court. We do not want to be considered a municipality.
- One community member agrees that Kahnawà:ke have an arrangement with both Provincial and Federal Government.
- Other native communities have negotiated with the provinces.
- Kahnawà:ke is technically Federal Jurisdiction; we should not be dealing with the Province.
- A community member explained that we have to start "playing the game" and exercise reciprocity with the province. Thinks we should move out of the Indian Act and start working with the province. We have the resources to start negotiations with respect to all of the above.
- In 1964 they removed the RCMP, are we all falling into the game of what the federal government are doing to our people? It was stated that we put Peacekeepers in place, and by doing this it is not giving in. The Province sees them as provincial police. There are laws that are in place like the highway safety code. Would we really want to re-write that law if it exists and it works?

- Tobacco, men were charged in Kahnawà:ke because phones were tapped. And they were arrested but all the activity was in Kahnawà:ke and we have a tobacco law.
- If we have our own principals of conduct, laws and an understanding with the province, we need to have some kind of strength to be able to enforce our own laws.
- We could look out west to see how they were able to have their own laws recognized.
- Akwesasne has a "hybrid" system. They have a court system in US and Ontario.
- Some of the concerns about this process are the questions that are being asked. They seem leading. However, the group discussed that reasoning or the justification that they are being addressed and facilitated so that we are contributing our opinion.

Pros:

- Having Judgment recognized off territory;
- Laws only apply with territory;
- Own justice system own laws;
- We decide laws to keep (Provincial) and laws to develop.

Cons:

- Tobacco charges on territory – occur territory;
- Continued Federal Jurisdiction applies.

Q: If you go outside the community, we are subjected to their laws. Will people be subjected to ours?

Q: How do we get a law recognized by outside courts?

A: Reciprocity, Mike Bush explained. I.e.: Child support.

Q: Other native communities that have bylaws, do they get sent to INAC? – No one responded to the question - it was interrupted.

Q: Will our laws be recognized in other Iroquois communities?

- Statement reflects what group 1 stated, but in a different way.
- Importance about having discussions with other communities, wanted to add that in.
- Outside territories including other first nation communities.
- Added "negotiated" agreements – political body has the opportunity to get out there. Political body can become stronger.

RESPONSE/POSITION:

*"Yes, we want a Kahnawà:ke justice system and our judgments be recognized by outside territories **including other First Nation communities** and with **negotiated** agreements to cooperate with other jurisdictions."*

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 1 – Second Round

Facilitator: Teiokaraiéhson Melanie Mayo
Resource Person: Tekara'tén:sere Davis Montour
Chiefs Oversight: Kawinéhtha Peggy Mayo-Standup
Recorder: Courtney Montour
Group Speaker: Jeremiah Johnson

DISCUSSION FOR CLARIFICATION BETWEEN GROUP 1 & 2:

- Group 1 asked for clarification on "negotiated" agreements.
- Response from group 2: we can't move without political negotiation. Negotiation implies that you have levels of political power. Has to be conducted at a political level, with strength - not that anything is being relinquished.
- Group 2 clarified the role of negotiators, they protect the interests of the community of Kahnawà:ke.
- Reason for negotiated agreements – Group 2 was discussing mutual recognition agreements and concluded with negotiated agreements.

DISCUSSION/QUESTIONS/CONCERNS:

- I like it except for the other jurisdictions. If they fall under Quebec/Canada we don't have to worry about that. If other First Nations decide to fall under Quebec/Canada, the federal government is going to tell them to recognize it. If they decide to do the same thing as us, develop their own laws then we will have to discuss with them.
- I like it better the way we did it. They may have their own laws.
- Can we change outside territories to governments? It's broader to say governments than territories.
- How do you feel about the word "negotiate"?

- When you generate an agreement, negotiation is implied. (Table divided on whether to keep it in the statement).
- Asks for clarification of "negotiated agreements"
- We were asked about the 'what' but now we are moving into the 'how'.
- Group 2 wanted to keep in "First Nations" and explained their reasoning behind it with the example of child custody issues in areas such as Akwesasne that is on the Canadian and American sides.
- But not all native communities consider themselves First Nations, such as the Inuit. Should change it to "indigenous".
- Added "recognized by Kahnawà:kehro:non".
- Instead of outside territories, change it to outside governments all encompassing.

Q: Why do we need to negotiate jurisdiction with other First Nation communities?

A: I don't think we do. If you go to another country, UK, Germany you have to follow their laws.

RESPONSE/POSITION:

*"Yes, we want a Kahnawà:ke justice system and our judgments be **recognized by Kahnawà:kehro:non** and outside **governments** with negotiated agreements to cooperate with other jurisdictions."*

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 2 – Second Round

Facilitator:	Konwén:ni Melanie Gilbert
Resource Person:	Karonhí:io Mike Bush
Chiefs Oversight:	Ohnawentekhka John Dee Delormier
Recorder:	Karonhiahá:wi Coreen Delormier
Group Speaker:	Heather Jacobs-Whyte

DISCUSSION/QUESTIONS/CONCERNS:

- Perhaps add laws to the statement.
- Including other First Nation territories, we have to work together within the confederacy and we cannot exist alone. Some laws will only pertain to Kahnawà:ke, the Caucus is working on that at present.
- A community member added that other communities have been asked to come to the table, but they have not been successful.

- First Nations – if you don't say first nations, whoever the negotiated body is, they don't feel they have to deal with federal, etc.
- "Child custody" – If you have kids with someone from another nation, and they take the kids and go back to their nation, how will you go about negotiating with that other nation?
- They (other nations) still have their own jurisdiction and sovereignty.
- "First Nations" was put in because it encompasses the possible future relationships between the elected system and the confederacy.
- Including other First Nations.
- Triple bi-lateral agreements.
- Negotiated agreements.

RESPONSE/POSITION:

*"Yes, we want a Kahnawà:ke justice system and our judgments be recognized by Kahnawa'kehro:non, outside governments and **other First Nations** with negotiated agreements to cooperate with other jurisdictions."*

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 1 – Third Round

Facilitator: Teiokaraiéhson Melanie Mayo
Resource Person: Tekara'tén:sere Davis Montour
Chiefs Oversight: Kawinéhtha Peggy Mayo-Standup
Recorder: Courtney Montour
Group Speaker: Jeremiah Johnson

DISCUSSION/QUESTIONS/CONCERNS:

- Removed First Nations and replaced it with "Indigenous People".
- Not all native communities consider themselves First Nations; "Indigenous Peoples" would include them.

RESPONSE/POSITION:

*"Yes, we want a Kahnawà:ke justice system and our judgments be recognized by Kahnawa'kehro:non, outside governments and **Indigenous People** with negotiated agreements to cooperate with other jurisdictions."*

Topic/Question: Should judgments, orders and decisions from Kahnawake justice system be recognized outside the territory?

Group 2 – Third Round

Facilitator:	Konwén:ni Melanie Gilbert
Resource Person:	Karonhí:io Mike Bush
Chiefs Oversight:	Ohnawentehkha John Dee Delormier
Recorder:	Karonhiahá:wi Coreen Delormier
Group Speaker:	Heather Jacobs-Whyte

DISCUSSION/QUESTIONS/CONCERNS:

- It is important to include first nations for further negotiations with the confederacy with the elected system and the confederacy especially with regard to the 8 points of jurisdiction proposed in 1991.
- We don't want to refer to the confederacy as an outside government.
- Onondaga and Kanien'ke do not have a tribal government.
- Child custody example.
- Each nation is unique within their nation.
- We agree that it should include indigenous with reference to the United Nations declaration of the definition.
- Group 2 is in agreement with Group 1's position.

RESPONSE/POSITION:

*"Yes, we want a Kahnawà:ke justice system and our judgments be recognized by Kahnawa'kehro:non, outside governments and **Indigenous People** with negotiated agreements to cooperate with other jurisdictions."*

Topic/Question: Should judgments, orders and decisions from Kahnawà:ke justice system be recognized outside the territory?

Group 3 – Third Round

Facilitator: Tekahnetontie Joe Delaronde
Resource Person: Vicky Jocks
Chiefs Oversight: Kahsennéhawe Sky-Deer
Recorder: Leah Phillips
Group Speaker: Derek Montour

DISCUSSION/QUESTIONS/CONCERNS:

- We need the justice system recognized HERE.
- Question has redundancy in it; the justice should remain in Kahnawà:ke.
- Some of these should remain in house; if the judgment is rendered here, then it should stay here.
- We have three systems with our own cycle, different services such as healing circles. We don't want to see offenders walking in front of private houses. Punishments need be respected all the way around.
- Punitive System.
- Need consistency on judgments/punishments.
- Punishments need to be acceptable by all, or by most.
- Going before victims and apologizing, standing in front of the community and asking for forgiveness.
- Ask yourselves "Why". Why would we want it recognized? Enforceability, if someone is convicted of something, then we need something recognized. Otherwise, we are at a loophole.
- We need it because the community does not recognize the outside law. The laws that the people will put forward, we need to make our own.
- We as a people, see things totally different than they do on outside. The white man is worried about money. Our morals, our priorities, are different in our mentality, in our sovereignty.
- Become a sovereign nation.
- Chiefs of the band council are to go outside and make these laws recognized.
- Council to fight in Ottawa to get jurisdiction/laws respected.
- With no recognition, you can't abide peace, power, and righteousness.
- There was a youth forum last night, question asked, what is a justice system? What is it?
- We will be fighting amongst ourselves, and then have to take it to an outside court.
- One community member states that regardless of what we decide, we will end up going through Ottawa anyway. Ottawa has said that we are under them no matter what.

- Looking at the question it seems to be a no-brainer, who are we going through to be recognized, should it be recognized through the U.S., should be recognized through internationally (everywhere). If we are trying to get sovereignty as a people, then where are we going with this? We have to be recognized throughout the world. Kahnawà:ke is an independent people, there are no other nations working with us.
- They do want to know what we are doing here. We may have more arguing power If we get more recognition then where will be go with this?
- Sovereignty, jurisdiction is exercised, we do all these things but we don't recognize it. The community has a false sense of security. We first need to exercise it. The only peace of sovereignty we are missing is unity. Are their any roadblocks that we see? Yes, our own people will throw a monkey wrench at council.
- Appeal process, we need it here. People will take that appeal and take it to the outside.
- Road Blocks.
- Another roadblock, then what if it doesn't get recognized. We've had laws, but right now they are not enforceable.
- Our own justices cannot do anything about certain court issues.
- If it's our people making laws, then it will be made by the people for the people and enforced by the people.
- We should go through each page of the laws that are already made, if we were to do this, it'll never get done.
- Group is uncomfortable with the word "Negotiation".
- It's an exercise of what we want to negotiate. We need to negotiate with other communities that have the facilities to implement these agreements.
- Took out "Kahnawà:ke justice system" – that question was already answered with question 1.
- Added "orders and decisions".

Q: What forms of justice would these apply to?

Q: Which path is the band council following? We do we need to do to get them recognized?

RESPONSE/POSITION:

"Yes, we want **our judgments, orders and decisions** to be recognized by **every other judicial authority.**"

CONCLUSION/NEXT STEPS:

Consensus of the three Groups was not reached.

This discussion (Continuation of Question 3: "*Should judgments, orders and decisions from Kahnaw:ke justice system be recognized outside the territory?*") will continue at the next Justice Community Hearing.

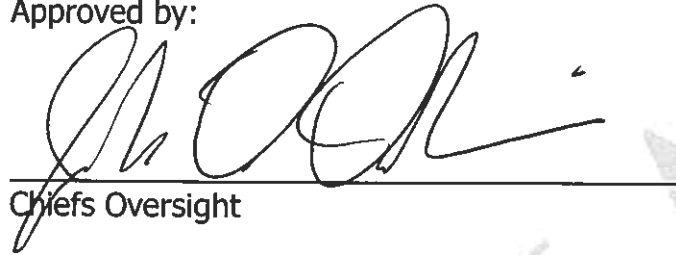
A community member suggested that the three groups remain as they are now for the next Community Hearing.

The date, time and location of the next Community Hearing will be confirmed and announced shortly.

A Phase I Community Hearing Report (4) will be drafted and distributed to the Community within 3 business days.

COMMUNITY FEEDBACK/COMMENTS:

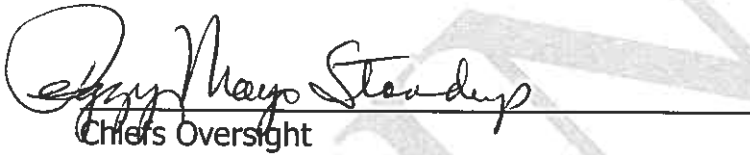
Approved by:


Chiefs Oversight

Jan 5/10
Date:


Chiefs Oversight

Jan 5/10
Date:


Chiefs Oversight

Jan 11/10.
Date: