

Case 3: Haida Nation v. British Columbia (Minister of Forests) – Answer Key

Haida Nation v. British Columbia (Minister of Forests)

Supreme Court of Canada – [2004] 3 S.C.R. 511

[British Columbia Consultation Honour of the Crown](#)

Summary

Haida is one of the most frequently cited cases regarding aboriginal rights.

Based on the principle of the honour of the Crown, which was elaborated by the Court, this decision affirms that the Crown must consult Aboriginals as soon as it has it has “real or constructive” knowledge “of the potential existence” of an Aboriginal right or title that may be adversely affected by the contemplated conduct.

[Summary is from: [Haida Nation v. British Columbia \(Minister of Forests\) - Indigenous Jurisprudence Autochtone \(reseaudioalog.ca\)](#)] *Visit that page to answer the questions in the chart below.*

[Another summary is included below. Note the names of the Indigenous Communities involved.]

[Haida Nation v. British Columbia \(Minister of Forests\), \[2004\] 3 S.C.R. 511, 2004 SCC 73](#)

Summary:

The Minister of Forests allowed the transfer of a "Tree Farm License" from one firm to another, prompting Haida to renew their objections to the license's coverage of the lands of Haida Gwaii, which had not been titled to them in any treaty, but to which they had long laid claim. The case considers the moral, if not legal, obligation for consultation with First Nations groups in this type of situation.

Location:

Haida Gwaii, British Columbia

Indigenous communities involved:

Haida (Walsh 2021)

<p>What?</p> <ul style="list-style-type: none"> What was the issue? 	<p>What are the Crown’s obligations to consult and to accommodate Aboriginals when they are in the process of establishing an Aboriginal title?</p>
<p>Who?</p> <ul style="list-style-type: none"> Who is the Indigenous group affected? 	<ul style="list-style-type: none"> Haida Nation Guujaaw – might also be mentioned
<p>When?</p> <ul style="list-style-type: none"> When was the court case decided? 	<p>2004</p>

<p>Where?</p> <ul style="list-style-type: none"> Where is the land in question? 	<p>Hadia Gwaii Queen Charlotte Island</p>
<p>Why?</p> <ul style="list-style-type: none"> Why is this considered to be a landmark case? 	<p>Answers may vary. Main points are in the <i>Summary</i> and the <i>Decision</i>. The notion of “Duty of Consult” arose out of this court case.</p> <p>Summary “<i>Haida</i> is one of the most frequently cited cases regarding aboriginal rights.”</p> <p>“Based on the principle of the honour of the Crown, which was elaborated by the Court, this decision affirms that the Crown must consult Aboriginals as soon as it has it has “real or constructive” knowledge “of the <u>potential</u> existence” of an Aboriginal right or title that may be adversely affected by the contemplated conduct.”</p> <p>Decision Unanimous – In accordance with the honour of the Crown, there is an obligation to consult Aboriginals, even when their aboriginal rights have yet to be proven.</p>
<p>What is one interesting fact you found out about this case?</p>	
<p>What further questions do you have?</p>	

Further Reading

"Haida Nation v. British Columbia (Minister of Forests)." 2012. *Raven*. <https://raventrust.com/haida-claim-to-haida-gwaii/>.

Haida Nation v. British Columbia (Minister of Forests), 2004 SCC 73 (CanLII), [2004] 3 SCR 511." Supreme Court of Canada. *CanLII Connects*.

<https://www.canlii.org/en/ca/scc/doc/2004/2004scc73/2004scc73.html?autocompleteStr=hai&autocompletePos=1>

"Haida Nation v. British Columbia (Minister of Forests), Supreme Court of Canada – [2004] 3 S.C.R. 511." *DIALOG. Indigenous Jurisprudence Autochtone*. <https://jurisprudence.reseaudialog.ca/en/case/haida-nation-v-british-columbia-minister-of-forests/>.

"Haida Nation v. British Columbia (Minister of Forests)[1]– Supreme Court of Canada, 2004. 2014." *Indigenous Corporate Training, Inc.* <https://www.ictinc.ca/blog/haida-case>.

Hartley, J. 2005. "Case Note: 'Upholding the Honour of the Crown': Haida Nation v British Columbia (Minister of Forests) [2004] 3 SCR 511." [2005] *IndigLawB* 15; (2005) 6(9) *Indigenous Law Bulletin*. <http://www5.austlii.edu.au/au/journals/IndigLawB/2005/15.html>.

Henderson, B. 1996. "A Brief Introduction to Aboriginal Law in Canada." *Bloorstreet.com*. <http://www.bloorstreet.com/200block/brintro.htm>.

"The Council of the Haida Nation v. British Columbia, 2018 BCSC 277." *Haida Nation*. <https://www.haidanation.ca/wp-content/uploads/2021/02/2018-BCSC-277-The-Council-of-the-Haida-Nation-v.-British-Columbia.pdf>.

Walsh, J. 2021 "Supreme Court of Canada cases involving Indigenous peoples." *Simon Fraser University*. <https://www.lib.sfu.ca/help/research-assistance/subject/criminology/legal-information/indigenous-scc-cases>.