



Malahat Nation

Constitution Development

Self-governance:
OUR RULES TO LIVE BY



Sacred and Sovereign:

The Malahat Nation is working to restore its jurisdiction and lay a foundation for self-governance through the development of a Malahat Nation Constitution.

We seek to implement this project in an atmosphere of respect that acknowledges the value of this process. A constitution developed from the citizens up will establish a solid foundation of self-determination for the improvement of social, cultural and economic conditions, and overall health and wellbeing within our community.

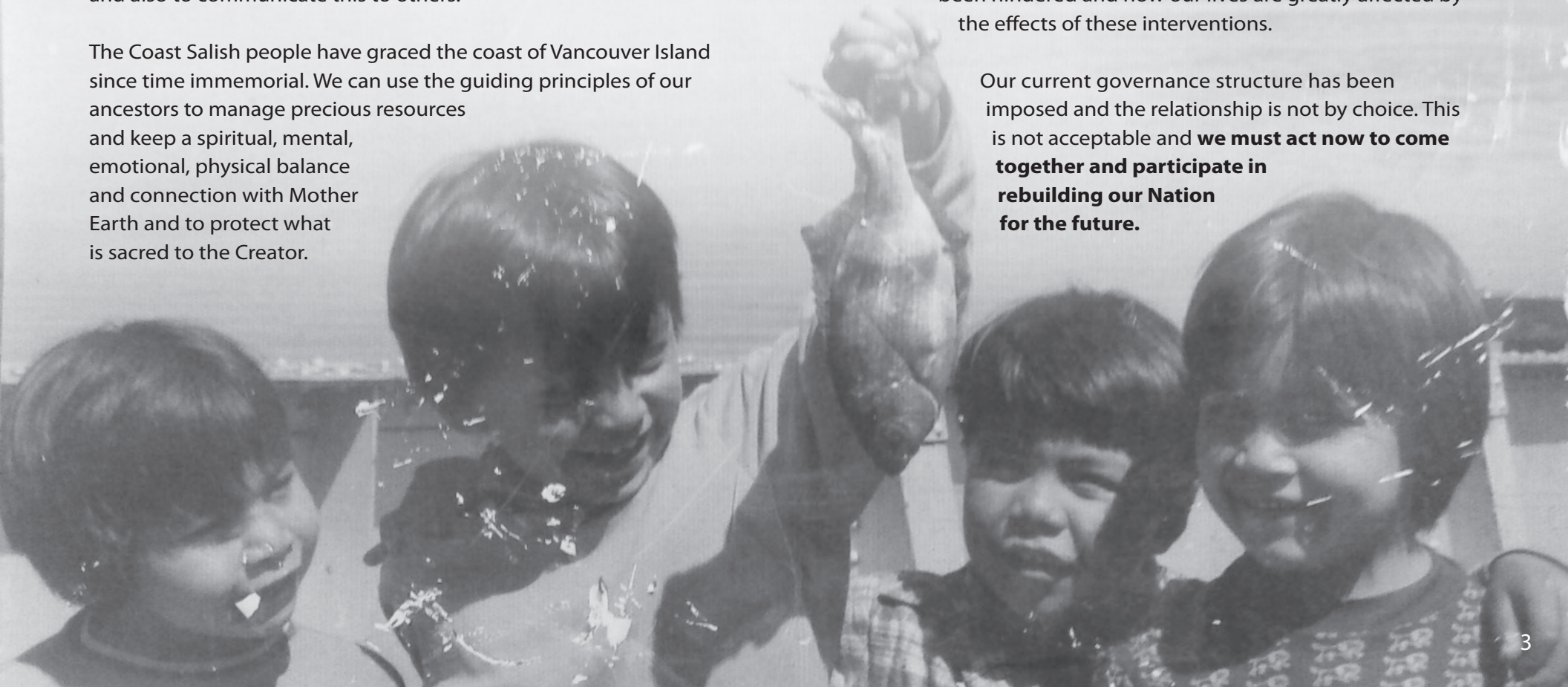
Background

The Malahat Nation has always had constitutional principles. As we are traditionally an oral people we have not written them down. This step of writing a constitution helps to formally recognize and protect parts of the way of life of our people, to pass down for generations to come, and also to communicate this to others.

The Coast Salish people have graced the coast of Vancouver Island since time immemorial. We can use the guiding principles of our ancestors to manage precious resources and keep a spiritual, mental, emotional, physical balance and connection with Mother Earth and to protect what is sacred to the Creator.

Our people once governed without outside intervention, since then a lot has changed and our communities have struggled to maintain our beliefs, principles, and values while under the control of the Department of Indian Affairs. The authority to govern ourselves has been hindered and now our lives are greatly affected by the effects of these interventions.

Our current governance structure has been imposed and the relationship is not by choice. This is not acceptable and **we must act now to come together and participate in rebuilding our Nation for the future.**



Background continued

We must connect our web of history to this modern way of life, and we must do so on our own terms.

This document that we will develop together to meet our needs and goals can be a powerful tool for change. We can use this constitution to serve as a foundation for our people in consideration of the past, the present, and the future. The constitution must fairly reflect our youth, elders, women, politics, religion, legends and traditions. This is an opportune time for Malahat Nation, where we can grow, learn together and bring forward the true spirit of our community.

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The Aim of the Malahat Constitution is to establish general principles that are built to last. We may reference the need to pass a law on a certain topic without specific details as to what the law will say. That way the law can be changed as needed without having to change the Constitution itself, which can be a challenging task.



The content of our Constitution will be unique to Malahat Nation, however some Nations who have gone before us in this process have identified some common features to be included in a constitution. We can use these as a guide as we get started, the following sections will detail some of these features. In the following sections you will be asked questions, the answers you share will be kept anonymous and reviewed by the Malahat Constitution Committee. This booklet does not attempt to cover everything that may be included in the Malahat Constitution, but rather it is an introduction to some of the major features.

What is a Constitution, What can it do, and Why do we want one?

A constitution is a document that explains how a government will function. Developing a Malahat Constitution is an important step towards self-governance. Currently many things require approval or funding from INAC (Indigenous and Northern Affairs Canada). This is often a significant barrier preventing Malahat from doing things the community wants. Under self-government we will be independent and we must now decide for ourselves what our government will look like. Under a modern treaty the Indian Act Band government system would no longer apply to us; instead we will create a system that will meet our needs and run according to our values. The Malahat Constitution will become Malahat's highest law. Our Malahat Constitution will include a statement of the core values, culture, beliefs, and principles of our nation. These principles will be used to guide the everyday life of Citizens and also provide rules and responsibilities for leaders and government employees to live by.



The Malahat Constitution will include a statement of the core values, beliefs, and principles of our nation.

Our constitution will address things like how decision makers are elected, how laws are made and enforced, and how leaders are held accountable to the Citizens. There are some requirements of things that must be included in our Constitution but there is also flexibility for us to choose what we may want to include, or not include. This is an opportunity to have rules and guidelines to follow that are chosen by the Malahat community and reflect our values. In this way the Citizens who are affected by decisions are involved in making the decisions for themselves and for future generations, unlike the governance structures that have been imposed in the past. Our goal is to map out a system of self-governance.



We Need Your Input!

Involvement and Engagement

In order to be strong and effective, the Constitution must be developed by the citizens of this community, **which means you!**

We can't do this without you.

A Constitution Committee has already been created to involve Malahat community members in drafting the Constitution for our nation. We intend to talk to every member about what is important to them for our future.

We are coming to you to ensure that your thoughts and opinions are heard. As we build the constitution we will review it with the community. We aim to have the work substantially completed in 2019. When it comes time that the community feels the Constitution is ready, it will go to a vote and everyone will have an equal say. If it is not ready, it will continue to be reviewed and things will be added or removed as needed. A constitution is required for self-governance, with or without Treaty.

We can use the Malahat Constitution to govern ourselves when we are ready.

Malahat community members will have the opportunity to participate not only in these home visits but also at community meetings and online. A Malahat community fieldworker will be available to listen to your input and help you to obtain answers to your questions. The Malahat Constitution Committee has been appointed from members of the community to act as a steering group and provide focused input on the Constitution.





Preamble

A preamble is an introductory statement that guides the interpretation of the document. A preamble provides context and explanation. In this section we could express who we are, where we come from and what is important to us.

Huu-ay-aht Example:

We, the people of Huu-ay-aht, by this Constitution declare our unique identity as a nation and claim our rightful place as equal participants in Canadian Society.

We have existed from time immemorial and have occupied and used the lands, waters and resources of our traditional territory throughout

history, a traditional territory that extends from the mountaintops to the off-shore areas as shown on the map attached to this Constitution.

We draw our identity from our relationship to our land and from our rich heritage, culture, language and our stories, myths and oral traditions.

We honour our ancestors and our elders and commit ourselves to the values that they have preserved for us, values that provide us dignity and enhance our humanity. We honour our children in our determination to see these values carried into the future.

As self-determining peoples, we accept the responsibilities inherent in governing ourselves and seek, with the assistance of Naas (the Creator), to govern with wisdom and respect for all people. Through the act of governing, we assume the power to preserve our natural world and enhance our identity.



Is a preamble an important section to include in the Malahat Constitution?

What do you consider to be fundamental values of the Malahat Nation; what does Malahat mean to you and what is important about who you are, what you believe in and where you come from?

This section doesn't have to be long. It can be short and direct as it is meant to send a message to Malahat Citizens and also other groups like the federal, provincial and local governments, other First Nations, media or companies who may do business in the area.





Rights and Freedoms

When thinking about Rights and Freedoms they can usually be broken down into three categories

1. Protect the **individual**; such as I have the freedom to choose my own religion or I have the right to vote as an individual.
2. **Equal and fair treatment**; such as the right to an education, equal access to health care or financial aid, fair and equal treatment by our government.
3. Rights that are **collectively held** by the people; such as the right to a healthy environment and freedom to continue to participate in cultural practices.

Note: The Canadian Charter of Rights and Freedoms will still apply to our Nation, this includes things like the right to not be arrested without

being told the reason why, but we can list other things we think are important to include.

What are some rights and freedoms you think are important to acknowledge in the Malahat Constitution?





Citizenship

We will also need a Citizenship Code that defines who may be considered a Citizen of the Malahat Nation.

Examples of citizenship eligibility requirements include:

- Enrolled under treaty/registered on the band list
- Adopted by a Citizen
- Descendant of a citizen
- **Meets the criteria of citizenship laws***

* This would leave an option to create laws in the future without having to change the constitution, as the steps involved in changing the constitution are challenging.

What do you think are important issues to address about citizenship requirements?

Examples: Even if I am eligible to be a Citizen I should be able to choose if I accept that citizenship, especially if it means losing another citizenship; or who I choose to marry should have no effect on my citizenship, or my children's

Should some of the rights and freedoms we decide on be extended to non-citizens living on our lands?

Note: Only people who are considered Citizens would be able to vote in elections

Governance

This section is to provide details about our Malahat government structure, how elected leadership will function, what they will be expected to do and how laws are made.

We have many options for determining the structure of our government. We currently have a structure of Chief and Council, however in our Malahat Nation constitution we can choose to:

- i. Keep the existing Indian Act governance structure
- ii. modify the existing governance structure
- iii. revert to a traditional form of governance
- iv. modify our traditional form of governance
- v. create something new

Note: under treaty whatever governance structure you choose must involve democratic elections

There are a wide variety of examples and options and even the terms “Chief” and “Council” could be changed. We can involve Elders, Youth, Off-reserve Citizens, and have representation for Non-Citizens living on the nation’s lands. Here are some examples of government structures

Examples:

- A People’s Assembly Committee (which could include persons representing off reserve Citizens and Non-Citizens living on the Nation’s land) could advise Chief and Council on behalf of the Citizens;
- There could be a Council of equals (no Chief) that is advised by an Elders Council;
- Each elected official could hold a specific portfolio, for example forestry, fisheries or economic development;
- Family groups could elect a head of household representative to sit on council

Are you happy with the current government structure? What could we do to improve it?

Should more of the community be involved in decision making? If yes should they have an advisory role or direct decision making power?





We can make decisions about terms of office for elected officials. Currently we must have elections every 2 years, some feel that this is not enough time to initiate changes and see them through. We could have rotating terms of office to ensure continuity in the government. The maximum time Malahat Nation can go without an election is 5 years.

Example: There could be a four-year term of office with elections of half the council every two years, so not all of the council members would be elected at the same time, and it wouldn't be an entirely new council every two years.

How often do you think leadership elections should be held?

What would you like to see as eligibility requirements for running for office?

Example: Candidates must be 18 years of age or older, candidates must pay a deposit to run, candidates must have a willingness to learn our traditional language, candidates must live on our land.

We could also include Principles of Governance and/or a Code of Conduct that direct how leaders will act.

Is it Ok if an elected member of your government is also an employee of or under contract to the Nation?

What is the key information that needs to be available to the Citizens to ensure the Malahat government is accountable?

Example: I want to know what our government's money is being spent on; or I want to know about any sales or leases of our lands.

Should there be a process for removing elected officials?

Should we mandate the government towards certain goals or objectives?

Example: The government would not be allowed to make decisions that conflict with community approved goals and objectives

While there are a lot of important topics to address in a Constitution, it doesn't have to be too complicated we can keep it simple! Some constitutions are 10 pages long and some are 80.

The best constitutions establish general principles that can be followed for generations to come, while still allowing for flexibility in the form of laws. The creation of laws can add specific details or be changed as new situations arise.

For example if it is important to Citizens that our lands are protected and we want to address that in the Constitution we could say: There will be laws on how our lands will be managed.



When we say there will be a law for our Nation to follow on issues such as land, this will then require our government, elected leaders and administration to refer to our Nation's law. These laws will list specific steps to follow when managing our land.

We must write down how we will make laws and also how those laws could be changed.

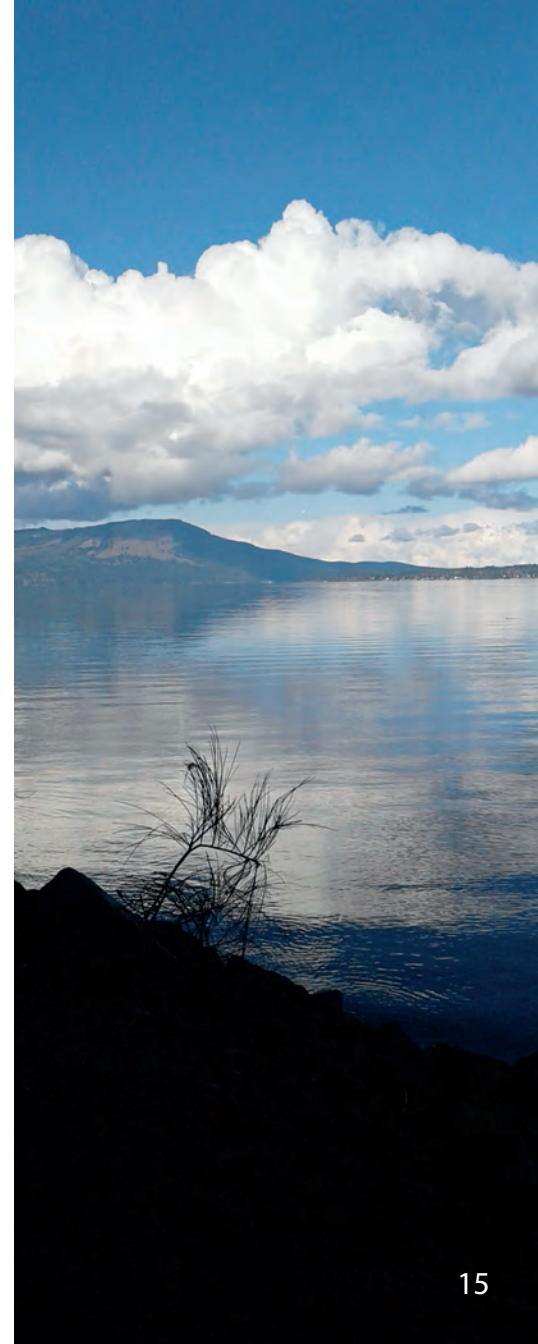
Example: Laws affecting land use must be introduced and debated by government; citizens must then be provided a reasonable opportunity to review and comment on the proposed law, including advertising of public notices and direct notification of persons directly affected by the proposed law; a public meeting must then be held and citizen input considered before the proposed law can be finally adopted and brought into effect.

Should there be a process for Citizens to propose a law?

Example: If a petition proposing a new law or amendment is signed by 20% of eligible voters then the Government is required to either adopt this proposal or put it to a community vote by referendum.

Should all proposed laws be presented to the Citizens?

What steps should be required before a law can be changed?



General Provisions

This section could include matters that affect the interpretation of the Constitution, how the Constitution will be brought into effect, how it can be changed after it is brought into effect and what would happen during the transition into self-governance.

We must provide eligible voters a reasonable opportunity to view the completed draft Malahat Constitution. Then before the Constitution is brought into effect, there must be a vote by way of a secret ballot so you can choose to privately say if you want or don't want to adopt the Constitution. In order for the Malahat Constitution to pass there must be a majority of eligible voters that vote in favour of the Constitution.

A majority could be anywhere from 51%-100%. This process is called ratification. Our aim would be to have broad support from the community for such an important document however it will likely not be possible to achieve 100% support.

What would be an acceptable majority vote to you? (This question is in reference to voting on the Constitution)





We would need to describe a process for changing the Constitution after it has been adopted, this is called an amendment process.

We should also decide how a proposed change to the constitution would be initiated.

Example: We could say an amendment could be initiated by a Citizens petition with 50+signatures; or if the Chief and all Councillors agree on an amendment then it would be put to a Citizens vote

We need to find a balance between making a process that requires broad support and allowing for change to happen when it is needed!

What do you think the process for changing the constitution should include?

Example: We could make it easier to change the constitution in the first few years after ratification, as we may need to tweak a few things that we didn't get quite right, and then make it harder to change as time goes on.

Thank you for participating in this process; we will be making all efforts to keep you informed as we put together this information and draft the Constitution.

The answers you've shared will be reviewed anonymously by the Constitution Committee to help them make decisions but they will not know exactly who said what.

If you have any questions or think of anything you would like to add to the answers you gave today please contact us at:

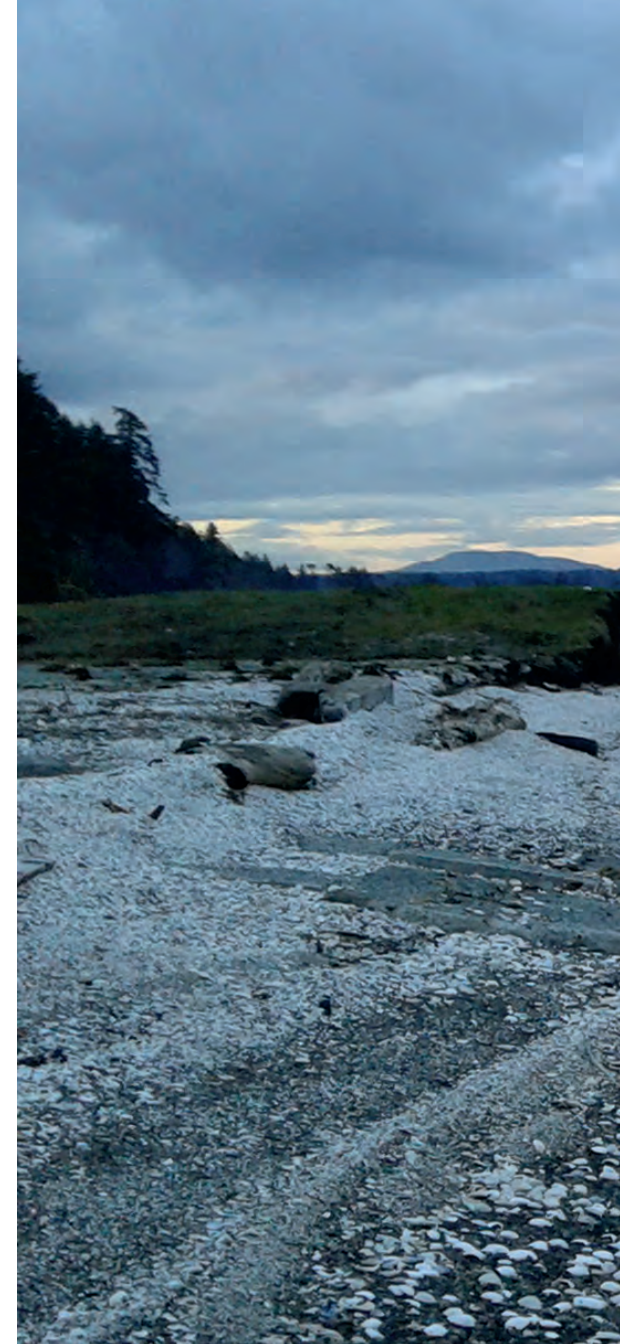


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