



## Joint Presentation

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# Renewed Relationship between the Mohawks of Kahnawake and the Government of Canada



Indian and Northern  
Affairs Canada

Affaires indiennes  
et du Nord Canada

## Introduction

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- ' A renewed relationship between the Mohawks of Kahnawake and Canada is needed:
  - < Mohawks have a long history of governing themselves
  - < The *Indian Act* passed in 1876 has imposed a band council system
- ' The draft Umbrella Agreement sets the framework for this new relationship.
- ' The draft Sub-Agreements describe Kahnawake jurisdiction over:
  - < Education, Mohawk Language and Culture
  - < Kahnawake Membership
  - < Kahnawake Lands
  - < Policing Aspects of the Administration of Justice

## The Context

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- ' **Turning-Point: 1988 police intervention in Kahnawake**
  - < **Kahnawake community gave the mandate to the Mohawk Council of Kahnawake to negotiate a new relationship**
- ' **Signature of an agreement on a negotiation process in 1991**
- ' **Canada's policy on self-government changed:**
  - < **1995: recognition of Aboriginal peoples' inherent right to self-government within section 35 of the *Constitution Act***
- ' **Royal Commission on Aboriginal Peoples (RCAP)**
  - < **1996: tabling of the Royal Commission's Report**
  - < **Need to transform the relationship between Aboriginal peoples and Canada to one of co-operation and growing successes**
- ' **Gathering Strength:**
  - < **1998: Canada's response to the Royal Commission, a commitment to renewal and reconciliation**

## **The Context (Cont'd)**

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- ' **Kahnawake is managing its own affairs and has established a number of institutions including:**
  - < **Education System**
  - < **Hospital**
  - < **Cultural and Mohawk Language Instruction Centre**
  - < **Economic Development Commission**
  - < **Social institutions**
  - < **Caisse Populaire**
- ' **Agreements between Kahnawake and Quebec in 1999**

## Draft Umbrella Agreement

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### Key Elements

- ' Provides framework for renewed relationship based on trust and mutual respect
- ' Forms the basis for legislation entitled *Canada-Kahnawake Intergovernmental Relations Act*, which establishes a process to gradually replace the application of the *Indian Act* on Kahnawake Territory
- ' Makes provisions for a Kahnawake Charter, based on Mohawk customs and traditions, which will establish rules governing the Mohawk Government of Kahnawake in areas such as:
  - < democratic form of governance
  - < law-making process
  - < leadership selection
  - < accountability
  - < conflict of interest rules
  - < rights of appeal and redress

## **Draft Umbrella Agreement**

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### **Key Elements (Cont'd)**

- ' **Lists 27 areas of jurisdiction and/or authority set out in Sub-Agreements to be negotiated over the next 5 years**
  - < **Within these areas of jurisdiction, Kahnawake will make laws and Canada will have no role in approving these laws.**
- ' **Establishes processes that will give effect to Sub-Agreements**
- ' **The draft Umbrella Agreement also covers:**
  - < **Relationship of laws**
  - < **Establishment of a Canada/Kahnawake Commission**
  - < **Dispute resolution mechanisms**
  - < **Basic protections for individual and collective rights**
  - < **Interim provisions for administration of justice**
  - < **Continuation of the fiduciary relationship**
  - < **Financial relationship between Canada and Kahnawake (government-to-government relationship)**

## **Sub-Agreements**

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### **Key Elements**

- ' **A Sub-Agreement covers:**
  - < **Description of the jurisdiction and/or authority to be exercised by Kahnawake**
  - < **Specific rules for resolving conflicts between laws**
  - < **Identification of those *Indian Act* provisions that will no longer apply**
  - < **Ratification procedures**
- ' **Four draft Sub-Agreements have been negotiated to date**

## Draft Sub-Agreement

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### Education, Mohawk Language and Culture

- ' **Kahnawake has jurisdiction within its Territory:**
  - < **Primary, secondary and special education, including the continuing ability of students to transfer between education systems**
  - < **Administration of post-secondary support funding**
  - < **Preservation, enhancement and promotion of Mohawk language and culture**
- ' **Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to education, Mohawk language and culture**
- ' **In the event of a conflict, Kahnawake laws in relation to education will prevail over federal laws in relation to First Nations Education.**
- ' **In the event of a conflict, Kahnawake laws in relation to Mohawk language and culture will prevail over federal laws in relation to First Nation languages and culture.**
- ' **The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.**



## Draft Sub-Agreement

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### Membership

- ' Mohawk Government of Kahnawake has jurisdiction on membership.
- ' Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to membership
- ' In the event of a conflict, Kahnawake laws in relation to membership will prevail over federal laws in relation to First Nation membership.
- ' Any person entitled to be registered as an Indian under the *Indian Act* will continue to be registered by the Registrar of the Department of Indian Affairs and Northern Development.
- ' The provisions of the *Indian Act* dealing with membership will no longer apply to Kahnawake.

## Draft Sub-Agreement

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### Lands

- ' **Mohawk Government of Kahnawake has jurisdiction over its lands including:**
  - < **Development**
  - < **Management**
  - < **Use**
  - < **Possession**
- ' **Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to lands**
- ' **In the event of a conflict, Kahnawake laws in relation to lands will prevail over federal laws in relation to lands reserved for or under the control of a First Nation community.**
- ' **The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.**

## **Draft Sub-Agreement**

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### **Policing Aspects of the Administration of Justice**

- ' **Kahnawake has jurisdiction over the administration of police on its Territory including:**
  - < **Establishment or maintenance of a police force**
  - < **Recruitment, appointment and swearing-in of members of the police force**
  - < **Establishment of mechanisms for independence, accountability and management of the police force**
- ' **Maintains existing agreements and protocols between Kahnawake, Canada and Quebec, and promotes mutual assistance between police forces**
- ' **Dispute mechanism as specified in the Umbrella Agreement**

## **Next Steps**

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- ' **Kahnawake:**
  - < **Consultation on draft agreements**
  - < **Negotiation of final agreements**
  - < **Ratification of final agreements**
- ' **Canada:**
  - < **Report to Cabinet on the consultation results**
  - < **Negotiation of final agreements**
  - < **Cabinet approval and passage of legislation by Parliament**
- ' **Negotiations of sub-agreements on remaining 23 subject matters**

## **The Benefits**

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- ' **The draft agreements represent a major milestone in the relationship between Kahnawake and Canada**
  - < **Recognition of essential powers required by the Mohawk Government of Kahnawake for the 21<sup>st</sup> century**
- ' **For Kahnawake:**
  - < **Build on existing foundation of governance**
  - < **Framework for additional governance powers**
  - < **Control over its own affairs**
- ' **For Canada:**
  - < **Renew the relationship with Kahnawake through negotiations**
  - < **Strengthen self-sufficiency and governance for the Mohawks of Kahnawake**
  - < **Create a positive environment for Kahnawake with direct benefits for the region**