

Best Practices for Writing About Indigenous Peoples
in the Canadian Legal Context: An Evolving Style Guide for the Schulich
School of Law at Dalhousie University

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“A key goal of Indigenous style is to show respect on the page.”

— Gregory Younging, *Elements of Indigenous Style* (p. 87)

Introduction

The written word constitutes one of the most powerful tools we have as legal professionals; what we write matters and how we write about it matters. This is especially true when we are writing about people. Legal professionals must therefore take particular care when writing about people whose lives and voices have been historically marginalized. As Aboriginal and Indigenous law are gaining more attention within the legal profession, it is important to be informed about best practices when writing about these topics. These practices are evolving every day as Indigenous Peoples in what we now call Canada increasingly assert their right to self-determination and rightfully gain a louder voice in social, political, and legal spheres.

Although in recent years there has been some effort to establish some stylistic conventions when writing for and about Indigenous Peoples, these guidelines have often been oriented toward specific professions (e.g., journalism) or are otherwise about writing more broadly. Because legal writing often engages with topics and terminology that may not be discussed at length in other areas, this resource seeks to assemble guidelines that are helpful to those in the legal profession. Various existing resources were consulted in the preparation of this guide, including books, government websites, cultural sensitivity courses used in corporate settings, and existing legal scholarship, in addition to consultations with subject matter experts at Dalhousie University’s Schulich School of Law. These resources were synthesized to create a more cohesive set of guidelines relevant specifically to the Canadian legal context. As the guide was authored in Mi’kma’ki primarily for the use of law students at Dalhousie, particular attention is paid to terminology regarding the Mi’kmaq and Wolastoqewiyik Peoples who have inhabited the Atlantic region since time immemorial. This guide will be updated periodically as emerging trends in the field become established conventions.

What is the difference between Indigenous laws and Aboriginal law?

Aboriginal law refers to laws developed by Canadian legislators and courts that applies to Indigenous Peoples and their relationship with the Canadian state. This concept encompasses

the Aboriginal and treaty rights protected by section 35 of the *Constitution Act, 1982*, federal jurisdiction under section 91(24) of the *Constitution Act, 1867*, and other constitutional authorities, as well as legislation (such as the *Indian Act*, RSC 1985 c I-5 and several more modern statutes) and common law rules in which Indigeneity is a factor that impacts the applicable law in a given situation.

Indigenous laws refers to the specific legal orders of Indigenous Nations, such as Mi'kmaq law. These orders continue to grow, evolve, govern affairs in Indigenous communities today, and are among Canada's founding legal orders.

Aboriginal, Indigenous, First Nations, Inuit, and Métis – Which do I use and when?

>> *A note regarding the term 'Indian'*

- While 'Indian' is a legal term in Canada, it is first and foremost a slur. As such it should only be used in its legal senses, and the general practice is to use the term 'First Nations' instead (though, as explained further below, 'First Nation' obscures the complex diversity of the nations it refers to). The term 'Indian' has always been a misnomer and is thought to have come about in 1492 when Christopher Columbus reached the shores of the Caribbean. Believing he had reached India, he referred to the Indigenous people he observed along the shore as 'Indians.' The term, borne of ignorance, has historically been used in both legal and colloquial contexts, but is now considered offensive due to its roots in colonialism and racism.
- The term 'Indian' appears in several Canadian laws. It is used in section 91(24) of the *Constitution Act, 1867*, which assigns the federal Parliament legislative power over "Indians and Lands Reserved for the Indians." It is the primary term used in the *Indian Act* and is the term used to refer to those individuals who are eligible for registration under the *Act* as an "Indian." Those who are registered under the *Indian Act*, or eligible for registration, are often referred to as "**Status Indians.**" There is a long history in Canada of the term "Indian" in the *Indian Act* being defined in arbitrary and discriminatory ways, without the consent of Indigenous Peoples, to advance the goal of assimilation. The term "**Non-Status Indian**" is often used to describe First Nations persons thought to have been unfairly excluded by the *Indian Act* registration rules, and

those who refused to be registered. Finally, the term “Indian” is also used in the definition of “aboriginal peoples of Canada” in section 35(2) of the *Constitution Act, 1982*, which states, “In this Act, aboriginal peoples of Canada includes the Indian, Inuit and Métis peoples of Canada.”

- **When specifically referring to the *Indian Act*, it is appropriate to use the word ‘Indian’ to refer to the fact that a person is registered as an “Indian” pursuant to the ‘Indian status’ provisions of the *Indian Act*.** It may be preferable to use the term ‘Status Indian’ or ‘Status Indian under the *Indian Act*’ to “clarify the specific context of use.”¹ It is also appropriate where someone who identifies as First Nation but is not eligible for registration (or chose not to be registered), to refer to them as a ‘Non-Status Indian.’
- **The meaning of ‘Indian’ in both *Constitution Acts* is not limited to the meaning of ‘Indian’ used in the *Indian Act*.** For example, the term ‘Indian’ in section 91(24) of the *Constitution Act, 1867* has been interpreted by the Supreme Court of Canada to include both Inuit, Métis and ‘Non-Status Indian’ people.² Further, the term ‘Indian’ in the *Constitution Act, 1982* has not been interpreted as restricted to the definition within the *Indian Act* and ‘Non-Status Indian’ persons have been found to have Aboriginal and treaty rights under section 35(1) of the *Constitution Act, 1982*.³
- While some Indigenous people may use the term ‘Indian’ to describe themselves, the re-appropriation and reclamation of this historically harmful term is a deeply personal and individual choice. As such, **the term should be used with the utmost discretion by non-Indigenous people**, even when writing in the legal context.
- It is important to note that the term ‘Indian’ remains in colloquial use in the United States but is generally never used in Canada outside of the legal context.⁴ The term ‘native’ also

¹ Gregory Younging, *Elements of Indigenous Style: A Guide for Writing By and About Indigenous Peoples*, (Edmonton: Brush Education Inc., 2018) at 57.

² Reference as to whether “Indians” includes in s. 91 (24) of the B.N.A. Act includes Eskimo in habitants of the Province of Quebec, 1939 CanLII 22 (SCC); and *Daniels v Canada (Indian Affairs and Northern Development)*, 2016 SCC 12 [*Daniels*].

³ See, for example, *R v Lavigne*, 2005 NBPC 8, aff’d 2007 NBQB 171.

⁴ First Nations and Indigenous Studies at the University of British Columbia, “Indigenous Foundations: Terminology” (last visited 1 August 2023), online (website): <<https://indigenousfoundations.arts.ubc.ca/terminology/>> [<https://perma.cc/2CAH-KDXY>].

remains in colloquial use in the United States but is best avoided in Canada because it is seen as outdated.

>> *Aboriginal and Indigenous*

- Much like how Aboriginal law and Indigenous law connote different concepts, **‘Aboriginal’ and ‘Indigenous’ are words that have distinct meanings despite often being used interchangeably.** The distinction between ‘Aboriginal’ and ‘Indigenous’ not only reflects how Aboriginal is a term that is used to refer to a particular group of people within the colonial legal context, but also reflects notions of time and space that can help us deepen our understanding of why the words we use matter as legal professionals. The word ‘Aboriginal’ is derived from the Latin phrase *ab origine*, which means ‘from the beginning.’ This connotes a sense of time. The word ‘Indigenous’ is derived from the Latin *indigena*, which means ‘native to’ or ‘local to.’ This connotes a sense of space.
- **Although there is no true consensus, it has been suggested that the term ‘Aboriginal’ is becoming outdated.** This reflects the rapid evolution of terminology used to refer to Indigenous Peoples in the Canadian context. ‘Aboriginal’ came into popular use in the 1980s as an umbrella term that captured First Nations, Inuit, and Métis people, with the word used in section 35 of the *Constitution Act, 1982* and in section 25 of the *Charter of Rights and Freedoms*. **If using a “pan” term, it may be best to use the term ‘Indigenous.’** This preference “grounds the identification of these peoples and their rights beyond the Canadian Constitution and with reference to international law.”⁵ It is, however, important to acknowledge that there are some differing views on this matter and some individuals may for many reasons still prefer to use the term ‘Aboriginal’ over ‘Indigenous.’
- **Avoid using pan-Indigenous terms (i.e., terms that broadly encompass all Indigenous Peoples) when a more specific word could apply (e.g., First Nations, Métis or Inuit). Ideally, you should use the name of an Indigenous person’s specific nation or cultural group whenever possible.** This speaks to an underlying principle that

⁵ Janna Promislow & Naiomi Metallic, “Realizing Aboriginal Administrative Law” in Colleen M Flood & Lorne Sossin, eds, *Administrative Law in Context*, 3rd ed (Toronto: Emond Montgomery Publications Limited, 2018) 87 at 88.

one should use the names for Indigenous Peoples that they use for themselves.⁶ This practice avoids overgeneralization, reflects that Indigenous people are part of distinct nations, and signals respect for their nationhood and cultural identity. A good rule of thumb is therefore to be as specific as possible, and if you are unsure of how to refer to someone, ask.

- Example: Let's say you are referring to an individual from Membertou First Nation. While it is accurate to say that they are Indigenous, it is more accurate to say they are Mi'kmaw. Depending on context, it may be even more accurate to state that they are a member of the Membertou First Nation.
- Tip: The [First Nations, Métis, and Inuit Indigenous Ontology](#) spreadsheet is available through Dalhousie's [Aboriginal and Indigenous Law LibGuide](#). This resource attempts to improve the representation of Indigenous Peoples and communities in academic spaces by providing community names, locations, and cultural affiliations of various Indigenous Nations in what we now call Canada.
- **When using First Nation-specific terminology, note that it is preferable to use the Indigenous name and spellings of those terms rather than older, anglicized versions of their names.** Examples include using 'Mi'kmaq' instead of 'Micmac,' 'Wolastoqey' instead of 'Maliseet,' 'Néhiyaw' instead of 'Cree,' etc. Indigenous communities and organizations' websites will often indicate their preferred terminology and spelling.

>> *First Nations*

- First Nations is a term used to describe Indigenous Peoples in Canada who are neither Métis nor Inuit. The term covers over 50 distinct cultural-linguistic nations such as Mi'kmaq, Wolastoqey, Néhiyaw, Anishinaabe, Heiltsuk, Haida, Nisga'a, etc.
- The term 'First Nation' emerged in the 1970s as an alternative to 'Indian' and 'Native' which were in common usage at the time.⁷ While it is preferred to the terms 'Indian' and 'Native,' because 'First Nations' operates as a sort of pan-Indigenous term by placing several distinct nations under one concept, it falls short of addressing the need for specific words for specific and distinct nations. Appropriate usage will depend on

⁶ *Ibid.*

⁷ Younging, *supra* note 1 at 63.

context, such as whether a more general term distinguishing a broader group from Inuit and Métis Peoples is needed (e.g., “The *Family Homes on Reserves and Matrimonial Interests or Rights Act*, SC 2013, c 20, applies only to First Nations Peoples.”)

- **‘First Nations’** when used as an adjective is always plural (e.g., ‘They are a First Nations person,’ ‘She is First Nations,’ ‘First Nations people’)
 - When used as a noun, it may be singular or plural (e.g., ‘He is from Millbrook First Nation,’ ‘First Nations of the Great Lakes region’)
- The **plural possessive form of ‘First Nations’** does not use an apostrophe. Nobody is really sure why, but this is a convention that has endured in Canadian writing.⁸
 - Example: ‘First Nations land’ – while the First Nations possess this land in a legal sense, an apostrophe is not used to denote possession.

>> ***Inuit***

- Inuit is the term for the Indigenous Peoples who traditionally and presently inhabit the Arctic regions of what is now Canada, who share a distinct culture and language (though there are different dialects). Inuit are also found in Greenland and areas of Siberia. It is important to note that the *Indian Act* does not apply to Inuit.⁹ Many Inuit groups have signed modern treaties/comprehensive land claim agreements with the Canadian government over their traditional territories.
- **‘Inuit’** is a word that means ‘the people’ in the Inuktitut language and therefore always refers to a group of people. It is both an adjective and a collective noun. It never takes on an article nor the qualifier ‘people.’
 - Correct: ‘Inuit traditionally hunt using harpoons’; ‘An Inuit professor.’
 - Incorrect: ‘The Inuit traditionally hunt using harpoons’; ‘The Inuit People traditionally hunt using harpoons.’

⁸ Indigenous Corporate Training Inc. “Indigenous Peoples Terminology: Guidelines for Usage” (20 July 2016), online (PDF): <<https://www.ictinc.ca/blog/indigenous-peoples-terminology-guidelines-for-usage>> [<https://perma.cc/ZF8J-FJH5>].

⁹ While Inuit and Métis people are not entitled to registration under the *Indian Act*, this should not be confused with the recognition of Indian, Métis, and Inuit Peoples as Indigenous Peoples with rights protected under s35 of the *Constitution Act, 1982*.

- The term ‘**Inuk**’ is a singular noun referring to an individual. This word never takes on an indefinite article (e.g., *an, a*).
 - Correct: ‘This athlete is Inuk’; ‘This Inuk is a librarian’
 - Incorrect: ‘This athlete is Inuit’; ‘She is an Inuk librarian’
- Note about the term ‘Eskimo’: Historically, the term ‘Eskimo’ has been used by Europeans and Canadians to refer to Inuit. This term is offensive and should not be used.

>> *Métis*

- Despite its use as a general colloquial term for those with mixed Indigenous and European ancestry, in *R v Powley* the Supreme Court of Canada asserted that ‘Métis’ has a specific legal meaning, referring to persons of mixed European and Indian or Inuit culture that developed their own distinct language and culture through *ethnogenesis* (the process through which a group of people become ethnically distinct).¹⁰ **The Court confirmed that ‘Métis’ does not simply mean mixed ancestry.** The term is most often used by descendants of specific historic communities in the Prairies that developed their own distinct culture and customs, but the definition adopted by the Supreme Court of Canada allows for groups in other parts of the country to prove they are Métis. For example, in *Powley*, the Court recognized a historic and contemporary group of Métis people around the Sault St. Marie area of Ontario. To date, however, claims for court recognition as Métis by groups in Quebec and Maritimes have not been met with success.¹¹
- Always use an acute accent on the letter e (é) when writing the word **Métis**.
 - How do I get the accent on my word processor?
 - MAC: (1) Hold down the letter e until a menu pops up denoting accents available for the letter, (2) Hit the number 2
 - WINDOWS: alt key + 0233

¹⁰ 2003 SCC 43.

¹¹ See, for example, *Corneau c Procureure générale du Québec*, 2018 QCCA 1172; *R v Castonguay*, 2003 NBPC 16; *R v Chiasson*, 2004 NBQB 80; *Vautour et al. v R*, 2017 NBCA 21; *R v Babin*, 2013 NSSC 434; *R v Hatfield*, 2015 NSSC 77.

>> *Other Indigenous Peoples?*

- There are people who do not fit any of the above categories who nonetheless identify as Indigenous, but who do not hold rights as Indigenous Peoples. For example, a person may have (or believe they have) a distant ancestor who was Indigenous. Some may refer to themselves as Métis but, as they do not meet the legal test for Métis – this is incorrect. Likewise, though not confirmed in any legal decision, the term ‘Non-Status Indian’ may be inapt since identification as such is closely linked with a specific history of exclusion from the *Indian Act* based on rules or processes adopted by Canada under the *Indian Act*. **For the purposes of legal description and analysis, it is important to not conflate such individuals with those who are recognized as Indigenous by Indigenous communities, or pursuant to federal and constitutional definitions.**
- Whether there could be other legally recognized categories of Indigenous or ‘Aboriginal Peoples’ under Canadian or Indigenous law is an open question. Section 35(2) of the *Constitution Act, 1982*, states that “aboriginal peoples of Canada *includes* the Indian, Inuit and Métis.” The use of ‘includes’ here is arguably non-exhaustive. Further, many Indigenous Peoples are also in the process of revitalizing their membership and citizenship laws and processes by drawing on their own legal traditions.¹² That said, the proposition that simply having a distant Indigenous relative is sufficient to make one Indigenous is contentious. It has been argued that if a single ancestor was all it took to make someone Indigenous or even Métis, most people in Canada would be considered Indigenous. Thus, hinging Indigenous identity solely on a distant ancestor is a questionable concept of Indigeneity and should be critically considered when encountered.¹³

¹² For a recent discussion on this, see Val Napoleon, “Indigenous Citizenship and Civil Society: An Intervention” (2024) 1 *Perspectives – A Canadian Journal of political Economy and Social Democracy* 8.

¹³ This is not to suggest that Indigeneity solely comes down to (more recent) ancestry. The discussion of what makes someone Indigenous is complex and impacted by historic and ongoing colonialism. It is beyond the scope of this Style Guide to fully explore this. For some further reading, see Napoleon *ibid*; Val Napoleon, “Extinction by Number: Colonialism Made Easy” (2001) 16:1 *Can J Law & Soc’y* 113; and Sébastien Grammond, “Disentangling “Race” and Indigenous Status: The Role of Ethnicity” (2003) 33 *Queen’s LJ* 487.

Terminology Tips

>> *Phrases connotating Canadian possession of Indigenous Peoples*

- **Turns of phrase that connote Canada’s possession or ownership of Indigenous Peoples, such as ‘Canada’s Indigenous Peoples’ or ‘Indigenous Peoples of Canada’ should be avoided.** Indigenous Peoples have been on this land since time immemorial and have a fundamental right to self-determination under international human rights law, as confirmed in the *United Nations Declaration on the Rights of Indigenous Peoples*. This is also reflected in treaties and other forms of recognition of the nation-to-nation relationship. Thus, suggestions that Indigenous Peoples ‘belong’ to Canada are paternalistic and inconsistent with their right to self-determination. Examples of some alternatives to this are listed below:
 - ‘Indigenous Peoples in Canada’
 - ‘Indigenous Peoples in what we now call Canada’
 - ‘Indigenous Peoples of Turtle Island’
 - Note: This phrase encompasses the whole of North America by using the term Turtle Island, which is a traditional word for these lands used in some Indigenous cultures.
- Note that the *Constitution Act, 1982* uses the phrase “aboriginal peoples of Canada” at various places (sections 25, 35(1), 35(2), and 35.1). It is arguable that “...of Canada” in this context is less about connoting Canada’s authority over or possession over Indigenous Peoples, than referring to a fundamental relationship between Canada and Indigenous Peoples and the state’s constitutional obligations to Indigenous Peoples. The majority of the Supreme Court of Canada suggested as much in *R v Desautel*, where a member of a US tribe was found to have the right to hunt in Canada since the Sinixt People’s traditional territory included parts of what are now Canada.¹⁴ In coming to this decision, the Court talked about how constitutionally protected Aboriginal rights are about government’s reconciliation with the descendants of all pre-existing societies that were here before Europeans came, whether or not they live in Canada now. It also noted

¹⁴ *R v Desautel*, 2023 SCC 15.

that the phrase “aboriginal peoples of Canada” did not specify that Aboriginal rights-holders are required to have citizenship or residence in Canada.¹⁵

>> *Words in Indigenous languages*

- **It is recommended that words in or derived from an Indigenous language not be written in italics or placed in quotation marks.**¹⁶ This recognizes and seeks to normalize the fact that Indigenous languages are part of the fabric of Canada and that section 35 of the *Constitution Act, 1982* protects rights related to Indigenous languages.¹⁷ In Nova Scotia, the *Mi’kmaq Language Act* recognizes Mi’kmaq as the province’s original language.¹⁸

>> *Words and spelling regarding the Mi’kmaq*

- **While it has previously been acceptable to use the spelling ‘Micmac,’ this practice is now considered outdated.** As this spelling is an anglicized version of ‘Mi’kmaq,’ it is therefore best to use a Mi’kmaq spelling in order to demonstrate respect. The word ‘**Mi’kmaq**’ has various spellings based on the writing system being used in different parts of Mi’kma’ki.¹⁹ There are four main Mi’kmaq writing systems in use today. You may elect to use a certain spelling depending upon the audience you are writing for.
 - **Mi’kmaq** is the spelling in the Smith-Francis System, which is used in Nova Scotia, PEI, Newfoundland, and now in certain parts of New Brunswick. As our law school is situated in Nova Scotia, students at Dalhousie may generally assume that this is spelling they should use, unless they have specific reason to use another system (e.g., writing a memo for a First Nation in New Brunswick).

¹⁵ *Ibid* at para 39.

¹⁶ Younging, *supra* note 1; AlterNative: An International Journal of Indigenous Peoples “AlterNative House Style” (last visited 1 August 2023), online (PDF): <https://uk.sagepub.com/sites/default/files/alternative_house_style.pdf> [<https://perma.cc/PFT8-FZ85>].

¹⁷ See *Indigenous Languages Act*, SC 2019, c 23, s 6.

¹⁸ *Mi’kmaq Language Act*, 2022 SNS c 5, s 2(a).

¹⁹ The variations between the systems have to do with things like using phonetic representation of the Roman alphabet versus using a “downsized” system where certain letters can represent more than one sound (e.g., the letter “t” can stand for a “t” or “d” sound depending on its position in a word). Variations can also concern the representation of vowel sounds (e.g., using double vowels to represent long vowels (aa), versus using an apostrophe after the vowel (a’), versus using diacritics (â)), and the way in which the ‘schwa’ sound — the indefinite vowel sound that exists in Mi’kmaq — is represented.

- **Miigmag** is the spelling in the Pacifique System, which is mainly used by certain First Nations in central and southern New Brunswick.
- **Mi'gmaq** is the spelling in the Modified Alphonse Metallic System which is used by some First Nations in northern New Brunswick and parts of the Gaspé of Quebec.
- **Mìgmaq** is the spelling in the Metallic Orthography System, a fully representational, one sound/one symbol writing system. A person may choose to use this spelling as it facilitates correct pronunciation among non-fluent speakers.
- **Mi'kmaq** is a plural noun. It is never singular and is never used as an adjective.
 - E.g., 'The traditional territory of the Mi'kmaq People is referred to as Mi'kma'ki'
- **Mi'kmaw** is both a singular noun and an adjective.
 - E.g. 'She is Mi'kmaw'; 'The Mi'kmaw language is complex'
- Note that, while it is acceptable to use Mi'kmaq (and its different spellings discussed above), there is growing practice of substituting it with the word for “the people” in the language, reflecting how members of the Nation refer to themselves. This can be expressed as follows:

Writing System / Dialect²⁰	Singular	Plural
<i>Smith Francis / Southern</i>	Lnu	Lnu'k
<i>Metallic Orthography / Northern</i>	Nnu	Nnùgw

>> ***Words and spelling regarding the Wolastoqewiyik (formerly Maliseet)***

- It has previously been common to use the term '**Maliseet**' when referring the Indigenous People whose traditional territory encompasses the Wolastoq and adjacent areas, including parts of what are now referred to as New Brunswick, Quebec, and Maine. Maliseet is a Mi'kmaq word for their neighbours and was adopted by European settlers. This term has gradually fallen out of use as community members increasingly prefer to

²⁰ See Jessica Metallic, *Migmewey Dlisudi 01*, prepared for The First Nations Regional Adult Education Center, Listuguj Campus, Second Edition, 2015 at 19: "Mìgmaq has a northern as well as a southern dialect. The Gaspé district in the northern extreme [of Mìgmàgi] is characterized by the predominance of the (n) inflections, while the southern has a predominance of the (l) inflection."

use words from their own language to describe themselves. **Listed below are some terms you may find useful as we move away from using the term ‘Maliseet.’**²¹

- **Wolastoqey Nation**
- **Wolastoq** - Beautiful and Bountiful River
 - You may know it as the Saint John River, but it is best to refer to this river by its traditional name as a sign of respect.
- **Wolastoqew** - Person of the Beautiful and Bountiful River (singular)
- **Wolastoqewiyik** - People of the Beautiful and Bountiful River (plural)
- **Wolastokuk** - Homeland of the Beautiful and Bountiful River

Capitalization

- Always capitalize the words **First Nations, Inuit, Métis, Indigenous, and Aboriginal**
 - While there has been much variance in approaches toward the capitalization of these terms in the past, it is now considered best practice to capitalize these words as “a sign of respect for the identities, governments, institutions and collective rights that have been historically considered illegitimate.”²² Moreover, capitalizing these terms brings them into alignment with the ways in which other specific demographics are referred to globally (e.g., European, English, Canadian, Nigerian, etc.).
 - Because best practices in this area have undergone significant change throughout time, you will notice that many legal documents referring to Indigenous Peoples (including, but not limited to, *United Nations Declaration on the Rights of Indigenous Peoples* and the *Constitution Act, 1982*) do not capitalize the words ‘Indigenous’ or ‘Aboriginal.’ The first instance of the Supreme Court of Canada

²¹ Wolastoeqwi Kci-Sakom (Wolastoq Grand Chief) Ron Tremblay, “Wolastoqey Terminology” (28 January 2022) via e-mail [communicated to Naomi Metallic].

²² Government of British Columbia, “Capitalization and formatting of Indigenous terms” (last modified 24 February, 2023), online (webpage): <<https://www2.gov.bc.ca/gov/content/governments/services-for-government/service-experience-digital-delivery/web-content-development-guides/web-style-guide/writing-guide-for-indigenous-content/capitalization-and-formatting-of-indigenous-terms#:~:text=Capitalizing%20Indigenous%20terms%20is%20a,Indigenous%20identities>> [<https://web.archive.org/web/20231217214143/https://www2.gov.bc.ca/gov/content/governments/services-for-government/service-experience-digital-delivery/web-content-development-guides/web-style-guide/writing-guide-for-indigenous-content>].

capitalizing the word ‘Aboriginal’ in a written decision can be observed in 1999 with *Corbiere v Canada (Minister of Indian and Northern Affairs)*.²³ The practice became more consistent starting in 2011 with *Alberta (Aboriginal Affairs and Northern Development) v. Cunningham*.²⁴ The Supreme Court began capitalizing the word ‘Indigenous’ in 2016 with *Daniels v. Canada (Indian Affairs and Northern Development)*.²⁵

- **When using a quotation from a document containing the uncapitalized iteration one of these terms, it may be appropriate to either add a footnote regarding the absence of capitalization, add square brackets to capitalize these terms (e.g., [I]ndigenous), or use ‘[sic]’ immediately following the word to denote that this is an erroneous use of lowercase letters.** Below are examples of these strategies using section 35(1) of the *Constitution Act, 1982*: “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.”
 - Footnote: “Best practices for writing about Indigenous Peoples are constantly evolving. At the time the *Constitution Act, 1982* was written, it was not convention to capitalize the words ‘Aboriginal Peoples.’ This paper/memo/article etc. will capitalize these words unless directly quoting a source that does not in order to reflect current best practices and signal respect for Indigenous Peoples as sovereign nations in what we now call Canada.”
 - Square Brackets: “The existing [A]boriginal and treaty rights of the [A]boriginal[P]eoples of Canada are hereby recognized and affirmed.”
 - *Sic*: “The existing aboriginal [sic] and treaty rights of the aboriginal peoples [sic] of Canada are hereby recognized and affirmed.”

²³ 1999 CanLII 687.

²⁴ 2011 SCC 37.

²⁵ *Daniels*, *supra* note 2.

- Capitalize **Peoples, Nations** or **Nation** when word Indigenous immediately precedes it, or when referring to a specific group (E.g., ‘Indigenous Peoples, ‘The Mi’kmaq are an Indigenous People located on the East Coast,’ ‘Indigenous Nations are sovereign’)
 - When making a more general reference or referring to a singular individual, the p (or n) remains lowercase (E.g., ‘Indigenous people marched to Parliament Hill,’ ‘Jon is an Indigenous person,’ ‘Promoting a nation-to-nation relationship’)
- Always capitalize **Status Indian** and **Non-Status Indian** when referring to a person or otherwise using the term as a noun. This capitalization is not done when using the term ‘Indian status.’
 - E.g., ‘He is a person with Indian status’ vs ‘She is a Status Indian.’
- **Band** is only capitalized when referring to a specific band and should be lowercase when referring to bands more generally.
 - The same applies when using the term **band council** – unless referring to a specific First Nations band council, do not capitalize.
 - Apply the same rules when using the term **tribe, tribal, or tribal council**.
- Because grammatical conventions related to writing about Indigenous Peoples in the legal context are still evolving, **there are some terms where you may use discretion in capitalization**. It is, however, important to be consistent about this across your written document; where you capitalize the word once, you should capitalize it in all instances.
 - **Aboriginal Right (or Rights)** – You may choose to capitalize ‘right’ when referring to a specific Aboriginal Right or specific set of Aboriginal Rights while retaining the lowercase ‘r’ when discussing Aboriginal rights more broadly. In the alternative, you may elect to capitalize ‘right’ in both instances, or neither.²⁶
 - This is also true when using the term ‘Indigenous Right/s’
 - **Aboriginal Title** – You may exercise discretion with the capitalization of ‘title.’
 - **Treaty** – When referring to a specific treaty, capitalize the T.²⁷ When referring to treaties in the abstract you may exercise discretion with capitalization.

²⁶ Younging, *supra*, note 1 at 81.

²⁷ *Ibid.*

Further Reading

Listed below are some of the resources that were consulted in the development of this guide. These are websites and books that may prove useful in understanding the history of terminology used to refer to Indigenous Peoples, current practices in writing about and for Indigenous Peoples, the reasoning underlying these practices, and emerging conventions in the fields of Aboriginal and Indigenous law and legal publishing.

- ***Elements of Indigenous Style: A Guide for Writing By and About Indigenous Peoples* by Gregory Younging** – This book provides guidelines for writers, editors, and others in the publishing industry seeking to produce content that reflects Indigenous people in a respectful and culturally-sensitive manner. Although not specific to legal writing, this book is the first of its kind and was consulted at length in authoring this guide.
- ***Indigenous Writes: A Guide to First Nations, Métis, and Inuit Issues in Canada* by Chelsea Vowel** – This book explores the relationship between Indigenous Peoples and the Canadian state, addressing five fundamental topics: Terminology of Relationships, Culture and Identity, Myth-Busting, State Violence, and Land, Learning, Law, and Treaties. Although not a style guide, this collection of essays offers invaluable cultural and historical insight.
- **[Writing Guide for Indigenous Content](#) by the Government of British Columbia** – A free resource by the Government of British Columbia that seeks to help writers create content that respects the cultural integrity of Indigenous Peoples. The website is updated regularly, reflecting the evolving nature of the nation-to-nation relationship the provincial government seeks to foster with Indigenous Nations.
- **[Indigenous Foundations](#) by First Nations and Indigenous Studies at the University of British Columbia** – Designed to support students and educators at the University of British Columbia, this website offers concise information about a wide range of key topics related to the cultures and histories of Indigenous Peoples. While the ‘Identity’ tab has information specific to terminology, the website offers an overview about various political and legal topics relevant to Indigenous Peoples in what we now call Canada.
- **[Aboriginal Law and Indigenous Laws LibGuide](#) by Kate Anderson** – A Library Research Guide offering an extensive list of recommended resources to consult when

researching Aboriginal and Indigenous law. The LibGuide features the [First Nations, Métis, and Inuit Indigenous Ontologies database](#) mentioned on page 6 of this guide.

Looking to the Future: The Evolving Nature of Language

This Best Practices Guide was created with the understanding that language evolves over time and matters related to language are nuanced. As this Guide has been the product of extensive collaboration, we invite you to share your ideas about additional language matters that could be addressed here. If you have suggestions for a new areas, topics, or terms to be covered, please reach out via email to Naiomi Metallic (naiomi.metallic@dal.ca) or Kelti McGloin (kelti.mcgloin@dal.ca).