

Wolastoqey/Wəlastəkwey Rights Manual



Wolastoqey Nation in New Brunswick
September 25, 2024

Dedication

To Russ Letica whose friendship and passion for justice is dearly missed.



Acknowledgements

Funded by the Government of Canada
Financé par le gouvernement du Canada



Thank you to Dr. Jason Hall for developing Section 1 and contributing to Section 2¹, and Ian Peach for writing parts of Section 2², and editing support. Woliwon also to Gillian Paul, Renée Pelletier, and Graeme Cook for reviewing the Manual and providing helpful feedback; to Jody McDonald and Rachel Burke for administrative support on the Rights Matter Project; to Darryl Pelletier for GIS mapping contributions; and to Thomas Herbreteau for assisting with the design of the Manual.

¹ Sections entitled: Wolastoqey/Wəlastəkwey Aboriginal and Treaty Rights, Key Wolastoqey/Wəlastəkwey Rights Protected by the Peace and Friendship Treaties, Request to Enforcement Officers and the Public, Environmental Racism, and Land Crisis.

² Sections entitled: Aboriginal Rights, Treaty Rights, Collective Nature of Aboriginal and Treaty Rights, Source of Aboriginal and Treaty Rights, Protection of Aboriginal and Treaty Rights, Indigenous Peoples' Rights under International Law and the United Nations Declaration on the Rights of Indigenous Peoples, and Systemic Racism.

Introduction

This manual shares educational information with non-Indigenous people and Wolastoqi/Wəlastəkwi community members to promote greater respect for and understanding of Wolastoqey/Wəlastəkwey culture, history, and their Aboriginal and Treaty Rights, and experiences with racism, that is currently hard for many people in New Brunswick to access, especially within a single source. It also has suggestions and resources readers can use to learn more about or to take steps to help strengthen Wolastoqey/Wəlastəkwey rights.

Disclaimer

The Wolastoqey/Wəlastəkwey Rights Manual does not represent any official legal positions of the Wolastoqey Nation in New Brunswick or the 6 Wolastoqey/Wəlastəkwey communities in New Brunswick and in no way modifies, derogates or abrogates from Wolastoqey/Wəlastəkwey Aboriginal and Treaty Rights.

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The Wolastoqey Nation in New Brunswick (WNNB) gives technical advice and support to the 6 Wolastoqey/Wəlastəkwey Communities in New Brunswick - Matawaskiye (Madawaska), Neqotkuk (Tobique), Wotstak (Woodstock), Bilijk (Kingsclear), Sitansisk (St. Mary's), and Welamukotuk (Oromocto) - to ensure that the constitutional duty to consult and accommodate owed to the Wolastoqiyik/Wəlastəkwiyyik is fulfilled and Wolastoqey/Wəlastəkwey Aboriginal and Treaty Rights are recognized and respected.

Section 1

Wolastoqey/Wəlastəkwey History

The **Wolastoqiyik/Wəlastəkwiyyik** are the Indigenous people of the Wolastoq/Wəlastək w watershed and adjacent areas. Their traditional territory includes lands as well as ocean and fresh waters from the Bay of Fundy to the St. Lawrence River. This large homeland spans parts of New Brunswick, Québec, and Maine, and it predates and transcends the political boundaries that non-Indigenous governments imposed upon this area in recent centuries.

The Wolastoqiyik/Wəlastəkwiyyik are sometimes known as “the Maliseet,” a name their Mi’kmaq neighbours gave them that refers to the cadence of the Wolastoqey/Wəlastəkwey language.

The Wolastoqiyik/Wəlastəkwiyyik inhabited these lands and used a variety of resources in their territory since time immemorial. They refined useful technologies adapted to their needs and local environmental conditions, like lightweight birch bark canoes, toggle harpoons, snowshoes, and toboggans. They also developed sophisticated social and political structures to govern life

in their communities and nation as well as relations with neighbouring Indigenous peoples and visitors from afar.

After contact between Wolastoqiyik/Wəlastəkwiik and European fishermen and fur traders increased in the late 1500s, deadly diseases from across the Atlantic that Indigenous peoples had never been exposed to began devastating Wolastoqey/Wəlastəkwey communities. Although the exact number of people these diseases killed was not recorded, well over half of the Wolastoqey/Wəlastəkwey Nation likely perished in the early contact era, and foreign diseases continued causing death and suffering into the 20th century.

The Wolastoqiyik/Wəlastəkwiik found some Europeans to be kind people interested in forging positive trading and social relationships. However, after some time many European individuals began encroaching on Wolastoqey/Wəlastəkwey land and resource rights, acts which were an affront to Wolastoqey/Wəlastəkwey **sovereignty** over their lands, waters, and resources. Many also did not respect Wolastoqey/Wəlastəkwey beliefs and traditions, and some European men sexually and physically abused Wolastoqi/Wəlastəkwi women.

Sovereignty is the authority of a People to govern themselves.

As a result, Wolastoqey/Wəlastəkwey relations with some visitors and groups of settlers became characterized by violence and long campaigns of resistance to aggressive efforts to **dispossess** them of their lands and rights, and deprive them of their dignity as human beings. Generally, relations with France and French settlers were more positive than they were with Great Britain and its colonies.

Dispossess means to take people's land or other possessions from them.

The Wolastoqiyik/Wəlastəkwiyyik and their neighbouring Indigenous allies in the **Wabanaki Confederacy** fought a series of wars on land and sea with the British between the late 17th and mid-18th centuries.

The Wabanaki Confederacy refers to an alliance among the Wolastoqiyik/Wəlastəkwiyyik, Peskotomuhkati (Passamaquoddy), Penobscot, Abenaki, and Mi'kmaq. While the Confederacy was first formally established in the 17th century, it emerged from an interregional political structure these nations had developed long before meeting Europeans. Wabanaki means "People of the Dawn-land" in reference to the territories of these peoples being in the east and closest to the sunrise.

These wars were concluded by diplomatic negotiations and Treaties of Peace and Friendship between Great Britain and the Indigenous nations involved in the conflicts. The first Treaty known to have been made between British representatives of colonies that later became part of Canada and the Wolastoqiyik/Wəlastəkwiyyik was co-developed in 1725 and signed in 1726. The treaties were formal sovereign nation-to-sovereign nation agreements that drew on both Indigenous and British legal traditions and goals. They were co-developed by Wabanaki Peoples and the British to end conflicts and foster peaceful relations to benefit both groups. The written treaties and the oral negotiations that helped define them were not land surrenders or one-sided agreements.

The Peace and Friendship Treaties and verbal negotiations that informed them protected the rights of the Wolastoqiyik/Wəlastəkwiyyik and neighbouring Indigenous peoples to keep using lands and resources in their territories without being “molested” by British governments or settlers. The treaty signed by Wolastoqiyik/Wəlastəkwiyyik in 1760 included all the contents of the 1725-1726 treaty (which they renewed with the British in 1749). However, the 1760 treaty also included provisions to facilitate trade between the Wolastoqiyik/Wəlastəkwiyyik and the British, including by establishing trading facilities known as “truckhouses.” These historic treaties are the foundation of

Wolastoqey/Wəlastəkwey Treaty Rights.

The Supreme Court of Canada, the country's highest legal institution, has ruled that the Peace and Friendship Treaties continue to be legally binding agreements, and that the Crown has the duty to uphold and honour them. This means federal and provincial governments and all Canadians must respect Wolastoqey/Wəlastəkwey Treaty Rights. **We are all Treaty People!** Courts have also clarified that the treaties include written documents as well as oral negotiations, agreements, and understandings that must all be considered in order to fully understand them.

While the right of the Wolastoqiyik/Wəlastəkwiyyik to receive fair treatment by the British/Canadian justice system was guaranteed by the Treaties, in practice, it was often either denied outright or heavily infringed upon in past eras. Some colonial legal officials supported the dispossession of Wolastoqiyik/Wəlastəkwiyyik of their lands in violation of terms of established protocols between the British and Indigenous Peoples as well as the terms of British policy and international law as was reflected in the ***Royal Proclamation of 1763***, all of which put restrictions on the settlement of Indigenous lands in British North America.

The Royal Proclamation of 1763 is a legal

document issued by King George III that included instructions on how British authorities in North America were to deal with Indigenous peoples and lands. Though not the source of Indigenous land title, the Proclamation recognized Indigenous land title and restricted colonial settlement of Indigenous lands. As shown by Wolastoqi/Wəlastəkwi scholar Andrea Bear Nicholas, Nova Scotia's dispossession of Wolastoqey/Wəlastəkwey lands was an illegal violation of this important Proclamation.³

Wolastoqey/Wəlastəkwey efforts to obtain justice for settler violence received mixed responses from colonial courts. In 1786, a murder trial in New Brunswick led to the conviction and hanging of a settler who shot and killed a Wolastoqi/Wəlastəkwi man in cold blood. However, when a Wolastoqi/Wəlastəkwi man who was physically abused by a prominent Fredericton Loyalist tried to take his abuser to court in 1799, his case was dismissed because he could not find a lawyer willing to prosecute it.

³ Andrea Bear Nicholas, "Settler Imperialism and the Dispossession of the Maliseet, 1758-1765." In *Shaping an Agenda for Atlantic Canada*, Edited by John G. Reid & Donald J. Savoie, 21-57 (Black Point, NS: Fernwood Publishing, 2011).

Wealthy white men could assault Indigenous people and get away with it because wealthy white lawyers would not help Indigenous people seek justice and all local lawyers back then were white men. The abused man also faced a language barrier as he spoke primarily Wolastoqey/Wəlastəkwey and the courts did not operate in the Wolastoqey/Wəlastəkwey language.

Later generations of Wolastoqiyik/Wəlastəkwiik also faced huge obstacles getting legal support. Between 1876 and 1880, under the federal *Indian Act* that Canada imposed on Indigenous people, any Indigenous person who became a lawyer lost their “Indian Status” in Canadian law even if they wished to keep it. Canada also made it illegal for lawyers to represent Indigenous people between 1927 and 1951 unless they had approval from the Department of Indian Affairs.

Canada imposed the Indian Act on Indigenous people in 1876. This oppressive law gave Canada far reaching powers over many aspects of the lives of First Nations people, including the governance of their communities and lands as well as their ability to exercise rights and practice cultural traditions. This Act also forced thousands of children to suffer abuse and alienation in Residential and Day Schools and inflicted many other terrible harms to

Indigenous individuals, communities, and nations.

The legislation has been profoundly criticized by First Nations people and human rights advocates for generations for being unjust, paternalistic, discriminatory towards women, as well as a vehicle of cultural annihilation and genocide.

These and other oppressive laws and policies made it very hard for Wolastoqiyik/Wəlastəkwiyyik and other Indigenous peoples to organize land claims or seek justice on other matters through the legal system. In addition, the high cost of going to Court and cultural biases like the favouring of European written historic records over ***Indigenous Oral History*** severely limited meaningful Indigenous participation in the justice system until recent decades. A New Brunswick court house in Burton is even built upon Wolastoqey/Wəlastəkwey graves that were shamefully destroyed to dig a basement in 1947.

Indigenous peoples in Canada are primarily oral cultures who traditionally related cultural and historical information through spoken word rather than with written documents. The history they have passed down across generations by word of mouth is known as

Indigenous Oral History. Until the Supreme Court of Canada's Delgamuukw Decision in 1997, courts privileged written historical evidence over Indigenous oral history, which they often dismissed as hearsay. This discriminatory practice was a huge obstacle to Indigenous participation in the justice system to defend their rights and pursue land claims. The 1997 Decision requires courts to treat Indigenous oral history on equal footing as European written records. However, Indigenous people still face uphill struggles to have their oral history respected and it is often subject to hostile scrutiny in court.

History told from a Wolastoqey/Wəlastəkwey perspective often sounds dramatically different from the history that many New Brunswickers grew up learning. Wolastoqey/Wəlastəkwey history can be unsettling for settlers to hear as it complicates and challenges assumptions and values they hold about the past and present of the world around them:

- Men cast as upstanding colonial military officers and political elites in North American history supported acts of violence and genocide against Wolastoqi/Wəlastəkwi men, women and children.
- Prominent politicians and lawmakers made laws that criminalized Wolastoqey/Wəlastəkwey resource use (hunting, fishing, harvesting wood, etc.), which kept families on the brink of starvation for generations, and they supported efforts to deprive Wolastoqiyik/Wəlastəkwiyyik of their lands, cultures, and identity.
- Most historians ignored the fact that colonialization occurred through the unlawful dispossession of Wolastoqiyik/Wəlastəkwiyyik from their lands, and many early histories of New Brunswick valorize European colonialization and marginalize Indigenous perspectives on historical events and processes.
- Many local people celebrated in books, museums, and monuments for developing industries earned fame by destroying forest, river, and ocean habitats Wolastoqiyik/Wəlastəkwiyyik depended on. As a result, parts of the Wolastoqey/Wəlastəkwey economy were destroyed and several animals they had deep cultural relationships with were extirpated or driven to extinction. Wolastoqiyik/Wəlastəkwiyyik were seldom allowed to share in the prosperity that resulted from the development of

- the lands and waters that were taken from them.
- Teachers and missionaries praised for bringing European civilization and languages to Wolastoqi/Wəlastəkwi children suppressed the Wolastoqey/Wəlastəkwey language and culture. Kids were forced to attend **Residential Schools** and Day Schools where they suffered horrific physical, sexual, and mental abuses from educators.
 - Respected doctors and scholars conducted research that desecrated the remains of Wolastoqi/Wəlastəkwi ancestors who were dug up without Wolastoqey/Wəlastəkwey consent. Burial grounds and sacred sites have been flooded by dams or destroyed by other forms of development.

This list could continue for pages, however, in the past most writers and educators either omitted these and other Wolastoqey/Wəlastəkwey truths from their work or justified them as necessary steps in society's march towards greater progress and civilization which, to them, meant being more like Europeans than Indigenous people.

One of the first Residential Schools in Canada was set up in Sussex by the British Society for the Propagation of the Gospel and run by New Brunswick government officials. Instead of receiving an education, most of its Wolastoqi/Wəlastəkwi students were farmed out to

settlers as servants and virtual slaves. Many suffered horrible sexual, physical, and emotional abuse from the people responsible for their care. The school was closed in 1826 after the Society learned of the abuses and that school officials were taking money intended for the education of Indigenous kids to teach settler kids and to line their own pockets.

In the late 1800s, Canada created its own system of Residential and Day Schools, and Wolastoqi/Wəlastəkwi children forced to go to these facilities also suffered terrible abuses. These schools used education as a weapon to devalue and destroy the Wolastoqey/Wəlastəkwey language, culture, and way of life. Although these publicly funded schools are thankfully now all closed, Wolastoqi/Wəlastəkwi families and communities are still healing from the violence and trauma inflicted upon them for generations.

The Wolastoqiyik/Wəlastəkwiyyik have endured over 4 centuries of colonization; the loss of most of their lands; as well as sustained assaults on their children, culture, beliefs, and rights. However, they remain resilient in the face of profound hardships and are a vibrant people who are spearheading initiatives to strengthen their rights, culture, language, and relationships with their homeland today.

Section 2

Wolastoqey/Wəlastəkwey Rights

Every human has human rights, like the rights to food, shelter, justice, and freedom from violence. These rights exist because we are humans – they are not given to us by governments. Governments, however, play a key role in supporting human rights, and not all governments define or respect human rights in the same manner or to the same degree.

Indigenous people in Canada possess human rights like everyone else, and they also have additional rights due to their unique history, culture, and relationships with the lands that became Canada. Moreover, some Indigenous peoples have rights protected by treaties they made with the Crown.

In Canada, the two main types of rights held specifically by Indigenous people are Aboriginal Rights and Treaty Rights. These rights are recognized in Section 35 of the *Constitution Act, 1982*.

Aboriginal Rights

Aboriginal Rights are “inherent” rights. Inherent rights are rights that do not come from a Crown law or treaty, and that Indigenous people hold because of who they were and how they lived before the arrival of European settlers to what is now Canada. Specifically, in Canadian law, Aboriginal Rights are the practices, customs and traditions that made the Indigenous society what it was before the settlers arrived (or as courts often say, before “contact”). Because each Indigenous group is different, the content of Aboriginal Rights varies but often includes harvesting activities (e.g., hunting, fishing, timber harvesting), cultural and spiritual activities and Aboriginal title. For the Wolastoqiyik/Wəlastəkwiyyik, Aboriginal Rights protect the practices, customs and traditions that made Wolastoqey/Wəlastəkwey society what it was before the settlers arrived.

Treaty Rights

Treaty Rights come from agreements that many (but not all) Indigenous peoples reached with the British Crown (as well as Canada in the case of treaties made since 1867). Most Indigenous treaties were made long ago, but the process of treaty making continues today, and treaties developed in Canada since 1976 are called Modern Treaties.

Treaties contain promises by both Indigenous peoples and the Crown. The promises vary from treaty to treaty. As a result, Treaty Rights are not the same across Canada and will depend on the nature of the Crown's commitments in the particular treaty. Interpreting treaties can be a complicated exercise. Under Canadian law, treaties must be interpreted not just by the wording of the treaty (which often favours the Crown, who wrote up the treaty), but also with regard to the fuller context in which the treaty was negotiated and implemented (for example, the reasons for entering the treaty and any verbal promises made during negotiations).

Collective Nature of Aboriginal and Treaty Rights

Aboriginal and Treaty Rights are communal rights belonging to the Indigenous group or peoples who lived and built societies in the various parts of North America. This means that while Indigenous individuals enjoy the benefits of these rights, they belong to the larger collective. Thus, each Wolastoqi/Wəlastəkwi person can exercise Wolastoqey/Wəlastəkwey Aboriginal and Treaty Rights, but the rights themselves belong to the Wolastoqiyik/Wəlastəkwiyyik as a whole. This can mean that the larger Nation plays a role in the management of the right, such as deciding when a right should be exercised or whether certain limits need to be placed on the exercise of rights.

Source of Aboriginal and Treaty Rights

It is important to remember that Aboriginal and Treaty Rights are not granted by the colonial government. Aboriginal Rights are inherent rights that exist because Indigenous peoples lived in what is now known as Canada with their own societies, ways of life and governments before the arrival of Europeans. Treaty Rights are also not grants and are the product of a two-way exchange of promises between Crown representatives and Indigenous leaders: through negotiations, each side made promises to the other in order to secure certain benefits.

Protection of Aboriginal and Treaty Rights

Aboriginal and Treaty Rights are recognized under section 35 of the *Constitution Act, 1982*. This means that the Crown cannot make laws or decisions that get rid of Aboriginal and Treaty Rights. It also means that if laws or Crown decisions impact Aboriginal and Treaty Rights, the Crown must prove the impact is justified, and the Supreme Court of Canada has set a high bar for justification. Under section 35 of the *Constitution Act, 1982*, the Crown is also legally required to consult with Indigenous groups before taking any action that might impact Aboriginal and Treaty Rights, even if those rights have not yet been proven. Depending on the rights at stake and the severity of the potential impact, the Crown can also be required to provide accommodation (together these Crown obligations are known as the duty to consult and accommodate).

Importantly, the content of and scope of Aboriginal and Treaty Rights must be assessed from the Indigenous perspective. This becomes especially important when trying to understand impacts to rights and how they should be accommodated. For example, if it is determined that a new mine would have an impact on the Wolastoqey/Wəlastəkwey right to hunt, looked at solely from the

non-Indigenous perspective this might be understood very narrowly as the loss of a food source. But the right to hunt from the Wolastoqey/Wəlastəkwey perspective is about much more than just accessing wild meat. It is about maintaining an important connection to the territory, it is about practicing and maintaining the spiritual customs that are a part of hunting, it is about honouring the teachings that have been passed on, and it is about being able to pass on those teachings to the next generation.

Additionally, and relatedly, many rights also involve the practice of other connected rights and activities. This is so either because those connected rights and activities form a part of the right, from the Indigenous perspective, or because they are necessary for the exercise of the right. In the example above, the right to hunt would include the right to access land in which to hunt and the right to engage in the spiritual practices that accompany the hunt. In addition, the right to trade in game or fish implies the right to hunt or fish for the game or fish intended for trading. These connected and incidental activities are also constitutionally protected.

Wolastoqey/Wəlastəkwey Aboriginal and Treaty Rights

Wolastoqey/Wəlastəkwey Treaty Rights are not radical or new. The Wolastoqiyik/Wəlastəkwiyyik, along with the Mi'kmaq, Peskotomuhkati, Penobscot, Abenaki, and Crown representatives made a series of treaties in the 18th century that are known as the Peace and Friendship Treaties. The treaties that the Wolastoqiyik/Wəlastəkwiyyik made in 1725-26, 1749, and 1760 are some of the oldest legally-binding agreements in Canada.

The Peace and Friendship Treaties co-developed by the Wolastoqiyik/Wəlastəkwiyyik and other Wabanaki Peoples differ from many of the treaties made elsewhere in Canada. While some (but not all) other treaties surrendered Indigenous land, **the Peace and Friendship Treaties DO NOT SURRENDER LAND**. In fact, they protect Wolastoqey/Wəlastəkwey rights to land and resources, and provide a further Crown acknowledgement of and source of protection for the Aboriginal Rights of Wabanaki Peoples.

Unfortunately, the Government of Canada and the Province of New Brunswick did not respect their Peace and Friendship Treaty obligations in the past, as they largely

operated in violation of these agreements. The Wolastoqiyik/Wəlastəkwiyyik were forced to wage long and costly uphill struggles to have Courts affirm their Treaty Rights, but they won important victories from the 1980s onward in which judges ruled that the Treaties are legally binding and that governments and the public must respect the rights recognized by them.

Despite achieving success in Courts, Wolastoqiyik/Wəlastəkwiyyik still face enormous challenges having all their Aboriginal and Treaty Rights respected by non-Indigenous governments and enforcement agencies. Moreover, many non-Indigenous people lack knowledge of, or are misinformed about, the Treaties and Treaty Rights. Because of opposition to Indigenous rights from some non-Indigenous people, Wolastoqiyik/Wəlastəkwiyyik who try exercising their rights on lands and waters regularly face hostility, violence, and hate crimes including:

- Rocks thrown at them while fishing with their children;
- Verbal assaults including threats and racist hate speech;
- Harvesting equipment stolen or damaged;
- Fishing boats destroyed;
- Hunting camps used to teach kids about their culture torched by arsonists.

These types of negative experiences, coupled with governments and their enforcement agencies who either refuse to recognize rights or significantly restrict and regulate Indigenous resource use, mean that Wolastoqiyik/Wəlastəkwiyyik are unable to:

- Harvest healthy foods;
- Keep families safe from verbal and physical abuse;
- Maintain and pass on skills, traditions, and language;
- Interact with plants, animals, lands, and waters that have sustained their physical and cultural well being for centuries and;
- Earn a living and be self-sufficient.

Key Wolastoqey/Wəlastəkwey Rights Protected by the Peace and Friendship Treaties

The treaty Wolastoqiyik/Wəlastəkwiyyik developed with the British in 1725/1726 promised they **“would not be molested⁴ in their Persons, Hunting, Fishing and Shooting & planting on their planting Ground nor in any other their Lawfull occasions.”⁵** Wolastoqiyik/Wəlastəkwiyyik had the right to fish, hunt, plant, and carry out their other land use and economic activities free from interference or harassment by settlers or settler governments.

THEY STILL HAVE THE TREATY RIGHTS TO DO ALL OF THESE ACTIVITIES TODAY.

⁴ In this context molest means causing trouble, grief, disturbance, or annoyance. See Online Etymology for a detailed definition <https://www.etymonline.com/word/molest> (Accessed 17 May 2023).

⁵ Reciprocal Promises made by Captain John Doucett: 1726. Reprinted in William C. Wicken, *Treaties on Trial, History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002), 63.

This means that Wolastoqiyik/Wəlastəkwiyyik are **NOT** subject to the same resource use regulations and laws that non-Indigenous people are. They are supposed to be able to use land and resources according to their own practices and laws free from interference. This can include hunting or fishing at different times of the day or the year or using different equipment or practices.

Canada, New Brunswick, and the non-Indigenous public must respect those rights although Indigenous people who exercise them continue facing criminal charges because non-Indigenous governments continue to violate the Treaties and disturb and interfere with land users.

The Treaties were intended by both peoples to protect Indigenous resource use practices. Although the word lawfull (lawful) is not defined in the written Treaties, we can infer that it meant other peaceful Indigenous practices that were a regular part of Wolastoqey/Wəlastəkwey life, like harvesting plants and trees, holding ceremonies, trading and engaging in other economic activities.

The British wanted to get furs, feathers, canoes, and other items from the Wolastoqiyik/Wəlastəkwiyyik during the era in which the Treaties were made. They did not want to prevent Wolastoqey/Wəlastəkwey harvesting, processing and trading of these and other resources.

A Wolastoqey/Wəlastəkwey goal of making Treaties was to protect their lifestyles, such as their rights to harvest, use, and exchange resources. They did not agree to having a foreign nation restrict these activities, although this is what New Brunswick and Canada did and continue to do.

The Treaties recognize the right of Wolastoqiyik/Wəlastəkwiyyik to be treated fairly in the British justice system. Settlers, however, have not always honoured this obligation and systemic racism became a part of the colonial justice system early on - and it persists today.

The 1725/1726 treaty states that Wolastoqiyik/Wəlastəkwiyyik would have the same relationship with the King of Britain as they had earlier with the King of France. However, the Wolastoqiyik/Wəlastəkwiyyik never surrendered their lands or sovereignty to France. They considered France a strategic ally in a nation-to-nation relationship in which the French King was on a similar level as a Wolastoqi/Wəlastəkwi Sakom (Chief). The Wolastoqiyik/Wəlastəkwiyyik regulated French settlement activities in their territory.

By agreeing to have the same relationship with the British king as they had with the French king, Wolastoqiyik/Wəlastəkwiyyik agreed to maintain their sovereignty and control over their lands.⁶

The Peace and Friendship Treaties also acknowledge that settlers had certain rights such as the right to be treated peacefully by Wabanaki peoples. They also clarified that Indigenous people were not to capture soldiers from British forts, and they were to bring any deserters they encountered to British authorities. The Treaties also obligated Indigenous peoples to release any British captives they had taken during the conflict. Including provisions that recognized the rights and obligations of both Indigenous peoples and the British helped ensure that the Treaty relationship would help create a basis for mutual respect and peaceful interaction.

⁶ This paragraph is derived from Jason Hall, “River of Three Peoples: An Environmental and Cultural History of the Wəlastək / rivière St. Jean / St. John River c. 1550 – 1850” (PhD diss., University of New Brunswick, 2015), 98-99.

Request to/Information for Enforcement Officers and the Public

1. Be kind and patient, and understand that Wolastoqi/Wəlastəkwi land users are not criminals, they are Indigenous people who are exercising their rights. They must be treated with respect at all times even if governments fail to honour their obligations regarding Aboriginal and Treaty Rights.
2. Never respond with violence! There are ALWAYS peaceful alternatives to violent interactions with Indigenous people - please seek them out.
3. When land users have hunting and fishing gear or catch/game confiscated, families often lose healthy food sources they depend upon - especially when catch or gear is not returned immediately.
4. From a Wolastoqey/Wəlastəkwey perspective, big factory fishing trawlers, hydro dams, industrial pollution, and intensive forestry operations – activities associated with non-Indigenous people - do FAR MORE HARM to living creatures in our forests, fresh waters, and oceans than Indigenous harvesting does. Yet regulation of these

activities is often very weak, while Indigenous land use gets heavily targeted by government regulation. This is an unfair and unproductive example of systemic racism in resource management and conservation policies.

5. Being watched closely feels like harassment to Indigenous land users and can cause them to stop harvesting. If you notice Indigenous people harvesting, please give them respectful space and put your camera away.

6. If you own land, please welcome Wolastoqey/Wəlastəkwey harvesting and consider donating lands to the Wolastoqiyik/Wəlastəkwiyyik to help them exercise their rights and pass on cultural traditions to their children. Even an acre makes a positive difference! (See the **Land Crisis** Section below for more details on this).

Indigenous Peoples' Rights under International Law and the United Nations Declaration on the Rights of Indigenous Peoples

International law, too, recognizes the rights of Indigenous peoples. The United Nations Declaration on the Rights of Indigenous Peoples, adopted in 2007, is the most comprehensive statement by the international community on the rights of Indigenous peoples.

The United Nations Declaration recognizes a number of key rights of Indigenous peoples, a few of which we will identify here. Article 3 of the Declaration, for example, declares that Indigenous peoples “have the right of self-determination” and Article 4 states that Indigenous peoples, in exercising their right to self-determination, have a right of self-government. Article 8 declares that Indigenous peoples and individuals have the right not be subjected to the forced destruction of their cultures. Article 26 states that Indigenous peoples have the right to the lands, territories, and resources that they have traditionally owned, occupied, and used, while Article 10 says that they shall not

be forcibly removed from their lands. As well, Article 19 requires governments to cooperate with Indigenous peoples to obtain their free, prior, and informed consent before adopting measures that may affect them. The United Nations Declaration also declares that Indigenous peoples have rights that would serve to protect their cultures, histories, traditions, educational systems, and institutions.

Canada originally objected to the Declaration, but it removed its objections in 2016 and became a “full supporter, without qualification.” The Government of Canada then introduced the United Nations Declaration on the Rights of Indigenous Peoples Act; this Act became law on June 21, 2021. The Act affirms that the United Nations Declaration is an international law instrument used to interpret Canadian law and requires the Government of Canada to take all measures necessary to make Canadian law consistent with the Declaration. The Supreme Court of Canada has held that Canada’s passing of the Act means that the United Nations Declaration is now part of Canadian law.⁷

⁷ Reference re An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5.

Systemic Racism

Individual racism is an action taken by one person that shows that they feel another person is inferior and undeserving of equal respect because of the colour of their skin, the language they speak, the clothes they wear, their spiritual practices, or other indicators of their identity. As individual racism involves one person's actions or words that diminish and belittle another person, it is an intentional act.

Systemic racism, on the other hand, is deep-seated in the structures of institutions or society as a whole. It builds organization-wide, or even society-wide, responses to those who are members of minority identity groups on the basis of myths about groups, as though all members of a group share the same capabilities, attitudes, and habits. It goes beyond individual mistreatment of one person by another, to exclusionary or harmful institutional attitudes, policies, and practices and society-wide unequal treatment and injustice against minority members of the society.

Systemic racism serves to protect the systemic advantages of the majority and perpetuate the attendant systemic disadvantages of the minority, such as higher levels of

unemployment, poverty, homelessness, ill health, food insecurity, and social dislocation. For example, studies have shown that Indigenous people are overly scrutinized by the police, have a greater likelihood of being denied bail, and a diminished likelihood of receiving probation. These facts are a result of attitudes that are built into the justice system and lead to a disproportionately high percentage of Indigenous people serving time in prison. These factors also make Indigenous people more likely to experience violence from law enforcement than non-Indigenous people.

Sometimes attitudes and beliefs about the relative superiority and inferiority of different identity groups are so embedded in society's way of thinking and doing things that it can be tempting to just think that's "just the way things are." Nonetheless, when those attitudes and beliefs subject the members of minority groups to unfair treatment and systemic disadvantages, it constitutes racism.

Environmental Racism

Environmental Racism is a form of systemic racism that occurs when the dominant society locates activities that cause harm to the environment and human health within or close to minority communities like Indigenous Peoples and Blacks, who often have less political power to resist this harm than people of European descent.

All Wolastoqey/Wəlastəkwey communities in New Brunswick have experienced ***Environmental Racism*** such as:

- Municipal garbage dumps (Madawaska & St. Mary's);
- Hydro Dams that degraded water quality and fishing as well as flooded reserve lands and sweetgrass habitat (Kingsclear, Woodstock, Tobique, Madawaska), and forced some residents to relocate (Woodstock, Tobique). In addition, while many settler graves were relocated in advance of the creation of hydro dam reservoirs,

Wolastoqey/Wəlastəkwey burial grounds were flooded and are now inaccessible to community members;

- The creation of Base Gagetown, a large military training base, led to the loss of some Oromocto reserve lands, as well as the spraying of toxic chemicals such as Agent Orange on some local lands and waters. Similarly, a military training facility in Madawaska during WWII degraded land use;
- An above ground Pulp and Paper Mill pipeline leaked nasty substances and blocked access to parts of Madawaska reserve lands.

The Wolastoqiyik/Wəlastəkwiyyik are closely connected to their lands and waters, and their culture and well-being depends on access to healthy wild foods. Thus, they are often the people who are at the most risk of harm from the ***spraying of chemicals*** on fields and forests, as well as other forms of pollution that affect the plants and animals they consume.

In the past, toxic chemicals like Agent Orange and DDT were sprayed across parts of New Brunswick's forests. Agent Orange gave people deadly cancer. DDT killed most salmon and trout in some rivers while also causing huge declines in eagles, peregrine falcons, and other birds.

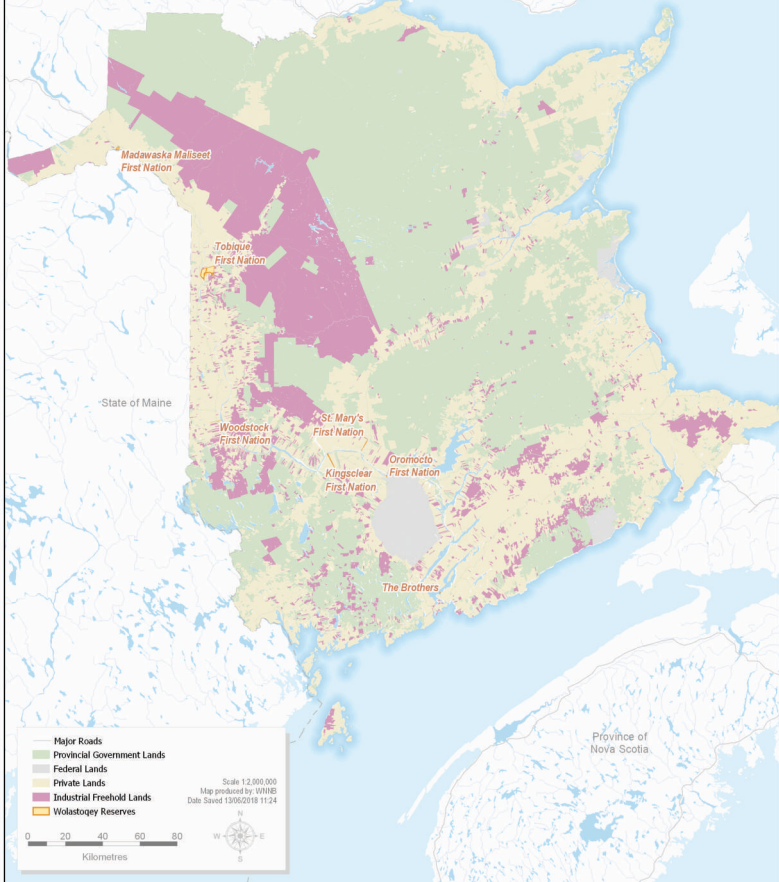
eagles, peregrine falcons, and other birds. Rachel Carson based a chapter, “Rivers of Death,” of her famous environmental book, *Silent Spring*, on New Brunswick’s deadly aerial spraying program. Today, the province sprays Glyphosate, a chemical Wolastoqiyik/Wəlastəkwiyyik and some non-Indigenous governments consider toxic to humans, on forests. Spraying of chemicals like Glyphosate on plants ruins their purity for use in Wolastoqey/Wəlastəkwey ceremony and medicine and thus negatively affects the exercise of rights, traditions, and healing on and from the land.

The Wolastoqiyik/Wəlastəkwiyyik have consistently spoken out against activities that degrade the lands, waters, and living creatures of their territory and make it difficult for them to exercise their rights. In the past, however, their voices were largely ignored by non-Indigenous governments and industry. The Wolastoqiyik/Wəlastəkwiyyik continue to oppose activities that harm the environment, such as fracking, chemical pollution, and hydro dams with ineffective fish passage, on the one hand, and are also spearheading ecologically just development, such as wind farms and community greenhouses, on the other.

Land Crisis

The Wolastoqiyik/Wəlastəkwiyyik are in a land crisis because colonization dispossessed them of over 99% of their lands. They can exercise their rights on Crown lands to an extent, but some communities do not have a lot of Crown lands near them, and some Crown lands are leased to forestry companies or used for other purposes, which can restrict or prevent Wolastoqey/Wəlastəkwey use. The Wolastoqiyik/Wəlastəkwiyyik face even larger obstacles to exercising their rights on private and industrial freehold lands, and are often prevented from using such lands altogether.

WOLASTOQEQ COMMUNITIES



WNNB, Land Tenure in New Brunswick 2023.
GIS Data from GNB and Canada.

The lack of land is a huge barrier to exercising rights and maintaining relationships with living creatures, the earth, and water - as well as passing on skills and traditions to youth.

You can help restore Wolastoqey/Wəlastəkwey lands and support their rights by donating lands to the **Wolastoqey Nation in New Brunswick Land Holding Co.**, which holds land on behalf of the 6 Wolastoqey/Wəlastəkwey communities in New Brunswick.

For more information contact WNNB's office admin@wolastoqey.ca or our Executive Director, Dr. John Cloutier john.cloutier@wolastoqey.ca

You can also help by encouraging Wolastoqey/Wəlastəkwey harvesting on your lands and asking your neighbours to do the same.

*WNNB Anti-Discrimination
Hotline*

**ANTI-DISCRIMINATION
HOTLINE**

**Discrimination and harassment
are against the law. If you are the
victim of discrimination or are
aware of an incident, please
report it:**

1-866-459-6341 (Press 2)

Your Feedback Matters

Please take a few moments and Scan the QR CODE or follow the link to provide WNNB with your feedback on the information in this Manual.

<https://forms.office.com/r/EBGC45jJLM>

