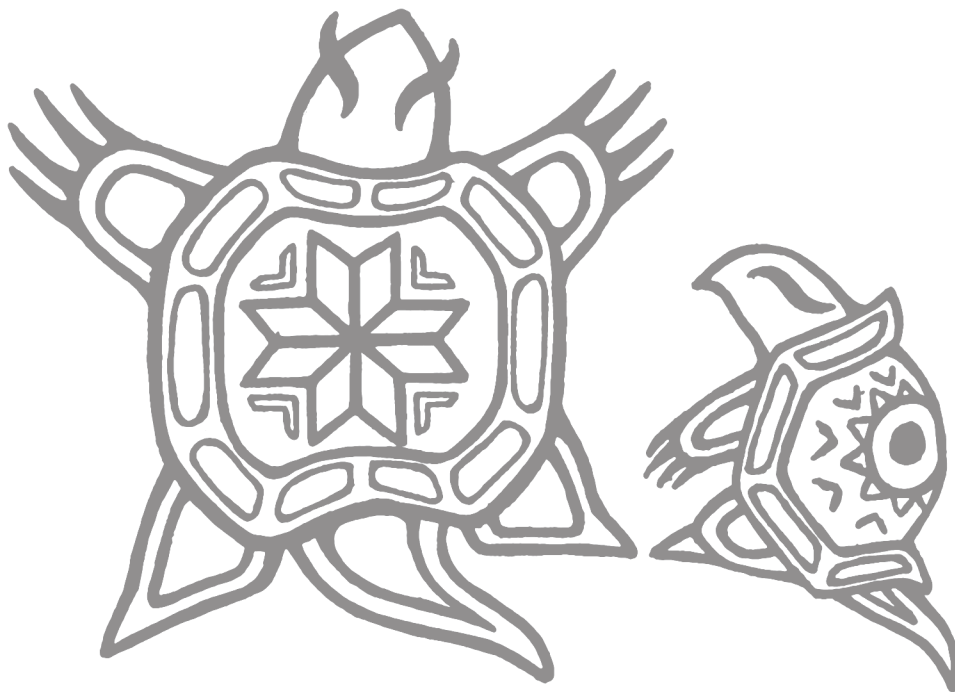


Governing a Nation

Overview of the traditional Mi'kmaw system of government
and the challenges faced by native peoples today



- The Traditional Mi'kmaw System of Government
- The Role of the Chief in the Mi'kmaw Society
- European Contact and the Transition Period
- Mi'kmaw Leadership and Governance Today
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The Traditional Mi'kmaw System of Government

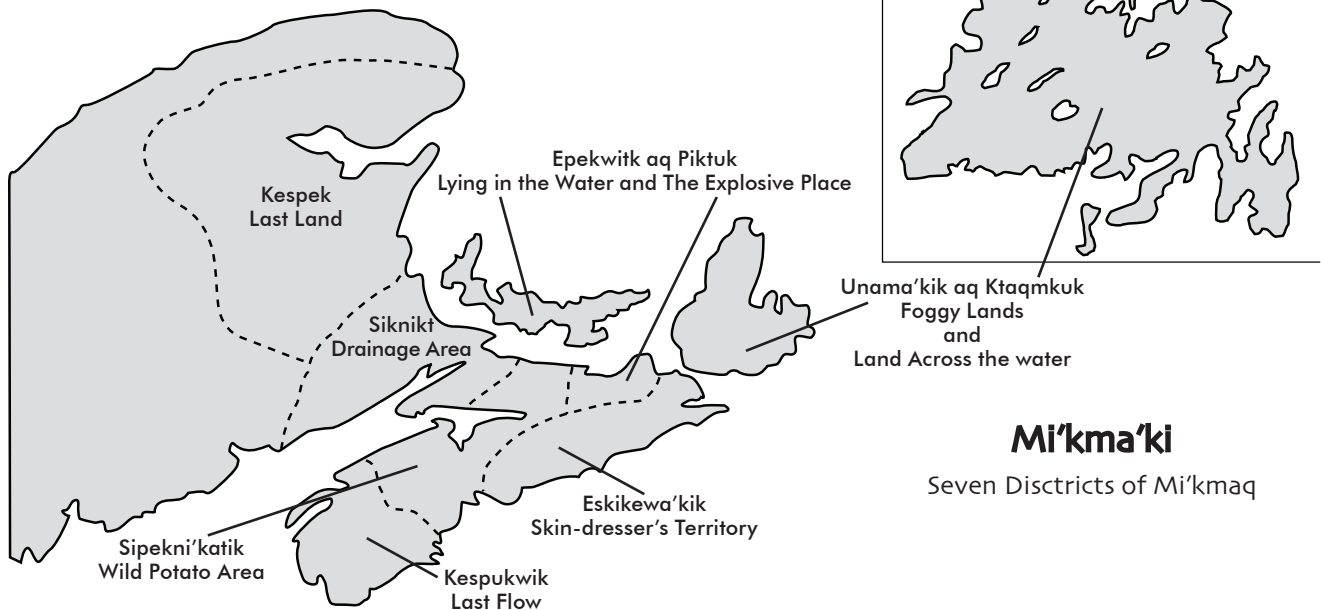
When European settlers came here in the 1600s, the Mi'kmaw Nation belonged to the Wabanaki Confederacy. This Confederacy included the Mikmaq, the Maliseet, the Passamaquoddy, the Penobscot, and the Abenaki tribes. The tribes were all members of the Algonquin family which occupied lands east of the St. Lawrence River, the Adirondacks and the Appalachians.

All these tribes respected the territory occupied by the Mi'kmaq, who divided it into seven hunting and fishing districts. This region, known as Mi'kma'ki, included all of what is today Nova Scotia, Prince Edward Island, the eastern part of New Brunswick, Newfoundland and southern Gaspé.

The Role of the Chief in the Mi'kmaw Society

The early Mi'kmaq had a complex system of government. The political structure was made up of a hierarchy of chiefs, including the Local Chief, the District Chief and the Grand Chief.

The Local Chief looked after the affairs of the village community. He presided (ruled) over the "Council of Elders" which was the governing body of the village. This group was made up of family heads or representatives. The Local Chief provided dogs for the chase, canoes for transportation, and supplies for hunting expeditions. He also provided emergency food supplies in times of need.





Each of the seven Mi'kmaw districts had a chief known as the Saqamaw. The Saqamaw, like all Chiefs, was usually the eldest son of a powerful family group. The District Chief presided over the Council of Local Chiefs in his area. The Council met usually in the spring or autumn to resolve such issues as peace, truce and war. The Council made decisions by means of consensus.

When issues affecting the whole Mi'kmaw Nation arose, a Grand Council meeting was called by the Grand Chief. This meeting was attended by all District Chiefs and their families. A Grand Chief was a District Chief who was appointed by his peers as the chief spokesperson. Grand Chief Membertou was the spokesperson for the Mi'kmaq at the time of European contact. The Grand Council also assigned hunting and fishing territories to the Chiefs and their families. They agreed on treaties of friendship with other tribes, and later they approved treaties with the Colonial Government of Nova Scotia.

Choosing Mi'kmaw leaders was a very serious matter. This is how it was structured:

- A Council of Elders chose Local Chiefs
- The Local Chiefs chose District Chiefs
- The District Chiefs, who made up the Mi'kmaw Grand Council, appointed the Grand Chief

In many cases these appointments may have only been a formality, as the position of Chief was normally passed on to the eldest son of the former Chief. The eldest son, however, had to be worthy. Otherwise, some other male in the same family group would get the job.

The Mi'kmaw Nation was governed by well-defined laws and procedures. Territories were clearly identified and local, district and national jurisdictions were well understood by all. The Mi'kmaq also understood and respected tribal affiliation and local village citizenship. Their leaders were well-respected and exceptional individuals who took their responsibilities very seriously. Meetings of the Mi'kmaw Grand Council were recorded by the Pu'tus, who was the keeper of the records and stories.

The traditional Mi'kmaw style of governing included the following features:

- They used consensus-building to make decisions.
- They discussed issues in the form of a talking circle, where every individual there had lots of time to express his or her opinions and views.
- They respected the wisdom and knowledge of community Elders when it came to making decisions.
- The Mi'kmaq did not keep a written record of how their government operated. Instead, policies and procedures were understood and passed on from generation to generation through the teachings of

the Elders. As well, the wampum belt kept by the Pu'tus recorded the history of the Mi'kmaq and the decisions of the Grand Council.

- There was opportunity for nationhood and strength on a tribal basis. i.e. The process allowed tribes to unite against common threats. Tribes could agree to unite and work together in times of war or natural disaster.

European Contact and the Transition Period

European contact and their eventual takeover forever changed the way the Mi'kmaq governed themselves. This happened because the colonists imposed their own system of government on the "citizens" of the Colonies.

Several factors contributed to the fall of the traditional Mi'kmaw style of government. They include:

- European settlers quickly began to outnumber the Mi'kmaq and dominate the area.
- The settlers implemented a private land tenure system. They received grants of land from the British Crown and they began to take over the hunting territories traditionally used by the Mi'kmaq. The idea that one individual could own a

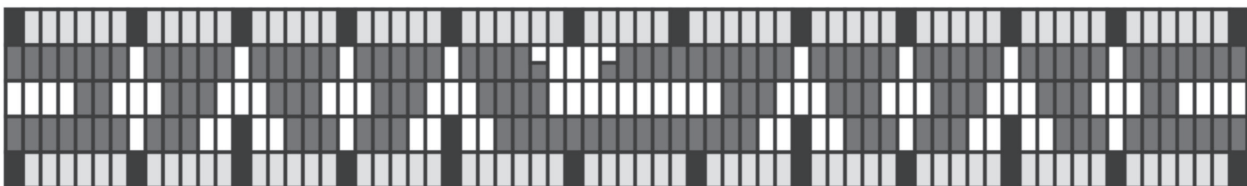
piece of land was completely foreign to the Mi'kmaq who were a communal people.

- The Europeans were diligent record-keepers. They wrote everything down, including information about land ownership, trade practices and population statistics. Soon the Mi'kmaq were kept from their traditional lands. The settlers counted them regularly to make sure the number of Native people was not growing too quickly. The early settlers worried that the Mi'kmaq could threaten their newfound home.

During the 1700s, the Mi'kmaq and the colonists signed a series of treaties. These treaties recognized the Mi'kmaq as a nation living in peace and friendship with the colonists. They also set out rules about trade and economic relations between the two peoples. However, the Mi'kmaq were gradually pushed into smaller and smaller areas. The colonists were exerting more and more control over their lives.

In 1867 the Constitution Act came into being. This act established provincial boundaries. It also established federal and provincial jurisdictions in the European style. The Constitution Act did not consider the needs of Aboriginal peoples. Instead, the colonists were more concerned with developing plans to keep the Mi'kmaq under control.

A "Protocol Belt" sent to the Chiefs of the Wabanki Confederacy to request a meeting



Then, in 1876 the Indian Act was passed. This act referred to the Mi'kmaw people as "wards" (dependents) of the federal government." Now the Mi'kmaq could not move about freely. They had no say in government issues that affected their traditional territory and they had little chance of being self-sufficient. The federal government had all the power and the Mi'kmaw Nation was forced to become a dependent people. The proud, self-sufficient, self-governing nation that greeted the early settlers was no longer visible.

By the early 20th century, the Mi'kmaq were truly disadvantaged. Anything the federal government did seemed to make things worse for the Mi'kmaq. First, the government decided to create Indian Reserves, which grouped Native peoples together in small communities. Later (1942), the federal government imposed centralization. The aim of centralization was to relocate all of the Mi'kmaq in Nova Scotia to reserves in Shubenacadie and Eskasoni. Next the Indian Registry was created, forcing Native peoples to record their Indian status. The Indian Act gave the federal government complete control over the Mi'kmaq—deciding which lands they could live on, telling them how to elect their community leaders, and even defining their Native status and membership. The traditional Mi'kmaw system of government was destroyed.

Mi'kmaw Leadership and Governance Today

In Nova Scotia today, there are 13 Mi'kmaw communities. Each community has its own elected leadership which is made up of a chief and councilors. Mi'kmaw communities hold elections every two years and follow the regulations set out by the Indian Act. One council member is elected for every 100 members.

Until recently, only those members living on the Indian Reserve were eligible to vote in community leadership elections. In 1999 the Supreme Court ruled in the case of *Corbiere vs. Canada* that band members living off-Reserve were eligible to vote in community leadership elections. The result of this decision is that community elections are now a complicated, expensive and drawn-out process. This is because community members may be living all over North America and beyond. The First Nations community election process takes 90 days—considerably longer than the Canadian Federal election process.

The Government of Canada recognizes the autonomy of each First Nation. This means that each community has the right to make its own decisions on some local matters. However, each community must also present Band Council Resolutions (BCRs) to the federal government in order to get

Wabanaki Confederacy Wampum Belt



money for housing and other programs, for the implementation of local by-laws, land administration, and other community needs. The Minister of Indian Affairs has the power to accept or reject the BCR.

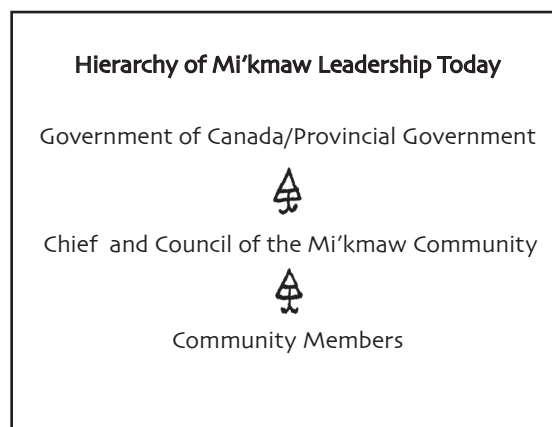
The local band office in each community oversees programs such as Social Assistance, Economic Development, Housing and Health. However, all these programs are subject to the policies and rules of the federal government. Mi'kmaq continue to have little say in the policies that affect them directly.

In an effort to come together to discuss matters that affect all First Nations, the Mi'kmaq have taken a couple of steps. First, in 1970, they formed the Union of Nova Scotia Indians (UNSI). The UNSI was formed to bring together all Nova Scotia Chiefs to discuss issues that concern them all and to advocate for change.

In 1986, the Confederacy of Mainland Mi'kmaq (CMM) was formed as a Tribal Council. The CMM represents six Mi'kmaq Bands located on mainland Nova Scotia—Bear River, Annapolis Valley, Glooscap, Millbrook, Pictou Landing and Paqtnkek. These bands withdrew from UNSI to become members of the Confederacy.

Today, both UNSI and CMM provide advocacy and advisory services to their respective communities. The governing board of these tribal organizations is made up of the chiefs of member communities. In addition to the two tribal organizations, several other Mi'kmaq organizations have been formed to provide specific services to Mi'kmaq communities across Nova Scotia. Some of these include:

- Mi'kmaq Family & Children's Services (MFCS)
- Mi'kmaq Association of Cultural Studies (MACS)
- Mi'kmaq Employment and Training Secretariat (METS)
- Mi'kmaq Kina'matnewey (MK)



All of these organizations are non-profit, and each of them has a board of directors who are Mi'kmaw chiefs. The boards have decision-making powers over the programs and services offered by these organizations. However, funding for programs is provided by the federal government to make sure that federal rules and regulations are followed. At an even broader level, the Assembly of Nova Scotia Mi'kmaw Chiefs meets regularly to discuss matters concerning all 13 Nova Scotia Mi'kmaw communities.

Governance and Policing

Governance involves creating laws, rules and policies that are needed to organize, operate and protect a community. But how are these laws monitored and enforced? Traditionally, Mi'kmaw settlements lived according to established oral laws and traditions. The laws were enforced by the community working together. The situation is much different today.

All Nova Scotians are subject to local, federal and provincial authorities/jurisdictions to monitor and enforce the rules.

However, as First Nations communities occupy federal lands and are subject to the Indian Act, jurisdiction on some matters is unclear. Some provincial rules do not even apply to First Nations, for example:

- regulation of gaming on-Reserve is different from regulation in non-Native communities. Gaming agreements are negotiated between the provincial government and each Mi'kmaw community, and do not necessarily follow the same rules and distribution as in non-Native communities.
- First Nations are exempt from provincial land tax because the federal government is viewed as the owner of federal land.
- Provincial licensing schemes do not apply on federal land, etc.

Often provincial laws conflict with Treaty Rights—many of which have been interpreted and upheld by the court system. The recognition by the courts of the Mi'kmaw right to fish commercially for a moderate livelihood (the Donald Marshall Decision, 1999) upset provincial fishing quota and licensing regimes. As a result the federal/provincial authorities began to negotiate communal fishing agreements with the First Nations communities as a method of responding to this significant Supreme Court decision.

Once the rules are understood and the jurisdiction is clear, there is still a question of who then polices the First Nations? Community bylaws on local matters are often monitored by local community bylaw officers. Enforcement is usually the responsibility of the RCMP.

Six Nations Wampum Belt



Today, each Nova Scotia Mi'kmaw community has negotiated a community policing agreement with the RCMP which is cost-shared by the federal and provincial governments. The RCMP officers must know about the special jurisdictional circumstances of the communities in order to be effective.

Mi'kmaq are subject to laws, enforcement and court systems that are far-removed from traditional Mi'kmaw justice practices. Unfortunately, a much larger percentage of Aboriginal people experience conflict with the law than do other Canadians. Many believe that this is due to the huge difference between traditional Mi'kmaw justice and the justice system of today. As a result, Mi'kmaq are creating culturally appropriate programming to support those Aboriginal people facing conflict with the law. And they are encouraging community involvement in their sentencing and rehabilitation.

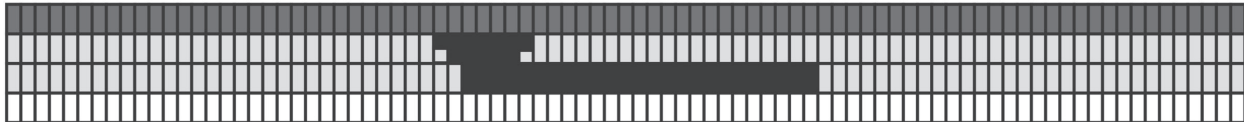
In 2000, the Mi'kmaw Legal Support Network (MLSN) was developed to build a bridge between the justice system and

the Mi'kmaw communities. MLSN programs include:

- The Mi'kmaw Court Worker Program (MCWP) which provides assistance, support services, translation (as needed) to Aboriginal people charged with an offence.
- The Mi'kmaw Customary Law Program (MCLP) that supports youth facing the justice system.
- The delivery of traditional Sentencing Circles as an alternative to court sentencing. This involves the Mi'kmaw community in decision-making on how youth may make amends for their offence(s) and what, if any, rehabilitative measures will be taken.

The MLSN is working with the federal and provincial justice departments to enhance today's justice system by bringing in traditional practices and culturally appropriate activities whenever possible.

Peace Wampum Belt



Resources

The Confederacy of Mainland Mi'kmaq

Information and/or speakers about Mi'kmaw governance today. (See also "KMK" for info)
57 Martin Cres, Truro, NS B2N 6N7
ph: (902) 895-6385
Toll free: 1-877-892-2424
website: www.cmmns.com

Indian and Northern Affairs Canada

Information on First Nation lands, Centralization/Royal Commission Reports, Bill C-31, Indian Status info, etc.
INAC Atlantic Regional Office
PO Box 160, 40 Havelock St
Amherst, NS B4H 3Z3
ph: (902) 661-6200
fax: (902) 661-6237
website: www.inac.gc.ca

Kwilmu'kw Maw-klusuaqn Negotiation Office (KMKNO)

Mi'kmaq Rights Initiative

851 Willow Street, Truro, NS B2N 6N8
ph: (902) 843-3880
Toll free: 1-888-803-3880
fax: (902) 843 3882
e-mail: info@mikmaqrightrights.com
website: www.mikmaqrightrights.com

Royal Commission on Aboriginal Peoples

INAC website contains excerpts from the Royal Commission Reports
website: www.ainc-inac.gc.ca/ap/pubs/rpt/rpt-eng.asp

RCMP First Nations Community Policing Service

Local RCMP detachments also may have staff to give presentations on Aboriginal policing.
website: www.rcmp-grc.gc.ca/pubs/abo-aut/fncps-spcpn-eng.htm

Activities/Discussion Questions

1. In 1942, the government decided to centralize all Mi'kmaq by relocating them to two large reserves: Eskasoni and Shubenacadie. Centralization was not successful. Many families did not want to leave their homes and friends to move to another place not knowing what would face them. Imagine yourself in this position. What would be your feelings and thoughts if you were the head of the household?
2. Traditional governance made decisions by reaching consensus. Today's governments make decisions based on a majority of the representatives agreeing and supporting the decision. What would be the pros and cons of each of these systems of decision making? This might be a good topic for a class debate.
3. What barriers/challenges do you see to the Mi'kmaw Nation becoming a free and self governing nation? In your opinion will the Mi'kmaq ever become an independent, self-governing nation as it was at the time of European contact. Why or why not?