



K'ÓMOKS FIRST NATION JUSTICE PROCESS: KEY MESSAGES

K'ómoks Vision: We, the K'ómoks people, envision a prosperous and healthy Nation, in which we exercise our rights and title throughout our territory, honouring our people, lands, waters, cultures and languages.

K'ómoks Mission: K'ómoks First Nation ensures the well-being and self-sufficiency in all aspects of our Nation by asserting our rights and title while upholding our members.

BACKGROUND:

K'ómoks First Nation is proud to announce the appointment of Dr. Marion Buller as our first Justice of the Peace, marking a significant milestone in the development of our justice process. We are the first Land Code Nation to take this crucial legal step and are charting our own path in the protection of our people and lands.

Throughout her career, Dr. Buller has shattered barriers, becoming the first First Nation woman appointed as a provincial court judge in British Columbia. She also played a key role in establishing the province's first First Nation Court and the first First Nation Family Court. After serving 22 years as a judge, she became Chief Commissioner of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Her commitment to defending First Nation rights and legal systems will guide the K'ómoks Nation as we continue to develop and strengthen our own justice process.

The K'ómoks Justice Process was created out of necessity, filling the gaps left by federal and provincial systems that have failed to support us. In 2018, when we faced ongoing trespassing issues, neither the RCMP nor Crown prosecutors assisted. This lack of support led to over \$150,000 in costs for private prosecution. Despite this, we persisted and ultimately won the case, with the

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Provincial Court of B.C. ruling in our favor. We successfully fined and banned the trespassers. With the appointment of a Justice of the Peace, we are ensuring that we won't face such legal challenges again and we will continue building a legal process that reflects the needs and values of our community.

Our justice process enables us to create and enforce laws concerning animal control, residency, access, trespass, and more, while integrating traditional practices like restorative justice and healing. It's a system designed to resolve conflicts the K'ómoks way, based on our own values and customs.

K'ómoks First Nation is located near a large urban centre in the Comox Valley. While neighboring municipalities benefit from RCMP services for community safety, K'ómoks does not have the same support. The *RCMP Act*, which governs policing in Canada, does not recognize First Nation laws, creating a significant enforcement gap. This gap leaves First Nation communities vulnerable, as criminal activity can seek refuge on reserve lands.

The development of our justice process highlights the broader challenges many First Nations face in enforcing their laws. While Land Code First Nations have the authority to make laws, the lack of support from the Canadian legal system and policing bodies makes enforcement incredibly difficult. K'ómoks is developing solutions to these issues by creating a justice process that can serve as a model for other First Nations across Canada, strengthening their own enforcement systems.

Our justice process is not just about solving current challenges; it's about asserting and exercising our inherent right to govern ourselves and establishing essential services that protect our people, land and culture. The appointment of Dr. Marion Buller as our Justice of the Peace is an important step forward in self-governance, marking a historic achievement not only for K'ómoks First Nation but for other First Nations across the country.

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FREQUENTLY ASKED QUESTIONS:

1. What is the K'ómoks First Nation Justice Process?

The K'ómoks First Nation Justice Process is an integral step to protecting our people and our lands. It's a legal process – much like a court – for our own Nation's laws.

It reflects our traditional justice approach, promotes fair and efficient access to justice, and aligns K'ómoks' legal practices with the Canadian legal system.

Our Justice Process does not replace any part of the Canadian or provincial legal system; instead, it starts to fill in the enforcement gap that have existed and made it difficult for our First Nation laws to be enforced.

2. What steps did K'ómoks First Nation take in building its Justice Process?

K'ómoks First Nation is one of 213 First Nations signatories to the *Framework Agreement on First Nation Land Management*. Through the Framework Agreement, K'ómoks First Nation approved our Land Code on September 12, 2016, and began governing our land through it on November 30, 2016.

By enacting the K'ómoks First Nation Land Code, we replaced 44 sections, or over 30%, of the *Indian Act*, enabling us to create our own laws to regain control of our lands, environment and resources.

Developing and approving our Land Code was a conscious effort to move away from the Indian Act and exercise our right to self-governance. Through our Land Code, we have removed Canada's hold over decision-making on our lands, and we now have broad powers related to the use, management, and protection of our land. This includes creating and prosecuting offences, assigning penalties, and appointing a Justice of the Peace to enforce our laws.

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Our justice process will include the Justice of the Peace and a Prosecutor, Administrator and Community Protection Coordinator to help enforce current and future K'ómoks laws.

3. Why appoint a Justice of the Peace?

Appointing our Justice of the Peace is a significant step in expressing our right to self-governance. It strengthens K'ómoks First Nation's role in overseeing justice within the community, making sure legal processes reflect our community's values, needs, and traditions, while also aligning with the broader Canadian justice system. The appointment of a Justice of the Peace:

- Shows the community's ability to manage its own affairs.
- Provides more control over K'ómoks First Nation's legal and judicial matters.
- Reflects justice methods that are based on their culture, values, and practices.
- Helps connect traditional justice practices with the formal Canadian legal system.
- Makes justice services more available to community members.
- Ensures fairness in legal proceedings, balancing fairness with law enforcement.
- Makes legal processes efficient, accessible, and just.
- Builds trust in the justice system, especially among those who have had negative experiences with the Canadian justice system.
- Supports cooperation with provincial or federal courts, blending K'ómoks First Nation's legal practices with Canada's formal system.

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4. What makes this appointment historic? How is this a national issue?

While the *Framework Agreement on First Nation Land Management*, which is ratified by the *K'ómoks First Nation Land Code*, provides the authority to appoint a Justice of the Peace, no other Land Code First Nation has done so to date. K'ómoks First Nation is the first!

The appointment of a Justice of the Peace helps to bridge the gap between our “First Nation” laws and the “laws of Canada”, so that we can further the work with the RCMP and Crown prosecutors to enforce our laws and collectively keep our communities safe.

A Justice of the Peace provides essential services at the community level by promoting access to justice, maintaining public safety, resolving conflicts, and ensuring that legal processes are followed efficiently. This ensures that the legal system remains fair and just. Being able to provide this kind of service within our community creates safety and security for our people.

We want to share this process so that other First Nations can use what we have done to help protect their communities and continue to address their enforcement issues.

5. What other changes are needed to address the enforcement gap?

Canada needs to review and revise federal and provincial acts and agreements, and to remove any discriminatory barriers to enforcement. Some of these considerations should be to:

- Amend the *RCMP Act* to include the enforcement of First Nation Laws.
- Develop Prosecution Services Agreements to ensure that RCMP will enforce First Nation laws with the assurance and pathway for offenses to be prosecuted.
- Review the Charter rights and discrimination issues that are most likely at the core of this problem. Prioritizing the safety of non-Indigenous people over that of Indigenous people is a clear Charter violation that must be addressed.

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6. How is this justice process different from what has been included in the K'ómoks Treaty Administration of Justice Chapter? How will the two approaches to justice support each other?

Both the Treaty Team and the K'ómoks Administration have been working together over the past several years on facilitating better access to justice for K'ómoks Members. The K'ómoks Justice of the Peace fills an immediate need and will have authority to adjudicate K'ómoks laws under the Land Code, within the boundaries of the K'ómoks Reserve lands. This is a building block for the full range of justice tools that will be made available under a K'ómoks Treaty.

Self-government under the K'ómoks Treaty provides a very robust bundle of law-making authorities. The Administration of Justice Chapter provides authority to create administrative sanctions and offences for violations of K'ómoks law and provides for the establishment of a K'ómoks Court to adjudicate. This includes adjudication of K'ómoks Laws that apply on Treaty Settlement Lands (K'ómoks Lands) as well as those that apply throughout the K'ómoks Traditional Territory.

In addition to the creation of a K'ómoks Court, the Administration of Justice Chapter deals with broader issues related to the:

- Requirements for “adequate and effective” police services on K'ómoks Lands
- Authority for police to enforce K'ómoks law, if granted by K'ómoks
- Cultural training for police
- Establishment of and training for K'ómoks Law Enforcement Officers
- Agreements for K'ómoks Law Enforcement Officers to enforce federal and provincial natural resource laws
- Use of alternative Indigenous justice systems
- Coordination with federal and provincial governments

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On the Effective Date of the K'ómoks Treaty, the office of the Justice of the Peace will transition into the K'ómoks Court, and K'ómoks laws under the Land Code will be amended, where required, to apply to Treaty Settlement Lands.

Self-government is an empty promise without the proper tools to enforce laws.

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