



Global Nonviolent Action Database

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New Brunswick Burnt Church First Nation campaign to defend their fishing rights, 1999-2002

Time period notes: *The actions that began in October 1999 were prefaced by a Canadian Supreme Court ruling on 17 September 1999 that ruled: the Mi'kmaq, Maliseet and Passamaquoddy bands have the right to earn a moderate livelihood from year-round fishing, hunting and gathering (Marshall Decision).*

3 October

1999

to: 1 August

2002

Country: Canada

Location City/State/Province: *Burnt Church, New Brunswick*

Location Description: *Miramichi Bay and Miramichi River, New Brunswick*

Goals:

To maintain their treaty rights to hunt, fish and gather.

Methods

Methods in 1st segment:

- 006. Group or mass petitions

Methods in 2nd segment:

- 172. Nonviolent obstruction

Methods in 3rd segment:

- 011. Records, radio, and television

Methods in 4th segment:

- 006. Group or mass petitions

Methods in 5th segment:

- 090. Revenue refusal

Methods in 6th segment:

- 006. Group or mass petitions

Additional methods (Timing Unknown):

- 135. Popular nonobedience

Notes on Methods:

The Mi'Kmaq people did not become violent, though Non-Aboriginal people were violent throughout this process. The Mi'Kmaq First Nation continued to exercise their right to fish that was granted to them through the Marshall Decision, 1999. Their continuation of fishing was a form of protest that they used in order to achieve their goal.

Classifications

Classification:

Defense

Cluster:

Environment

Human Rights

National/Ethnic Identity

Group characterization:

- Canadian First Nations
- Mi'Kmaq First Nations

Leaders, partners, allies, elites

Leaders:

Mi'Kmaq First Nations, Hereditary Chief of the Mi'kmaq Grand Council

Partners:

Canadian First Nations, British Columbia and Ontario bands

External allies:

Not known

Involvement of social elites:

Not known

Joining/exiting order of social groups

Groups in 1st Segment:

Groups in 2nd Segment:

- Canadian First Nations

Groups in 3rd Segment:

- British Columbia First Nations
- Ontario First Nations

Groups in 4th Segment:

Groups in 5th Segment:

Groups in 6th Segment:

Additional notes on joining/exiting order:

Canadian First Nations supported the Mi'Kmaq band during this process, but First Nations Communities in British Columbia and Ontario, Canada especially supported the Mi'Kmaqs by coming to New Brunswick. The Christian Peacemaker Teams, a pacifist human rights group, intervened to reduce the violence and testified in support of Mi'Kmaq community members.

Segment Length: *Approximately 6 months*

Opponent, Opponent Responses, and Violence

Opponents:

Non-Aboriginals from New Brunswick, Department of Fisheries and Oceans (DFO)

Nonviolent responses of opponent:

Not known

Campaigner violence:

22 August 2000, a Fishery officer was injured by a thrown rock during confrontation with Mi'Kmaq fishermen.

Repressive Violence:

Not known

Success Outcome

Success in achieving specific demands/goals:

0 points out of 6 points

Survival:

1 point out of 1 points

Growth:

2 points out of 3 points

Notes on outcomes:

The Mi'Kmaqs did succeed in keeping their right to fish, though they now have to follow certain fishing rules that they did not have before (such as only fishing during fishing season, and having to obtain a fishing license). Throughout this case, the Mi'Kmaqs gained a lot of media attention, and a lot of support from other First Nations communities around Canada.

The Mi'Kmaq people of New Brunswick have always fished in the Miramichi Bay and River. On 17 September 1999, the Supreme Court of Canada upheld the native fishing rights of Donald Marshall, who had been charged with fishing out of season, fishing without a license, and fishing with an illegal net. The "Marshall Decision" agreed on by the Supreme Court stated that its decision would uphold the honour and integrity of the Crown in its dealings with the Mi'Kmaq people to secure their peace and friendship. This decision caused chaos in New Brunswick.

Burnt Church was filled with tension between native and non-native fisherman. On 3 October 1999, 150 fishing boats headed out into Miramichi Bay to protest against native fishers who were trapping lobster out of season. During this demonstration, non-native objectors to the Marshall Decision began shouting when the boats returned, destroying hundreds of native traps, fishing equipment, and fish plants.

In the days following 3 October 1999, the Department of Fisheries and Oceans (DFO) minister Herb Dhaliwal met with native leaders in order to find a way to ease the tension. Thirty-four First Nations bands agreed to respect new fishing rules. Burnt Church First Nations did not agree. The community determined they were not willing to risk their Treaty Rights, and decided to develop their own fisheries policy and management plan. Their objective was to protect Treaty rights, the fishery, the ecosystem and to maximize benefits for all members of the community. The people of Burnt Church agreed to this plan, and began to regulate their fishery through permits and treaty tags.

On 17 November 1999, the Supreme Court of Canada released the Marshall 2 decision. The Marshall 2 was intended to clarify points made by the original Marshall Decision. The most important piece of information provided was that the government still had the power to regulate native fishing for the purpose of conservation. Following this, the DFO limited the number of traps and began to confiscate traps. The DFO did not recognize the treaty tags and threatened to seize boats and equipment that did not have DFO issued tags.

During late July and early August 2000, native boats were seized, and 18 people were arrested on charges of catching too many lobsters. The Mi'Kmaq, as part of their own policy, said they did not need the government to make sure the lobster population is conserved. Other Canadian bands, such as groups from British Columbia and Ontario, traveled to Burnt Church to support the Mi'Kmaq. The people of Burnt Church continued to fish.

In late August, the native fisherman protested by setting up a blockage on Highway 11, a major commercial route in the province. Fisheries officers continued to seize traps and make arrests. Dhaliwal called the native leaders to renegotiate.

In 2001, as a way to avoid the violence of the previous fishing season, the federal government issued the Burnt Church Mi'Kmaq a temporary license when the season opened on 20 August 2001. This allowed native fishing to go ahead while a long term agreement was being negotiated. This license restricted the fisherman from selling their catch, and would only last a week. The day before the license expired, 26 August 2001, the Mi'Kmaq blocked all entrances to their reserve and escorted media out of the area, as they continued to set lobster traps in Miramichi Bay. This resulted in Ottawa issuing a new license to the Mi'Kmaq, allowing them to fish until 20 October 2001.

In April 2002, a federal committee released a report aimed at preventing more violence between native and non-native fisherman. This report suggested all charges made during the dispute be dropped, Ottawa should compensate fisherman for their damaged boats and fishing equipment and native bands should be issued licenses to distribute to native fisherman.

On 1 August 2002, an agreement was reached: everyone had to have a fishing license and could only fish during the fishing season, Aboriginal or not.

The United Nations Human Rights Committee ruled that the extinguishment of aboriginal and treaty rights is a violation of fundamental human rights.

A statement from Hereditary Chief of the Mi'Kmaq Grand Council on 27 August 2002 declared, "history will show this present injustice and it will be said that the Mi'Kmaq people signed under great duress. Peace cannot arise out of injustice, and no certainty can result from the imposing of an unequal agreement. The Crown, and Canadians, will get no lasting benefit from these 'deals' involving the annihilation of our rights, except the despair and resentment of generations of our children and people."

Research Notes

Sources:

"Burnt Church Timeline." New Brunswick Environment Network. N.p., n.d. Web. 20 Feb. 2013.
http://archives.nben.ca/aboutus/caucus/archived_caucuses/ffa_archive/fishery/timeline.htm.

"Statement from Hereditary Chief of the Mi'kmaq Grand Council." New Brunswick Environment Network. N.p., n.d. Web. 20 Feb. 2013. http://archives.nben.ca/aboutus/caucus/archived_caucuses/ffa_archive/fishery/chiefaug02.htm.

"The Marshall Decision." CBCnews. CBC/Radio Canada, n.d. Web. 20 Feb. 2013.
<http://www.cbc.ca/news/background/fishing/marshall.html>.

<http://www.youtube.com/watch?v=GLN73pRkdfw>

Additional Notes:

Though an agreement was reached in the end, and violence ceased between the non-Aboriginals and Mi'Kmaq, a statement from the Hereditary Chief of the Mi'Kmaq Grand Council declared the agreement to be made due to coercion.

Name of researcher, and date dd/mm/yyyy:

Leigha Koehn 05/03/13

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