



## Date

March 30, 2019

## Submission to the Government of Canada regarding Bill C-91 – An Act Respecting Indigenous Languages

Approved by: Six Nations Elected Council March 26, 2019

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This submission provides background information related to the testimony of Karen Sandy, Director, Six Nations Languages Commission scheduled for April 2, 2019 at 10 am.

## Context and Reality – Six Nations of the Grand River

The Six Nations consist of the following nations known in mainstream as Mohawk, Oneida, Cayuga, Seneca, Onondaga and Tuscarora. These Six Nations have remained unified as one mind, one body, one heart under Kaianerkó:wa (the Great Law of Peace) since long before contact with settlers. Early relations between the Haudenosaunee nations and European nations resulted in two significant Wampum agreements that incorporated the main tenets of the Kaianerkó:wa. The first is the Guswenta/Kaswentha (Two Row Wampum), a mutual agreement made between the Haudenosaunee and the Dutch around 1613. The Guswenta/Kaswentha signifies agreement between the parties to travel down the same river, the Dutch in a ship and the Haudenosaunee in a canoe, and not interfere in the course of the other. In other words, the Guswenta/Kaswentha emphasizes the distinct identity of the two peoples and a mutual agreement to coexist in peace without interference in the affairs of the other.

The second significant Wampum agreement is the Covenant Chain, which is a metaphor for the relationship established with the Guswenta/Kaswentha. The Covenant Chain established a silver chain that tied the immigrant/settler's ship and the Haudenosaunee canoe to the Tree of Peace (a symbol of the Kaianerkó:wa). The three links of that chain represent peace and friendship forever "as long as the sun shines upon the earth; as long as the waters flow; as long as the grass grows green, peace will last." The Covenant Chain solidified agreement that the Haudenosaunee and the British would meet regularly to "polish the chain" to maintain and strengthen their relationship. In 2010, the Queen of the United Kingdom gifted us with bells reaffirming their vested commitment and responsibility to uphold friendship and polish the silver covenant chain.

Our longstanding, historical alliance to the Crown resulted in a 950,000 acres land grant along the Grand River solidified by the Haldimand Proclamation of 1784. Over time, most of this land has been erroneously and illegitimately stripped away from us and currently consists of 46,000 acres, recognized by the federal government as “Six Nations Reserve No. 40”. Six Nations of the Grand River has the largest population of all First Nations in Canada with over 27,000 citizens, with approximately 13,000 living within the current land allotment for the community.

Six Nations of the Grand River is unique in many ways as a Haudenosaunee community. In addition to having a large population the process of colonization has created a rich diversity among our people. We are one of the few communities that still have a traditional government that functions along with our elected Chief and Council. We have six languages to protect, revitalize and maintain to ensure future generations are able to connect with the strength, pride and belonging embedded in our languages. All six of the Rotinonhsyón:nih languages (Mohawk, Cayuga, Onondaga, Oneida, Seneca, and Tuscarora) are critically endangered with fewer than 50 first language speakers left in our community.

Language revitalization is a priority for Six Nations and is an integral component of our Community Plan. The goal is to create a critical mass of language speakers so that our languages will be spoken as the ordinary means of communication in our community and with other Haudenosaunee nations. The importance of this goal is amplified knowing our languages ensure the continuation of our ceremonies.

Despite challenges of underfunding we have been able to harness the will of the community and establish a number of Rotinonhsyón:nih programs, including multiple school level programs, online language programs, evening courses, summer and March break programs for students, Elder sessions and full-time adult immersion programs. Funding for these programs is accessed from various like-minded community sources such as other departments, organizations and private donors. The testimony of a previous witness to this committee, Amos Key Jr. provided a clear example of language as a priority and the will of the community when he described the grassroots effort to establish an immersion school in our community, which is still situated upstairs in a lacrosse arena.

Although Six Nations has established an array of languages programming and continues to develop our capacity there is still a profound need for the Government of Canada to live up to ethical and legal obligations to provide redress for the damage to the languages and cultures of Indigenous Peoples through the colonial and paternalistic efforts of assimilation (i.e. residential schools, day schools, paternal line status, etc.). Six Nations requires stable, long-term, predictable and sustained funding to support the protection, revitalization and maintenance of our languages provided as core funding, not based solely on proposal submissions.

The Government of Canada has confirmed their commitment to reconciliation with Indigenous Peoples and their commitment for the Calls to Action in the final report of the Truth and Reconciliation Commission of Canada to guide their actions. We emphatically state that any

legislation on Indigenous languages must adhere to the principles outlined in TRC Call to Action 14 with particular attention to:

- iii. The federal government has a responsibility to provide sufficient funds for Aboriginal-language revitalization and preservation.
- iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities.
- v. Funding for Aboriginal language initiatives must reflect the diversity of Aboriginal languages.

Six Nations of the Grand River understands that along with our inherent and constitutional rights to preserve our languages comes responsibility to develop and maintain strong programming, opportunities and initiatives based on our Haudenosaunee values. The federal government has a moral, ethical and fiduciary obligation to provide the funding required by Six Nations. We have the knowledge and capacity to do the work in our own community and support regional, national and international efforts, however we require the funding to do so.

### Consultation

Concerning the development of Bill C-91 we, as the most populous First Nation community, working to protect and revitalize the greatest number of languages, were not duly consulted. We were not afforded an opportunity to participate on either the AFN Chiefs Committee on Languages nor the Technical Committee on Languages. We were not provided any updates related to the progress being made on these committees nor was any information requested from us to provide input into their activities.

In the spirit of the Guswenta/Kaswentha and Covenant Chain agreements and our unique nation-to-nation relationship with the Crown, we expressed interest to both the Department of Canadian Heritage and the Assembly of First Nations to host an engagement session on our territory to ensure the strong and capable voices of our languages champions were considered. However, we were informed that the process of engagement had been established and we had to attend the designated sessions throughout Canada. If the Government of Canada is committed to upholding the nation-to-nation relationship established with the Crown and the United Nations Declaration on the Rights of Indigenous Peoples then the principle of free, prior and informed consent must also be upheld. Six Nations of the Grand River was not afforded the opportunity to feed into the process in a substantive manner.

### Input on Bill C-91

We at Six Nations have some concerns regarding the content or lack thereof in the current text of Bill C-91. We have reviewed much of the testimony of previous witnesses and wish to support the many issues and concerns that have been raised, such as:

- A distinctions-based approach must be considered that does not lump First Nations, Métis and Inuit together as we all have vastly different legal rights, distinct contexts and needs;
- There is already some existing languages infrastructure at the national, regional and local levels. This needs to be considered instead of creating a top-heavy bureaucracy;

- There is no commitment in the Bill to stable, long-term, predictable and sustained funding for the protection, revitalization, recovery and stabilization of Indigenous languages;
- Much of the wording in the Bill needs to be strengthened, such as:
  - 5.f. – “response” to TRC Calls to Action should read “implement”
  - 5.g. - “advancing the achievement of objectives” of UNDRIP should read “implementing the rights contained within”
  - 7 – “objective” should be replaced with “legal obligation”
- There is a need to ensure the federal government follows the principle of free, prior and informed consent as outlined in Article 19 of UNDRIP. Some examples include:
  - 8 – The Minister should require the free, prior and informed consent of First Nations before entering into agreements or arrangements related to Indigenous languages with a non-Indigenous entity.
  - 45 – The Minister must be obliged to accommodate and obtain the free, prior and informed consent before enacting regulations.
  - 49 – The Minister must consult, accommodate and obtain the free prior and informed consent of First Nations prior to appointing a person or body to review of the Act.

In addition to the concerns previously raised, we add the following:

- The reference to “entities” throughout the document is overly broad and could detract from First Nation jurisdiction and control over their own languages. Suggest “First Nation community mandated entities” to ensure they have received mandates from those in control over their language.
- 5.b.vi - Any research and studies must be Indigenous led and approved initiatives. The text should indicate that research and studies must demonstrate the principles of OCAP® (First Nation principles of ownership, control, access and possession).
- It is important to ensure there is an agreed upon understanding of what the rights related to Indigenous languages are as this term appears throughout the document.
- In general, the Act must focus on First Nation jurisdiction, control and powers instead of those of the Minister and Commissioner. The current focus on the powers of the commissioner and government minister maintain the same colonial and paternalistic patterns that led to the current state of our languages.

#### Recommendations:

1. All future activities related to the joint development of legislation be largely driven by Nations as determined by First Nation communities. There needs to be a clear consideration to link ‘bottom-up’ and ‘top-down’ activities. The process to develop this legislation was mainly ‘top-down’.
2. There should be reference to UNDRIP Article 19 in the Bill to ensure any decisions are made with the free, prior and informed consent of First Nations before any decision and/or actions are made under the Act or its regulations.
3. First Nation jurisdiction or powers in relation to their own languages must be recognized and promoted in this Act.
4. The Minister must share decision-making and regulatory powers with First Nations.

5. Any Languages Act must be able to respond to the various Language Families in Canada - Iroquoian, Algonkian, Athapaskian, Wakashan, etc.
6. Overall, the wording in the legislation is weak and there must be a commitment to provide explicit funding for language revitalization.