

WHAT IS A LAW?

Ogimaakandan Governance



In Honour of
the past,
the present,
the future....



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What is a law?¹

Laws sets out a series of rules that govern nearly every aspect of our lives and are enforced by the courts. Laws are created to ensure a safe and peaceful society and provide a way to resolve disputes fairly. For example, if two people claim that they have ownership of a piece of land, they can turn to the courts to decide who the true owner is and how to protect their rights instead of fighting among themselves. Both laws and regulations are referred to as “**legislation**”.

How does the law balance individual rights and collective rights?²

Laws recognize and protect individual rights and freedoms such as liberty and equality. However, these rights are balanced with their associated obligations to other members of society. For example, when a person has a legal right to drive, they also have a legal obligation to follow the rules of the road and ensure the safety of those around them— if they are unable to do so, they can have their license revoked.

How are laws passed in Canada and Ontario?³

Canada and Ontario follow very similar processes for creating laws. In general, they are as follows:

1. **An idea is created** and referred to as a bill.
2. The bill receives its **first reading** where its purpose is explained to the House of Commons (Canada), Senate (Canada) or Legislative Assembly (Ontario).
3. The bill receives its **second reading** where the it is debated.
4. The bill is then **reviewed by a Parliamentary Committee** where public hearings may be held and amendments are considered.
5. The **committee reports on the bill** with any amendments to the Legislative Assembly of Ontario.
6. The bill receives its **third reading** where it is voted on for final approval.
7. If the bill passes the vote, it **becomes law** either on receiving royal assent (signed by the Lieutenant Governor), on a day specified in the Act, or on a day set by the Governor in Council.

How are laws passed in Aamjiwnaang?⁴

Laws may be passed in Aamjiwnaang under the Chi’Naaknigewin. The process is as follows:

1. A draft law is introduced at a Council meeting either by petition signed by forty or more Bendaazijig (community members) who

support the law, by the Chief, by a Councilor, or by a board, a Wiidookdaamin Gimaagumig Anishinabeg (committee established by council to assist them).

2. A draft law will be approved through the law-making process set out in Section 12.
 - a. The law is introduced and considered by Council;
 - b. The Council will post in a public place the draft law for a period of 60 days for comment;
 - c. The Council receives input from Bendaazijig (citizen of Aamjiwnaang) on the law;
 - d. The law is considered by Council and may be passed by a simple majority of the Council; and
 - e. The law is signed by Council.
3. The Council will establish rules to allow Bendazijig (citizens of Aamjiwnaang) participation and consultation in tis law making process.

What is the difference between a law and by-law?

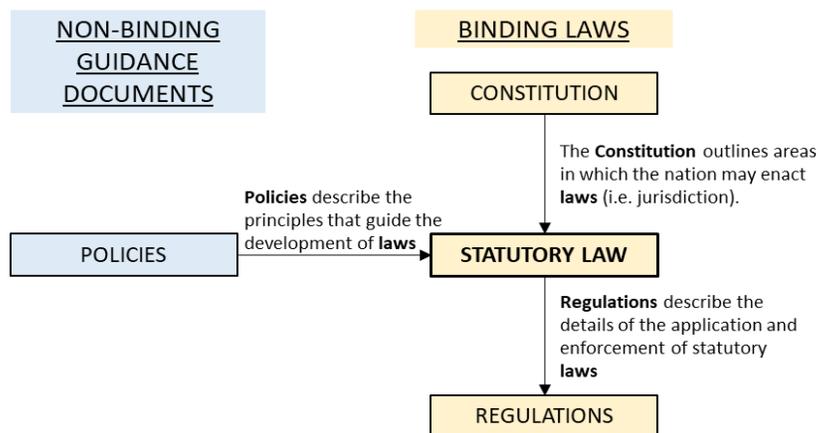
As of 2017, when the Aamjiwnaang Chi’Naaknigewin came into force, Aamjiwnaang no longer needs to rely on the *Indian Act* to enact by-laws. Instead, the community can exercise our inherent jurisdiction to pass laws (note the difference in terminology— a law, not a by-law) under the Aamjiwnaang Chi’Naaknigewin.

Therefore, by enacting laws under the Chi’Naaknigewin, we are moving away from *Indian Act* governance, and moving towards self-governance. This will take time!!

However, until participation and consultation rules are clearly established the 60-day public posting of a proposed law for community input is all that is required under the Chi’Naaknigewin.

Aamjiwnaang is currently in the process of developing its own Election Law, and until such time that the Election Law is ratified by Aamjiwnaang electors “the election process used by Aamjiwnaang” is that of the Indian Act. The current duly elected Chief and Council, are fully constituted within the meaning of the Aamjiwnaang Chi’Naaknigewin.

How Do Laws Relate to Other Governance Tools (the Constitution, Statutory Law (Regulations) and Policies)?



Please note that this document is for informational purposes only and nothing in it should be considered legal advice.

Sources

^{1,2} Department of Justice Canada, “What is the Law?” (2017 Oct 16) online: *Government of Canada* <<https://www.justice.gc.ca/eng/csj-sjc/just/02.html>>.

³ Legislative Assembly of Ontario, “How an Ontario Bill Becomes a Law” online: *Legislative Assembly of Ontario* <<https://www.ola.org/sites/default/files/common/how-bills-become-law-en.pdf>>; Government of Justice Canada, “Infographic: How new laws and regulations are created” online: *Government of Canada* <<https://www.justice.gc.ca/eng/laws-lois/infograph.html>>.

⁴ *Aamjiwnaang Chi’Naaknigewin* (Aamjiwnaang First Nation Constitution), (2017), s 35.