

## Submission on Behalf of the T̓silhqot̓in Nation on Covid-19 Recovery and Indigenous Peoples' Rights

*In response to: Call for input from the mandate of the Special Rapporteur on the rights of indigenous peoples for his report to be presented at the Human Rights Council in September*

28 Feb 2021

The T̓silhqot̓in National Government (TNG) represents the T̓silhqot̓in Nation, comprised of six T̓silhqot̓in communities spread over a large swath of territory in Central Interior British Columbia, Canada, as well as a large and dispersed off-reserve population. As a Nation, the T̓silhqot̓in exercise jurisdiction over the whole of our traditional, unceded territory. In 2014, the Supreme Court of Canada declared Aboriginal title to a portion of this territory—a first in Canada.

Our communities are still responding to COVID-19 cases and have not yet progressed to recovery efforts. Rather, they are very much still in the response and management phase, juggling complex health needs and financial stress, at the same time as dealing with social, infrastructure, and economic challenges which have been exacerbated by the pandemic, all with limited capacity. Through the exercise of T̓silhqot̓in jurisdiction, combined with strong community cohesion, cultural knowledge, and a degree of luck, tremendous effort and resources have been devoted to preventing and containing COVID-19.

At the start of the pandemic, TNG commissioned a report, attached, titled, *Dada Nentsen Gha Yatastiq; T̓silhqot̓in in the Time of COVID*, which translates in English to “I am going to tell you about a very bad disease.” This report documents the impacts of the COVID-19 pandemic on T̓silhqot̓in communities, and identifies 40 calls to actions to improve and respond to the effects of COVID-19 and the aftermath of the pandemic. The report draws on six months’ research through the first wave of the pandemic (to January 2021), including dozens of interviews with T̓silhqot̓in citizens and leadership, as well as with government partners.

Woven through this report are two themes. First, the T̓silhqot̓in Nation has led a coordinated and largely successful pandemic response through the exercise of its laws and jurisdiction. Second, despite exercising this jurisdiction, the Nation has faced numerous systemic and institutional constraints when seeking support from its government partners, impeding coordinated emergency response.

Looking ahead to the next phases of the pandemic and recovery, our calls to action will continue to apply. As such, the report addresses a number of the issues which the UNSR has identified for his report on “COVID-19 and Indigenous Peoples’ Rights,” to be presented to the 48th session of the Human Rights Council, September 2021. We have provided below brief summaries addressing the relevant questions posed by the UNSR, and have identified specific areas of the attached report where these items are addressed in more detail.

We thank you for the work you have done to call attention to and address the impact of COVID-19 on Indigenous peoples and our rights, and for the opportunity to inform your ongoing work on this matter as it continues to unfold for us all.

**4. Please describe the ways in which States have consulted with indigenous communities in developing recovery plans. How have these processes helped to make State recovery measures more inclusive and responsive to indigenous peoples’ rights?**

Since February 2018, the T̓silhqot̓'in Nation, Indigenous Services Canada (ISC) and the Province of British Columbia, as three government partners, have worked under the *Collaborative Emergency Management Agreement* (CEMA) – the first tripartite agreement of its kind in Canada with the mandate to establish seamless and effective emergency management across all governmental authorities (including Indigenous governance authorities).

Through the pandemic, the CEMA partners worked to resolve issues quickly and respectfully. Where issues could not be resolved, they were moved to different venues of conversation. Any impasse was the direct result of longstanding systemic and institutional barriers (pg 82). To prevent irreparable damage to the communities and impacts to the government-to-government relationship, constantly advocating and finding ways to resolve issues at a high-level table is time and labour consuming. Nevertheless, results have been achieved.

Early into the pandemic, the T̓silhqot̓'in Nation identified immediate and anticipated critical needs through a direct request for funding (pg 20). The funding request was not supported and therefore recovery measures must fit within the criteria of governmental funding programs. This will likely restrict fully Indigenous-led recovery needs and efforts, including those identified in Calls to Action 27-28, 35, 38-40.

#### **5. How have States and indigenous communities prepared for the distributions of COVID-19 vaccine in culturally appropriate and equitable ways? Were strategies developed and implemented in consultation with the participation of the indigenous peoples concerned?**

There is significant research and evidence to show that Indigenous communities are disproportionately impacted by COVID-19 due to existing co-morbidities (pg 32), mental health impacts (pg 32) and living conditions (pg 37). Health Canada prioritized at-risk groups to be the first to receive the vaccine at the initial rollout. Through ISC, some Indigenous members on-reserve were identified to be among the at-risk groups.

The provincial government and British Columbia Center of Disease Control are doing a four-phase rollout with Indigenous communities and the first two phases apply directly to T̓silhqot̓'in communities:

- **Phase 1: On-reserve community members to be vaccinated.** The management and control of the vaccine is under the government and center of disease control. Many of the communities were given a short notice (2 days notice) that the vaccine would be provided to the community on a certain day. The vaccination would be administered by the community health nurse on reserve.
- **Phase 2: Off-reserve prioritizing Elders 65 years and older and all other off-reserve members to be vaccinated.** This would be administered through a public health vaccine clinic, likely off-reserve. The communities are tracking off-reserve members whom wish to be vaccinated to put them on a vaccination list.

We support government commitments to prioritizing on-reserve community members, and off-reserve Elders for vaccination, and look forward to coordinating with them the continued roll out of the vaccines.

#### **6. How have States and indigenous peoples collected and analysed data on the impact of COVID-19 on indigenous peoples? Please specify to what extent economic, social, cultural, or other barriers have hindered collection of such data. How can data collection procedures be improved to disaggregate information on indigenous peoples, including specific populations such as you, women, elderly, LGBTI and persons with disabilities?**

By collecting our own data through commissioning the attached report, the T̓silhqot̓'in Nation found that the pandemic has had a profound impact on the Nation and the T̓silhqot̓'in people. Social disconnection and disruption in ordinary supports had particular impacts on Elders and children (pg 67-70). Pandemic restrictions and disruptions were observed to contribute to mental illness, alcohol and drug use, and family violence (pg 71-77). The communities experienced significant loss during the first wave of the pandemic and pandemic restrictions made it difficult to grieve collectively (pg 70-71). The Nation is anticipating long-term economic impacts and worries that the financial impact of the pandemic on provincial and federal partners will undermine recent progress to support Indigenous jurisdiction (pg 79-82). The report also found that T̓silhqot̓'in responses to the pandemic deepened the Nation's connections to land, culture and language which provide some potential for pathways forward.

The T̓silhqot̓'in Nation recognizes the importance of systematic data collection on the impacts of COVID-19 on Indigenous peoples. It has called for disaggregated data collection in British Columbia and Canada to inform anti-discrimination policies moving forward (pg 49-50; Call to Action 17).

### **7. How have recovery solutions positively- or negatively-impacted public health surveillance, health information systems (such as trackers and GIS mapping), and community-based surveillance and data-collection processes within indigenous communities?**

The T̓silhqot̓'in Nation has worked extensively with the Province of British Columbia to gain access to greater location-based information about COVID-19 cases to allow T̓silhqot̓'in leadership to make evidence-based pandemic decisions (pp 46-49). The Nation's complaint to the Information and Privacy Commissioner was dismissed after an investigation. While the Commissioner noted the province's *Declaration on the Rights of Indigenous Peoples Act*, the decision failed to recognize Indigenous peoples' self-determining rights to disclosure as distinct from the disclosure rights of the general public (pg 49). Extensive advocacy in collaboration with other BC First Nations resulted in a data-sharing agreement with the Province in early 2021 which provides T̓silhqot̓'in Nation with some, but not all, of the information it requested to support decision-making (pg 49).

Early in the pandemic, all six T̓silhqot̓'in communities identified the need to establish checkpoints in order to monitor travel in and out of the communities, collect contact-tracing data, and share information about the pandemic. While the Canadian and BC governments supported communities' authority to establish such checkpoints in principle, limited and convoluted funding streams meant that in practice they received insufficient support for the first nine months of the pandemic (pg 56-62). Communities had to compromise or exhaust already limited resources, eventually decommissioning their checkpoints. After months of advocacy and negotiation with government partners, the T̓silhqot̓'in Nation was able to support a policy change which would provide financial support to community checkpoints under certain conditions by November 2020 (pg 57). This was a major achievement, with broad governmental support. This policy change put the T̓silhqot̓'in Nation (and other First Nations) in a better position when checkpoints were later renewed in response to outbreaks in the region.

### **8. How have indigenous peoples' institutions and public health systems collaborated and worked together to address the health care crisis caused by the pandemic? Have States integrated or developed policies and strategies to incorporate indigenous traditional medicine into the national healthcare system?**

For Indigenous peoples in Canada, health policy and emergency management are mired in jurisdictional complexity and ambiguity, as well as longstanding systemic discrimination. From the start, the T̓silhqot̓'in Nation asserted its jurisdiction to protect its own communities and respond to the COVID-19 pandemic. Where the T̓silhqot̓'in have been most successful has been through the resurgence of

traditional practices (pg 79-80). The strength of the T̓silhqot̓'in Nation is an important protective factor against COVID-19. Historic and ongoing systemic racism in the public healthcare system has created a barrier in T̓silhqot̓'in people seeking out COVID-19 testing, and, if needed, treatment. The attached report highlights efforts to collaborate and incorporate T̓silhqot̓'in knowledge, practices, and leadership in the governance of health and disaster in Canada and BC, including through the CEMA table and coordination with BC's Interior Health Authority. However, further efforts are needed to support T̓silhqot̓'in-led health initiatives (Calls to Action 19, 27-28, 36-37).

The report also details other missed opportunities and moments of conflict, which have undermined and compromised T̓silhqot̓'in leadership in the management of the pandemic. Two areas which have caused the most conflict have been insufficient funding and support for community checkpoints, as noted above, and the lack of effective, collaborative, and appropriate enforcement mechanisms to support the decisions of community leadership as a result of confusing and strained relations with the RCMP (pg 62-64).

Provincial and federal policies and resources are structured to serve individual band councils and do not support the Nation (the collective governance system of the T̓silhqot̓'in people) or the Nation's coordinated approach to pandemic response. While the governments of BC and Canada have been receptive to T̓silhqot̓'in concerns, and open to finding creative solutions, continued discussions and advocacy always come at the cost of depleting limited human resource capacity for addressing pressing on-the-ground pandemic needs. We hope to continue to build a true decision-making partnership as we move into recovery efforts.

**9. Please provide examples of indigenous-led COVID-19 recovery efforts. What lessons can be learned from indigenous traditional practices and community-based programs in creating green and sustainable recovery efforts and to prevent and mitigate the effects of future pandemics?**

Anticipating the abundance of needs in communities to recover from COVID-19 the T̓silhqot̓'in Nation has:

- Commissioned the report - *Dada Nentsen Gha Yatastig: T̓silhqot̓'in in the Time of COVID*;
- Worked with local and provincial emergency operation centres through a communication protocol between all parties which guided emergency management in the territory;
- Recommended training for emergency responders on T̓silhqot̓'in cultural values and culturally-appropriate emergency management in their territory;
- Coordinated strategic planning by the T̓silhqot̓'in Health Hub and T̓silhqot̓'in Emergency Operation Centre;
- Provided bilingual communication from Elders, youth, and community leadership to communities throughout the pandemic;

Additionally, COVID-19 has opened the door to advanced collaboration and communication which could enhance a more meaningful circle of care:

- Collaboration amongst healthcare practitioners for the adaptive provision of care;
- Provision of meaningful land-based programming and innovative activities for maintaining community and cultural connections;
- Assembly of a community-based justice circle, led by the Women's Council members from the community, to resolve conflicts arising from COVID-19 measures;
- Consistent dialogue with government partners;
- Partnership with other Indigenous Nations for mutual support, knowledge sharing, and advocacy in pandemic response;
- Successful and consistent advocacy for funding and reimbursements for vital COVID-19 related expenditures.