

## Heiltsuk law used to adjudicate the aftermath of a diesel spill

Indigenous peoples' own laws are often overlooked in Canada. The Heiltsuk Nation on British Columbia's central coast is voicing their [laws](#) loud and clear as they apply to pressing issues facing their people. On October 9, 2018, the Nation filed a [notice of civil claim](#) against those responsible for the Nathan E. Stewart tug boat that sank and emitted 110,000 liters of pollutants in Heiltsuk marine territory on October 13, 2016. Though this legal action will take place in the Canadian court system, it is grounded in Heiltsuk *Ǿviłás* (laws).

For at least 14,000 years the Heiltsuk Nation have used their own legal processes and principles to steward and harvest resources throughout their territory. They have never surrendered their Aboriginal rights and title, nor relinquished their duty to look after their marine and terrestrial environments. Heiltsuk citizens are deeply and uniquely attached to their home. What affects the territory, affects the people.

When the Nathan E. Stewart ran aground in Seaforth Channel it quickly sank, spilling diesel and other pollutants at the foot of the ancient Village of *Q'vúqvai*, also known as Gale Creek, in the territory of the *Q'vúqvayáitxǿ* Tribe. This is an area rich with history and cultural significance, used to harvest food and bring wealth to the remote nation through a commercial clam fishery. The spill severely threatened Heiltsuk cultural and economic relationships in the area.

To address challenges in the wake of this disaster the Heiltsuk Tribal Council quickly established a committee to review, assess and adjudicate the impacts of the spill. This Committee was comprised of Hereditary Chiefs, knowledge keepers, a youth representative, and an urban representative. They produced a written [report](#) which clearly affirms the living strength of Heiltsuk *Ǿviłás* and how it should be applied in the case of the spill. The Report contains recommendations to the Kirby Corporation (owners of the tug), British Columbia and Canada to *haíklá* (or 'make things right') in the area. The Report creates opportunities to innovatively address problems created by the spill, using Heiltsuk legal principles and processes in ways that can be harmonized with Canadian Law. As so often happens however, when Indigenous peoples have clear laws, there are few mechanisms to enforce them. This is why the Nation has decided to utilize the Canadian legal system to implement the requirements of their own laws to bring justice and take care of their territory.

The Heiltsuk have long used their *Ǿviłás* to address pressing issues in their homelands, demonstrating their jurisdiction over their territory. One source of this authority flows from *Núyǿ* (stories), which validate and provide precedence for Heiltsuk ownership and control over their territory. The *núyǿ* also contain detailed criteria, standards, measures and principles for exercising decision-making responsibility in the area. Reciprocity is one of the guiding principles of the *Ǿviłás*, which is expressed as "Giving back goodness received". Heiltsuk jurisdiction is also marked on the land through pictographs and petroglyphs and recorded in totem poles as evidence of their power in the region.

The Heiltsuk are showing how Indigenous law continues to exist and is a vital source of decision-making authority in Canada. The Report discusses foundational principles of *Ǵviłás* and identifies the consequences of breaching them through a discussion of a committee member Frank Brown's breach of these laws in the recent past. This adjudication report, entitled, *Dáduqv!á q̄ntxv Ǵviłásax* ('to look at our traditional laws') is a significant exercise of Indigenous law in a contemporary context. The report addresses a pertinent issue for all coastal communities in British Columbia and provides a sound framework for integrating Indigenous legal systems into decision-making processes related to shipping, water safety and environmental sustainability. Indigenous law's role in advancing peace, prosperity, protection and the orderly disposition of disputes is not only vital to the Heiltsuk Nation but is also a significant benefit to all Canadians who care about the rule of law in our country. The Heiltsuk have a responsibility to protect their home for future generations and the *Dáduqv!á* Adjudication process, as demonstrated in the Committee's report, shows how Canadians more generally can benefit from the application of Indigenous law.

*John Borrows (Anishinaabe) is the Canada Research Chair in Indigenous Law at the University of Victoria Faculty of Law; Lindsay Borrows (Anishinaabe) is a lawyer and researcher at the Indigenous Law Research Unit at the University of Victoria Faculty of Law.*