

**A PROPOSAL FOR A PROCESS TO RE-ESTABLISH A NATION TO NATION GOVERNMENT TO
GOVERNMENT RELATIONSHIP**

**BETWEEN THE IROQUOIS CAUCUS MEMBER NATIONS AND THE GOVERNMENT OF
CANADA**

A Proposal for Prime Minister Justin Trudeau and his Cabinet

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Proposal Outline

Dear Prime Minister Trudeau:

This proposal, on behalf of the Iroquois Caucus is to respond to the many statements made by you and your government about forging or returning to a Nation to Nation relationship with First Nations in Canada. This is an invitation for your government to work with our Iroquoian communities in partnership to make your fine words become a reality for our People. It is a challenge to you and your government to put action behind your words and promises. It is an opportunity for you, Mr. Prime Minister to show respect for and honour past treaties.

Before and after your election, you and your Cabinet have made many positive statements about its relationship with Indigenous Peoples. The following is a summary of some of those statements and commitments.

In 2015 when Canada accepted the final report of the **Truth and Reconciliation Commission (TRC)** you said “This is a time of real and positive change. We know what is needed is a total renewal of the relationship between Canada and Indigenous Peoples. We have a plan to move towards a nation-to-nation relationship based on recognition, rights, respect, cooperation and partnership, and we are already making it happen.”

You promised to implement all 94 recommendations from the Truth and Reconciliation Commission starting with the **UN Declaration on the Rights of Indigenous Peoples (UNDRIP)**. The TRC Report set out the Principles of Reconciliation and stated that the UNDRIP is the framework for reconciliation at all levels and across all sectors of Canadian society. In May 2016, at the UN, Canada formally adopted the UNDRIP and you stated that Canada accepts the Declaration without qualification and recognize it as a full box of rights for Indigenous Peoples. We are pleased that on November 20, 2017 your government announced it will now support Romeo Saganash’s, NDP, Private Members Bill 262 to Implement the UN Declaration on the Rights of Indigenous Peoples.

You also stated on many occasions that no relationship is more important to you than that with Indigenous Peoples. Indeed, in your mandate letter to Minister of Crown-Indigenous Relations and Northern Affairs you stated: “No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.”

Mr. Prime Minister, the Iroquois Caucus wants to take you up on your words and help to make them become a reality. All of these positive statements about recognizing First Nations rights provides a key opportunity. It is an opportunity, by working with us, to help define for and with Canada what “Nation to Nation” relationship means and how it can be best implemented through a positive working relationship with the member Nations of Iroquois Caucus.

Who We Are

The Iroquois have an ancient relationship with Settler governments dating back to the Two Row Wampum treaty in the 1600’s. This relationship was inherited by the Crowns in England and France and later the Crown in Canada, including the 1763 Royal Proclamation and the 1764 Treaty of Niagara. This and other treaties envisioned an equal Nation to Nation Government to Government status and an ongoing respectful, mutually beneficial relationship. This was also represented by the Covenant Chain treaty with the Crown which required updating or refreshing of the relationship from time to time – “Polishing the Silver” of the Covenant Chain. This has not happened for some time. It is important to note that our treaties are recognized and protected by Canada’s Constitution in 1867 and 1982, when the British Crown passed on responsibility for treaty fulfillment to Canada as a stand-alone country.

The Mission of the Iroquois Caucus is to “present a unified voice on common issues to protect and enhance the rights, language, culture, lands, environment and resources for the benefit of our People,” and the Vision is “with the foundation of our Haudenosaunee culture, we work together strengthening our Nations through the protection and maintenance of our rights and jurisdiction.” In this manner, the Iroquois Caucus is comprised of delegates from each of the seven (7) Iroquois Communities.

We Represent Ourselves

Only the Iroquois Caucus governments speak for the Iroquois Caucus. In December 2005, a statement of solidarity was made between the Elected Councils of Kahnawa:ke, Kanehsata:ke, Akwesasne, Tyendinaga, Wahta, Six Nations of the Grand River, and Oneida Nation of the Thames that our identities, responsibilities, and systems of governance were in common. In March 2006, a declaration of “the members of the Iroquoian Caucus” was made to the Special General Assembly of the Assembly of First Nations (AFN) acknowledging the efforts and work of the AFN Renewal Commission, but emphasizing that “we must continue on our own path....we will continue to speak and represent ourselves and therefore cannot support any change or process that may effectively diminish our voice.”

The Iroquois Caucus member Nations hold the view that the role of the Assembly of First Nations (AFN), as it benefits First Nations and their communities, is through “advocacy and support.” It is the intention of the Iroquois Caucus to be present at any meeting that may be organized by the AFN, with delegates of the federal Crown government, particularly where issues, needs, concerns, and decision making affects or concerns Iroquois Communities and People. Simply put, AFN is an advocacy office and not a Nation or a rights holder. The federal government must ensure Nations represent themselves. When the AFN meets or makes a presentation, the government needs to be asking how does the Iroquois Caucus feel about this issue.

According to the Iroquois Caucus’ Declaration of Principles, “The Iroquois People have consistently and historically declared exclusive jurisdiction over all matters in their territories; have continued to exercise the right and responsibility to govern their affairs without interference; have continued to exercise these responsibilities using their own form of political, legislative and administrative processes; agreed to promote and protect the Iroquois languages, culture, and autonomy; and agreed to respect and recognize the unique responsibilities, authority and jurisdiction inherent within their respective communities...”

Recent Experience

The recent history in Canada and the focus of federal Indian Policy by the Canadian government has been attempts at assimilation and imposition of policies and legislation. It includes attempts to diminish our rights recognized by Canada’s Constitution, encouraging Provincial encroachment on our lands and attempts at implementing a fee simple regime on our Reserve Lands. When we have sought redress through so-call land claims processes these have led to attempts to extinguish our Aboriginal Title. Canada has maintained control and influence over First Nations Communities through our economic underdevelopment. First Nations now own less than 2% of their original territories.

For example the imposition of various pieces of unilateral federal legislation and the absence of obtaining our free, prior and informed consent, (as recognized in the UNDRIP) includes the following examples:

- Bill C-27: First Nations Financial Transparency Act
- Bill C-45: Jobs and Growth Act, 2012 [Omnibus Bill includes Indian Act
Amendments regarding voting On-Reserve Lands Surrenders/Designations]
- Bill S-2: Family Homes on Reserves and Matrimonial Interests or Rights Act

- Bill S-6: First Nations Elections Act
- Bill S-207: Act to Amend the Interpretation Act (non derogation of Aboriginal and Treaty Rights)
- Bill C-10: An Act to Amend the Criminal Code (Tobacco)
- Bill C - 428 An Act to Amend the Indian Act

It is evident to the Iroquois Caucus, that it is time for a stop to these practices and to implement a collaborative partnership and to re-establish the Nation to Nation Government to Government relationship between the Iroquois Caucus and Canada.

Key Initiatives and Issues

Your government has announced several initiatives and key issues it intends to move forward on and which Iroquois Caucus member Nations would like to be involved in as they affect our communities.

Although there are many initiatives our initial priorities are as follows:

1. Re-establishing a Nation to Nation Government to Government Relationship and Federal 10 Principles

Your government has issued 10 Principles to guide the Nation to Nation Government to Government process. These include recognition of the right of self determination; reconciliation guided by the UNDRIP; honour of the Crown; Indigenous self-government; treaty recognition; recognition of FPIC; reconciliation to include new fiscal relations and as an ongoing process and distinct Indigenous based rights.

The Iroquois have the oldest relationship in North America with the Crown. It is represented by the Two Row Kaswentha Treaty. Our treaties are pre-confederation and include the Two Row Wampum Treaty, the Covenant Chain Treaty, the NanFan Treaty, the Haldimand Treaty, Tyendinaga Treaty 3 ½ , the Treaty of Oswegatchie, and the Peace Treaty of Montreal with the French. These Treaties represent an equal Nation to Nation and Government to Government relationship with the Crown in right of Canada. The Two Row Wampum Treaty is a non-interference Treaty committing each Nation to not get involved in the affairs of the other. The Iroquois have consistently pushed for this recognition, including for example Chief Deskaheh, who journeyed to the League of Nations, (precursor to the United Nations) in 1923 to remind the world that the Iroquois were an ally of the Crown, not

subjects. Yet today, we find ourselves as Iroquoian Nations being subjected to imposed legislation without meaningful consultation or our consent. It is time to “Polish the Silver Chain,” to update and renew our Nation to Nation Government to Government relationship, and to end this constant interference by Canada in Iroquoian affairs.

We seek a process to update our relationship, as envisioned by the Silver Covenant Chain Treaty, and to implement it based on a Nation to Nation Government to Government relationship. We are a distinct People and cannot accept a “cookie cutter” approach, nor can the AFN or any other organization represent us in any process. It is important we start on this process as soon as possible.

A Nation-to-Nation relationship based on recognition of Indigenous rights, respect, cooperation and partnerships; cannot and must not pretend to happen on the extinguishment of Indigenous Peoples Rights to their lands and resources. Canada’s Specific and Comprehensive Claims Policies are contrary to these principles and must be replaced with mechanisms for opportunity reflective of your very words.

We need our own Justice System to be included. We need our own system because we do things to move forward but all decisions are made by the Canadian and provincial systems.

We also need our own Land Tenure System: when we gain lands back, we turn them over to Canada to hold in trust for us.

2. Review and Rescind Federal Laws and Policies

You stated your review of laws will be based on the 10 Principles. The Iroquois Caucus can help Canada with its Review of Laws and policies affecting us. You promised a review of laws and policies "Where measures are found to be in conflict with your rights, where they are inconsistent with the principles of good governance, or where they simply make no public policy sense, we will rescind them," said Trudeau. We can help with this.

In Particular, in April 2017 the Iroquois Caucus wrote to you to work with us to review the following laws:

1. Bill C-10: An Act to Amend the Criminal Code (trafficking in contraband tobacco)
2. Bill C-51: Anti-Terrorism Act
3. Recognition and Implementation of the Nanfan Treaty (1701), Jay Treaty (1794) and the Treaty of Niagara (1764)

4. Policies on: Inherent Rights; Addition to Reserve, Duty to Consult, Foreign Investors Protection Act, NHIP and many more.

5. Land Claims Policies, Extinguishment Overlapping and Shared Interests

The policy of extinguishment must be removed. We simply cannot be involved in a process to violate the rights of future generations. Also, the Crown’s representatives have made the Iroquois principles of sharing our lands per the “Dish With One Spoon” Treaty a divisive issue between ourselves and other Nations sharing interests upon our traditional lands. The issue of extinguishment of Land and Treaty rights for cash per Canada’s Comprehensive and Specific Claims Policies have individual First Nation Indian Reserve leaderships selling their rights without consulting all the holders of this Treaty. We require a formal response from you, the Prime Minister of Canada, that such land extinguishments do not apply or affect the Iroquois Nation’s interests in these lands.

Additionally, it will be essential to review Fiscal Relations with the Iroquois Caucus. We need to discuss how we can transfer to a system where the federal government will provide direct transfer payments to First Nations from Treasury Board, similar to what they do with the Provinces (Government to Government). We would start off with a set amount in year one and ensure that an escalator is added every year. This payment should be made without any strings attached and once we receive the money, it should be treated as our own source revenue and we will set the rules and regulations as to how it is spent and what it is spent on.

3. Reconciliation - Implementing TRC Calls to Action

To some people reconciliation is the re-establishment of a conciliatory state. However, this is a state that many indigenous People assert has never existed between indigenous and non-indigenous People. To others, “reconciliation,” is about coming to terms with events of the past in a manner that overcomes Conflict and establishes a respectful and healthy relationship among People

For any type of reconciliation to happen, there must be awareness of the past, acknowledgement of the harm that has been inflicted, atonement for the causes and action to change behaviour. To build for the future, Canadians must look to, and learn from, the past. Together, we must all do more than just *talk* about reconciliation; we must learn how to *practice* reconciliation in our everyday lives—within ourselves and our families, and in our communities, governments, places of worship, schools, and workplaces. Reconciliation must inspire indigenous and non-indigenous Peoples to transform Canadian society so that our

children and grandchildren can live together in dignity, peace, and prosperity on these lands we now share.

Iroquois Caucus member Nations strongly believe we must be involved in determining how the TRC recommendations are implemented as they affect our communities. This must be part of the re-establishment of our Nation to Nation Government to Government process with the federal government.

In your September 2017 UN speech, Mr. Trudeau you touted your government's commitment to UNDRIP. "As we seek reconciliation," you said, "the UNDRIP will be our guide." This again is an important process that the Iroquois Caucus must be involved in as it affects our communities and Nations.

4. Membership Citizenship Issues and the Descheneaux decision

The Iroquois Caucus is of the view the federal government must get out of the business of determining who is an Indian. The federal government, in partnership with First Nations, must commit to developing and implementing action plans and strategies with us, to comply with the principles of the United Nations Declaration on the Rights of Indigenous Peoples as a means to reconciliation.

As your government is well aware, the right to determine membership or nationality is a right recognized by the principles of international law to be a core component of the right to self-determination of a People; and jurisdiction over membership is the right to determine through our own laws who are our citizens. Since time immemorial the Haudenosaunee People have always determined who our own People are. The notions of citizenship and membership are present in our own Constitution, known as "The Great Law" or the "Kaienerakowa" in our language.

We are concerned with Canada's proposed response to the decision of the Superior Court of Quebec in the matter of *Descheneaux v. Canada*, to address issues related to Indian registration and band membership. The government must fund First Nations based on who we determine are our members and citizens. Currently, there are not enough houses or services (health, education, etc.) for existing citizens within our communities. If this government is truly committed to ending discrimination then it must provide the resources needed for our People!

5. INAC Split

You recently announced the dissolution of INAC and its split into 2 separate Ministries - a Department of Crown-Indigenous Relations and Northern Affairs, and a Department of Indigenous Services. This could have potentially dramatic impacts on our communities. You stated these changes are modelled on the recommendations of the Royal Commission on Aboriginal Peoples (RCAP – 1996) and will be finalized in cooperation with Indigenous Peoples. We have concerns about how this will be implemented which we could like to include in our discussions. RCAP had over two dozen related recommendations to enable the change in responsibilities and relationship, envisioned. We would like to discuss how this will be implemented.

6. Economic Development and Trade

Principle 8 of your 10 Principles document speaks to the development of a new and fair fiscal relationship and self-governance based on an economic partnership. This could include new fiscal income arrangements and new approaches to fiscal transfers and resource revenue sharing agreements. These are goals that we also share and want to enter into discussions into how to put them in place for our communities.

The Iroquois Caucus has signed a Memorandum of Understanding amongst our communities and governments to establish trade agreements on a Nation to Nation Government to Government basis. Our Vision is to extend this agreement locally, provincial and nationally with other First Nations communities and governments. We expect these Nation to Nation Government to Government agreements will be recognized, respected and not hindered by external governments.

We seek responsive options to address Economic Development, based on our Nation to Nation Government to Government relationship. This cannot be done simply by changing the status of reserve lands to “fee simple” status, or by the diminishing of our relationship. The need for alternative, locally driven strong economies that generate revenue necessary to sustain and maintain ourselves eventually leads to higher degrees of autonomy and self-determination for Iroquois Caucus communities. The Iroquois Caucus has previously requested a meeting with the Minister of Finance to discuss a new fiscal relationship. This proposed process could be a vehicle for those discussions.

7. Border Crossing Issues

As you know the Iroquois existed in North America long before the settler governments of America and Canada by thousands of years. We travelled and traded among other First

Nations and ourselves without hindrance. After the imposition of the Canada US border we continued this practice, which was recognized by the Jay Treaty of 1794 between England and the new United States of America. Both First Nations Immigration and Customs – duty free rights were recognized for a time by laws in both America and Canada. Many First Nations in Canada continue to have these cross-border relationships and rights and this too could form part of our discussions.

8. Taxation

Taxation is a jurisdiction of our member Nations. One Nation does not tax another. In the absence of a tax treaty between our Nations it still falls within our authority. In spite of this, over the years Canada has imposed unlawful and unfair tax laws on our citizens. It is clear that First Nations have tax immunity from Canada’s tax laws. We must find a way to resolve this issue through our discussions.

9. Child Welfare of First Nations citizens

There needs to be a recognition that as First Peoples we have jurisdiction over our children no matter where they are. The Truth and Reconciliation Commission Calls to Action, the Canadian Human Rights Tribunal, Federal and Provincial Mandate Letters, and the Political Accord are opportunities for advancing prevention services to Iroquois Caucus communities.

The Canadian Human Rights Tribunal decision based on discrimination against First Nations for lack of services and unequal funding on-reserve – (First Nations Caring Society and Amnesty International) calls for a fair equitable funding formula that supports First Nations communities. The Truth and Reconciliation – Calls to Action, includes calls for prevention and healing to restore reconciliation and restoration of culture and languages, services on reserves and opportunities to provide urban services as well.

The goal is to create a Haudenosaunee model of shared information, a data system, and a wholistic response that includes Justice, Mental Health, Child Care, Maternal Child, prevention services. Addiction support, culture, Post Traumatic Stress Disorder, Harm Reduction, Crisis Response for families that need support prior to being declared, “at risk of protection” and to prevent removal of children from their families. The Iroquois Caucus is seeking a table and process to discuss and advance these issues.

10. Hunting Issues – Treaty Rights

The right to hunt and harvest food for our families is an ancient right. It is also a Treaty right recognized in Canada’s Constitution yet provincial governments continue to interfere with our Treaty right. The Iroquois Caucus recently has created a Harvesting Working Group to address an urgent issue regarding the exercise of hunting rights.

We want to discuss, in our process with the federal government how we can best protect our rights to hunt across provincial borders, as was practiced by our citizens prior to the arrival of settler governments.

The Process

While there are many important issues to advance. What we propose is a Joint Canada – Iroquois Caucus process to work together to advance these issues. This would include key initial meetings between our Leadership and key Ministers followed by meetings of Senior officials within our respective governments. This would necessitate the development of Strategic Workplans to set out goals/objectives and key timelines and milestones. We will also be seeing resources to enable our communities to effectively participate.

The Iroquois Caucus is proposing the implementation of a meaningful, effective, and culturally-appropriate Nation to Nation Government to Government process between Canada and the Iroquois Caucus. This process must be consistent with our Nation to Nation Government to Government relationship as established by the Two Row Wampum, and would outline procedures for the federal government and Iroquois Caucus members to follow to put in place this Nation to Nation Government to Government process.

Conclusion

The Iroquois Caucus would like to remind the Prime Minister about the importance of continuing the historical and treaty relationship and commitments made by both First Nations People and the federal Crown to adhere to the principles of the Two Row Wampum, which includes harmonious relations based on peaceful co-existence, mutual respect, and sharing. We would also like to remind you that First Nations have been and are allies of the Crown and Canada. We have fought alongside the Crown and Canada for over a century in all major wars, including the War of 1812 which could have ended Canada’s existence as a country.

For the purposes of this Proposal, we are seeking a meeting between yourself as Prime Minister, key members of your Cabinet and the Iroquois Caucus at your earliest

convenience, in order to begin to co-develop a mutually acceptable process to discuss these important issues and concerns that have been identified within this paper.

We desire to initiate a process to take you, Mr. Prime Minister, at your word and put in place a process that can implement a Nation to Nation Government to Government process with Iroquois Caucus member Nations based on the TRC recommendations, the UNDRIP and based on the Two Row Wampum treaty between the Iroquois and the Crown.

We await a timely response to our request. We will follow up with your office in the coming weeks.

Skennen (In Peace)

Kahnawake

Kanehsata:ke

Akwesasne

Tyendinaga

Wahta

Oneida Nation of the Thames

Six Nations of the Grand River