

## **Kanien'kehá:ka of Kahnawà:ke Law Feedback**

February 9, 2015

The community feedback period for the first set of draft amendments to the Kanien'kehá:ka of Kahnawà:ke Law began on December 11, 2014 and ended on January 23, 2015. The 30-day feedback period had been extended due to the holiday season. There were a total a 14 individuals who provided feedback on the draft amendments to the Kanien'kehá:ka of Kahnawà:ke Law. Of those 14 individuals, 13 are members on the Kahnawà:ke Kanien'kehá:ka Registry and 1 is a non-Indigenous individual. The feedback received from several individuals were nearly identical. The feedback provided has been sorted and highlighted in the areas of the Law that the individuals think need changing. There is also a General heading to cover comments and statements made by the individuals that didn't quite fit into any part of the Law.

### **PREAMBLE**

- The adaptation of any law must be based in a constitution of some form, if the Great Law is not implemented then a value system such as the Charter of Human Rights and Freedoms needs to be adapted; therefore It is suggested that the preamble of the Kahnawà:ke Membership law (Enacted by MCR #51/2003-2004 on 10 Kentenhkó:wa/November 2003, Came into force through MCR # 41/2004-2005 with the exception of section 7.2, on 27 Seskehkó:wa/September , 2004 and amended by MCR # 2007-2008 on the 2 Onerahtóka/April 2007) be re-inserted as the preamble as part of the understanding of the membership law. This preamble validates the complexity of our situation especially in the section that reads "the application of this Law will respect the fundamental human rights of all individuals in accordance with the principles and dignity and compassion inherent in Kanien'kehá:ka culture, values and Traditional Law and in accordance with international principles of human rights and natural justice."
- "Aboriginal", why not indigenous; aboriginal is the colonizer's terminology – throughout the document.
- "We have consistently and historically...our treaties..." – identify those treaties as they pertain to Kahnawà:ke.
- "This law is an expression of the will of the Kah..." this is critical to identify the support of the people = 50% + 1? This is totally counter to the language of Kanien'kehá:ka, sovereign, etc., because this is NOT our way to make decisions.
- Sect. 2.1 is not necessary – the purpose is well described in 2.2. The Preamble can stand alone without reference to it. Much improved Preamble.

## **TITLE**

- Title: Kanien'kehá:ka of Kahnawà:ke – Is Kahnawà:ke membership exclusive to Kanien'kehá:ka? Are the recognized residents of Kahnawà:ke Kanien'kehá:ka? Consideration of some people' origins, families – we have residents who are Cree, Anishnaabe, Lakota, Pima etc. Value based question: Why was it okay in the past and not now?

## **PURPOSE**

- Sect. 2.2 d) determining the suspension...negative, punitive actions are oppressive; totally contrary to the nature of the Kanien'kehá:ka.

## **JURISDICITON**

- Section 3.2 – the comment sets up a conflict within this – this is the clash of world views of the entire process, membership law, MCK and sovereignty, it creates confusion.
- Section 3.2 – the authority of the band council comes from the Indian Act so the wording is contrary.
- Sect. 3.1 suggest to remove as its own section and add to the end of 3.2 in something like “or matters related thereto as described in the Preamble.”
- Section 3.2 – typo, second line, This Law is not his law.

## **DEFINITIONS**

- Child – why change from human being to person. Following Canadian government terminology.
- Family Ties – this limits the clan and extended family – contrary to working Kanien'kehá:ka/Haudenosaunee.
- Family Ties could have more with description by making reference to physical and emotional bond and not just “the bond”.
- Like the description of “Community Ties”.
- Guardian could be clearer with description of “other than a parent” with “other than a biological parent”.

- Great-grandparents - In the current preamble, it states that this law is intended to reflect the values and principles described by the Elders of our community in their 1999 statement on membership titled Entsitehwahahárahne. The definition of "Indigenous lineage", Section 11.1 and 11.2 goes directly against the recommendations of the elders who stated that 3 Great grandparents would be accepted as valid lineage. The concept of counting great grandparents however, continues to be another way of measuring blood quantum: We would suggest that One Kanien'kehá:ka parent should be sufficient in determining lineage.
- Indigenous lineage – jump to another word, what is the source of the definition; what is the mandate?
- Kanien'kehá:ka great grandparent: who determines this?
- KKR Advisory Board – I think removal of “non-binding” advice as advice and guidance is clear enough.
- Kanien'kehá:ka great grandparent maybe improves clarity by adding to 2) was listed as a Mohawk on the Mohawk Registry.
- Ordinarily resident – consider qualifying “regular basis’ with something like at the least every 2 months.
- Person – Canadian terminology, inconsistent language throughout the document reinforces the ongoing confusion, clash of values and work views that exists in Kahnawà:ke.
- Respect for Mother Earth – “Kanien'kehá:ka society” using symbolic language to explain the position, again, a lack of consistent language.
- Respect for Mother Earth - The definition does not sit well with me; it provides a one-dimensional understanding our relationship to the land. Our relationship is not to the land as a concept; it is quite literally in the land. We are the reflections of the land.
- Possible definition for Respect for Mother Earth - Our identity as the Kanien'kehá:ka is rooted in and inseparable from the land; we are a reflection of the changing, growing, and resilient nature of the Earth itself. It is from the land that we gather our teachings, our language and our nourishment; it is within the womb of Earth as our first mother and mentor that we connect to our ancestors, ceremonies, and values and by extension, our laws and regulations. Our lives are both symbolically and literally woven into the land and thus the respect for Mother Earth plays a central role in Kanien'kehá:ka society.

## **REGISTRAR**

- Section 5.3 – removal of the word “mature” – so anyone immature can be this person.
- Why remove the whole Council of Elders section?

- Registrar seems to have lots of power.
- Section 5.7 is in contradiction of Section 5.6 b) the responsibility of the Registrar and should be stricken, as it does not ensure confidentiality or confidence.
- Sect. 5.4 – consider changed to “and perform and duties” to “and perform all duties”.
- Sect. 5.6 a) use its regulation and not the regulations.
- Sect. 5.6 c) – consider change of the term “safeguard” to “under the trusteeship to present loss, destruction...”

### **APPROVED KAHNAWÀ:KE RESIDENT LIST**

- Sect. 7.1 – remove the “s” from the residents in the third line.

### **KAHNAWÀ:KE KANIEN’KEHÁ:KA REGISTRY ADVISORY BOARD**

- Sect. 8 – I believe what is important for who can be on this Board is: what are common reference points to be reflected in the regulation? Demonstrate contributions to the community in any area through work, volunteerism, participation in community events, and most importantly, can self-describe cultural understanding like the role of ceremony, participating in ceremonies, knowledge to some extent our creation story, Great Law, historical decision making, etc... common reference points such as this, can really make a strong board.
- Sect. 8.5 – I think the work “volunteer board” is enough said – do not need the last sentence regarding no remuneration.

### **REVIEW OF REGISTRAR’S DECISION**

- Section 9.1 – I think the regulation must include a process step that the Registrar has opportunity to present decision making factors so this is understood.
- Sect. 9.5 – the part “regarding membership” should be written “regarding recognition”.

### **MEMBERSHIP REVIEW COUNCIL**

- Sect. 10 – remove all terms of Membership, call it a Review Board only.
- Sect. 10.8 – keep all volunteer – no remuneration – this is a condition to keep people of true interest I believe. This will have to change 10.9 that can have a budget request for resources only, not payment for time. Consistency will keep complaints down.

- Sect. 10.10 – regarding maintain a record, should make the record reasonable available to those on the Kahnawà:ke Kanien'kehá:ka Registry for a valid reason as per its regulation or something like that.

### **VERIFICATION OF RECOGNITION**

- Sect. 11.1 a) is born of two Kanien'kehá:ka of Kahnawà:ke and has four or more Kanien'kehá:ka great-grandparents. Recommendation – Is born of minimum one Kanien'kehá:ka parent and minimum of one Kanien'kehá:ka grandparent per generation.
- Recommendation to add: Is knowledgeable of Kanien'kehá:ka culture, practices and passes it down, or is willing to acquire this knowledge and pass it down to their next generations.
- Sect. 11.1 and 11.2 - the basic criteria regardless of the other facts is the requirement to have 4 great grandparents. This contradicts 12.3 where if only one Kanien'kehá:ka parent, but still has 4 great-grandparents must wait until they are 18. If the basic criteria is 4 great-grandparents, then it should apply across the board. We must make efforts to increase the chances of these children being part of the community.

### **APPLICATION PROCESS/RECOGNITION**

- In Section 13.2 Instatement and Reinstatement – it is suggested to change this to automatically re-instate a person whose name does not appear on the Kahnawà:ke Kanien'kehá:ka Registry as a result of having married a non-Indigenous person prior to May 22, 1981, but who would otherwise qualify to be recognized as a Kanien'kehá:ka of Kahnawà:ke under section 11.1 of this Law, as well as, any children born of that marriage.
- I totally disagree with the Application Process. If a family adopts a Caucasian, Negroid, Arab, whatever culture child and raises that child as Kanien'kehá:ka – values, real Kanien'kehá:ka practices, lifestyle etc.. It is up to a bunch of people at a band meeting (who may have little or not true Kanien'kehá:ka values, only those of colonized thought and practice) will decide membership – this is totally racist and unacceptable.
- Sect. 12.1 and 12.2 - the basic criteria regardless of the other facts is the requirement to have 4 great-grandparents. This contradicts 12.3 where if only one Kanien'kehá:ka parent, but still has 4 great-grandparents must wait until they are 18. If the basic criteria is 4 great-grandparents, then it should apply across the board. We must make efforts to increase the chances of these children being part of the community.
- Sect. 12.3 is problematic due to it limiting access of services to Kanien'kehá:ka born of one Kanien'kehá:ka parent, until they are added to the registry list, after the age of 18. This limits the individuals from fully participating and integrating into Kahnawà:ke in the same way that individuals born of two Kanien'kehá:ka parents would be able to, thereby aiding in their assimilation into the larger non-native population that surrounds Kahnawà:ke. It discriminates against potential members based on age. The ancestry of these individuals that

provides them with the lineage necessary to be included on the registry will not change on their 18<sup>th</sup> birthday. Propose to remove Sect. 12.3, allowing individuals born of one Kanien'kehá:ka parent to be included on the registry at birth, in order for them to further build upon and maintain the "community ties" cited in point 12.3e. Limiting these people from the community from the ages 0 – 18 years will only diminish these "community ties", and unnecessarily complicate their acclimatization into Kahnawà:ke.

- Sect. 12.3 – the application process for recognition, it gives process for those with some lineage and those adopted with lineage but not for those who have 4 great grandparents who are Kanien'kehá:ka. The reality in the community is not reflected in the recognition law. There are many who are on the KKR, and have a child with a biologic who is not indigenous. These children are Kanien'kehá:ka and meet the criteria. If the white biologic is not living with, in a relationship or anything except being a sperm donor or birth conduit, then provisions should be made. There are many in this situation. Sect. 12.1 accounts for "non-affiliation" that could be also determine as white. If denial of affiliation is the case and proof is not enough, then will this child be denied recognition? This is not right. The following was suggested: Sect. 12.3 – remove the 18 years old and add "through their parent(s) or guardian(s) can apply in person if the person has reached the age of majority, if: b) is not born of two Kanien'kehá:ka of Kahnawà:ke or who has one parent who is not Indigenous and there is no relationship with the non-Indigenous parent. Alternatively, Sect. 12.2 whereby the same is incorporated because if a) is not giving good enough proof, then the other parent can be considered white. These children should be able to apply for recognition, they likely have 4 great-grandparents, live in the community, have a clan, have ties and likely more.

### **ADOPTED CHILDREN**

- I totally disagree with the Application Process. If a family adopts a Caucasian, Negroid, Arab, whatever culture child and raises that child as Kanien'kehá:ka – values, real Kanien'kehá:ka practices, lifestyle etc.. It is up to a bunch of people at a band meeting (who may have little or not true Kanien'kehá:ka values, only those of colonized thought and practice) will decide membership – this is totally racist and unacceptable.
- Sect. 14.7 – I agree they should not be eligible to be recognized, but it doesn't make sense if someone is adopted and cannot reside with their parents.

### **APPLICATION PROCESS/APPROVED KAHNAWÀ:KE RESIDENTS**

- Sect. 15.2 seems to conflict with Sect. 72 whereby married prior to 1981 has automatic placement on approved resident list but in Sect. 15 the individual has to apply. Suggest review.
- Sect. 15.1 – should have criteria repeated with all of Sect. 15.2 plus no criminal record as per a background check

## **PRIVILEGES OF APPROVED KAHNAWÀ:KE RESIDENTS**

- There is no reason for the Mohawks of Kahnawake to have fewer rights than any other Mohawk or Onkwehonwe. This law as revised does not ensure the safety of all residents as it does not account for diversity in any fashion. It is recommended that this law or any other law adhere to the Canadian Charter of Human Rights and freedoms or the International Charter of Rights and Freedoms.
- The issue of membership in Kahnawà:ke has been and continues to be very controversial. Defining one's identity is extremely difficult and subjective. The most recent amendments to the Law have created a more confined and restricted definition of who can be accepted as a "Kanién'kehá:ka of Kahnawà:ke." Seeing the entitlements that are received from the federal government are dependent on Kahnawà:ke residency, and Kahnawà:ke residency is dependent on the Kahnawà:ke Membership. Such a definition can infringe upon our inherent right as Kanién'kehá:ka, even though our lineage is already identified by the Canadian government.
- Sect. 17.2 – need to add annual service fee (water, sewer, road maintenance, school bus services etc.: annual residency fee (equivalent to property taxes in surrounding municipalities) and sign a contract of agreement. The contract of agreement needs to be included in Sect. 19.

## **RESPONSIBILITIES OF KANIEN'KEHÁ:KA OF KAHNAWÀ:KE**

- Section 18.1 e) "to respect and protect children, persons, personal property and lands within the Territory" is an inclusive and protective concept and should be kept and supported: This is not supported in this document as all children who are of mixed parental units are not protected as they are expelled.
- Sect. 18 needs to have commas consistently after all statements – a) c) d).

## **KANIEN'KEHÁ:KA OF KAHNAWÀ:KE PLEDGE AND OATH OF RESPECT**

- I am totally insulted by the inclusion of this. It is dehumanizing and disrespectful of our humanity and membership. I would never do this.

## **SUSPENSION AND REVOCATION**

- Suspension and Revocation: Section 21.1. Should be stricken from the document. If someone is Mohawk they cannot stop being Mohawk as defined by having one Mohawk parent.
- Sect. 21.5 is dehumanizing and disrespectful, this is equivalent to working for a company.

- Recommendation that no suspension and revocation of recognition as a Kanien'kehá:ka of Kahnawà:ke. When you are born Kanien'kehá:ka that never changes.
- Sect. 21.1 should be removed from the Kanien'kehá:ka of Kahnawà:ke Law because it revokes the entitlements that Kanien'kehá:ka of Kahnawà:ke are entitled to due to their ancestry. The lineage of Kanien'kehá:ka who marry non-natives will not change upon marriage, therefore, they are still Kanien'kehá:ka of Kahnawà:ke and still have access to the same benefits and services as other Kanien'kehá:ka of Kahnawà:ke. Revoking these entitlements is discriminatory towards people who are Kanien'kehá:ka.
- Sect. 21.1 c) – This doesn't make sense. How can we keep track of whether or not it is 30 days? And are they “cohabitating” or visiting, friend or boyfriend/girlfriend?
- Sect. 21.1 d) – This provision will be impossible to enforce. Should be removed.

## **RENUNCIATION**

- Sect. 22.1 – Add in an action to give community/public notice of names removed within 30 days of receipt of request.

## **REGULATIONS**

- Sect. 23 on regulations, add in “for contract of agreement for fees for approved residents, appeal and Review Council that will be necessary to amend to remove the membership from Review Council.
- Sect. 23.2 – be mindful that the Kahnawà:ke Legislative Coordinating Committee is in the process of going for RFD to have approved a process using the CDMP somehow for approval of regulations. Likely this month.
- Sect. 23.1 between f and g, space needs to be lessened for consistency.

## **OFFENCES AND PENALTIES**

- Sect. 24.1 – Removal by Peacekeepers – this puts men and women charged to protect ALL PEOPLE WITHIN THE TERRITORY into the position of hired goons for the Indian Act authorized government. MY first reaction was back to the goons used by the tribal council during the Wounded Knee siege in the 1970's. This will further divide our people.
- The space between Sect. 24.1 and 24.2 needs to be lessened.

- Sect. 24.3 – Any person who breaches any other provision – this should say including Sect. 24.1 – as it reads to me, 24.1 will not be subject to offence for fines or prison.
- Sect. 24.3 – Imprisonment – TOTALLY NO INDIGENOUS IN THOUGHT AND ACTION.
- Sect. 24.2 a) – Why is this limited to 6 years old? Seems to me a minor is a minor.

### **NOTICE**

- Sect. 25.1 – say its regulations and not the regulations.
- Sect. 25.2 – replace reception in line 4 with receipt – I think it reads better.

### **ENFORCEMENT**

- The Kahnawake Membership Law has been only enforced on a minimal level for several years. A law should be enforced completely in order to be effective. Seeing that the amendments are creating more criteria and restrictions to the definition of a "Kanien'kehá:ka of Kahnawake", such restrictions will only require more enforcement to an existing law that already is minimally enforced

### **GENERAL**

- I like the title change. All references to the term membership should be removed or placed.
- I really like the term recognition vs membership.
- The drafting team should be commended for this excellent work.
- Individuals do not agree with the KML as a whole.
- The concept of residency should be dealt with as a separate issue from membership and belonging.
- The Chiefs of the Mohawk Council of Kahnawake have expressed that more dialogue amongst the opposing sides of this issue is necessary in order to create a law that is enforceable and equitable. One meeting has occurred since the chiefs have expressed this. More dialogue, healing and communication needs to take place amongst the Kanien'kehá:ka of Kahnawà:ke before such a definition can be created.
- Seeing that there are strong opposing sides to this issue, the people selected to be on the drafting team should reflect such sides. Understanding that the team members were selected from volunteers that were present during the CDMP meetings, the Mohawk Council should

have been publicizing the positions in local media to have the entire community population aware of such positions.

- There is an abundance of pain, suffering and trauma that people have experienced from this law. Our people need to heal and begin to love one another before a true definition can even begin to be developed. Once the healing begins or at least attempts by our local Chiefs to create a healing environment, can we start to see clearly who we, as Kanien'kehá:ka should define ourselves as.
- Should still consider making the Kanien'kehá:ka of Kahnawà:ke Law more barebones, and create the residency criteria/law separate. Residency seems to be a bigger issue than being recognized. People who marry out are saying, suspend all my rights, but just let me live here.