

HAÍŁZAQV CONSTITUTION VS INDIAN ACT

Haíłzaqv Constitution

Indian Act

Source of Governing Authority

Rooted in our inherent right and traditional legal system of Ğvıłás and Łáxvái. The Haíłzaqv people's right to govern ourselves and our territories existed long before European contact. These rights are recognized by Canada's constitution and supported by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Joint Leadership governs under a constitution supported by citizens, with accountability between citizens and the Joint Leadership.

Based in Canadian law, with the Minister of Indigenous Services Canada (ISC) and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) holding most decision-making power. Accountability is primarily from the Haíłzaqv Tribal Council (HTC) to the Minister, with limited to no role for hereditary leadership or input from citizens.

Governance Structures and Institution

Our structures and institutions are shaped by our culture and traditional forms of governance. These systems are built around our values, practices, and ways of decision-making.

The Chief and Council structure is defined by the Indian Act, with custom elections needing approval from the Minister. Other institutions, such as those for economic development, health, and education, can be created through provincial or federal incorporation.

Citizens

The Constitution allows the Haíłzaqv people to decide for ourselves who is considered Haíłzaqv, reclaiming this right from the control of the Canadian government. The Haíłzaqv set the criteria for citizenship.

The Indian Act defines who is considered a band member and who is not. Band members are viewed as wards of the government, with limited control over their own membership decisions.

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Law Making

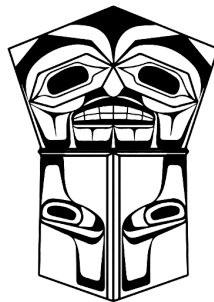
We have developed a law-making process that aligns with our traditional ways of creating laws. The Haíłzaqv people handle enforcement of these laws and resolve disputes. Additional areas of jurisdiction and authority will be negotiated with other governments.

The Indian Act restricts and limits the ability to make laws. Chief and Council can only create by-laws under the Indian Act and have very limited direct authority. Any disputes are resolved through Canadian law, primarily involving the Minister.

Lands & Resources

The Constitution strengthens our ongoing efforts to protect our lands and resources. It formalizes the process for creating laws and policies over Haíłzaqv territory. It also supports meaningful government-to-government consultation. Agreements with other levels of government may affirm Haíłzaqv jurisdiction and lead to various law-making authorities over our territory. The Constitution also allows for negotiations on extra-territorial and international agreements related to land and resource use.

The Crown wrongfully claims ownership of reserve and territorial lands. Chief and Council have very limited control over managing and developing reserve lands. While the Crown is required to consult and accommodate First Nations on activities in their territories, Chief and Council do not have the legal authority or mandate to fully protect lands or negotiate on behalf of citizens and hereditary leaders. Most decisions about land use are controlled by federal and provincial laws.



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Institutional Capacity

We will build capacity and make resourcing decisions based on our own priorities and direction. By exercising jurisdiction over our territory and resources, new revenue sources become available. Effective self-governance includes the ability to create laws, policies, and enforce them. This also includes setting up dispute resolution processes that reflect our own laws and culture.

Capacity is mostly determined by funding from ISC, CIRNAC, and other government programs, which come with specific spending rules. Legislative and policy-making powers are limited to what the Indian Act allows. There is little enforcement, and no Haíłzaqv courts or dispute resolution processes have been established.

Economy & Finance

A new fiscal relationship with Canada will be negotiated once the Constitution is approved. This will open up a wider range of revenue sources, including income from resource use, royalties, taxation, fiscal transfers, service funding agreements, fees for services, and revenue from economic ventures.

The type of funding, the amount available, and the way funds are transferred for operations and programs are decided by other governments. While we have established economic ventures like HEDC and Shearwater to generate some own-source revenue, we have limited ability to collect fees or generate significant income from resources.

Intergovernmental Relationships

The Constitution allows for negotiations on jurisdiction, territorial, service delivery, and other agreements directly between governments, including internationally. This includes discussions about how Haíłzaqv laws relate to provincial and federal laws. It supports both independent Haíłzaqv decision-making and joint decision-making with other governments.

The Indian Act restricts Haíłzaqv jurisdiction and other governments make decisions about service delivery agreements, funding arrangements, and other administrative matters. They also control a wide range of policies, programs, and resource-related issues.