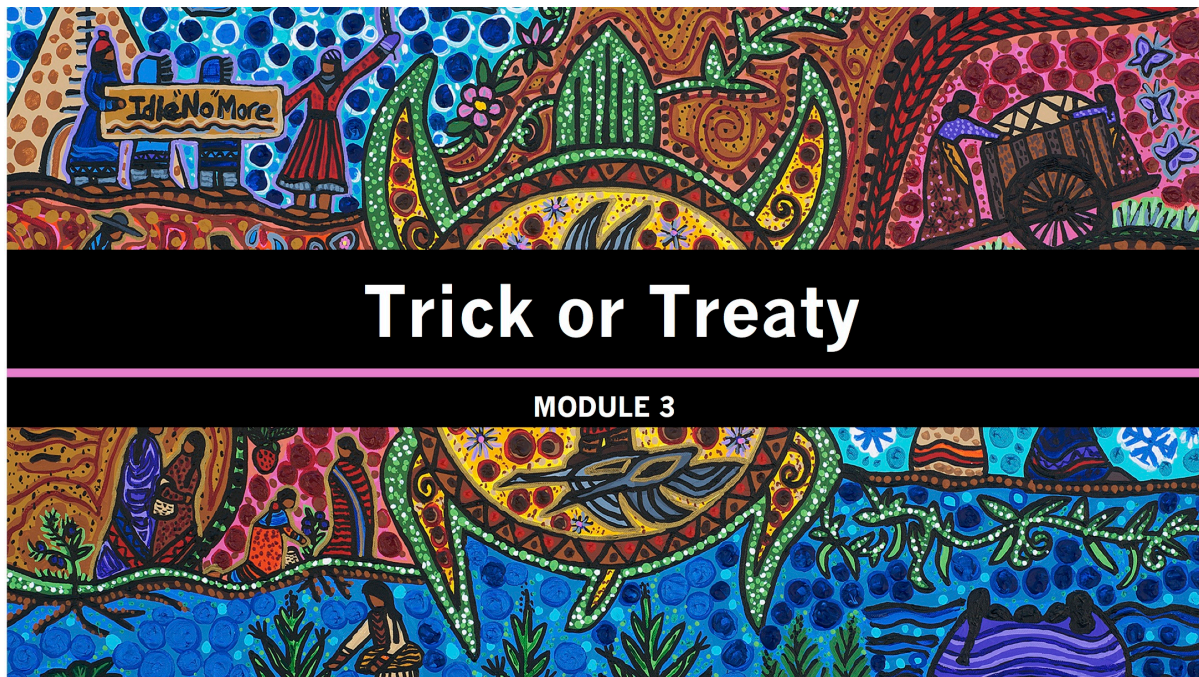




UNIVERSITY OF ALBERTA
FACULTY OF NATIVE STUDIES

Indigenous Canada: Looking Forward/Looking Back



Cover Image: Artwork by Leah Dorion

The University of Alberta acknowledges that we are located on Treaty 6 territory and respects the history, languages, and cultures of the First Nations, Métis, Inuit, and all First Peoples of Canada, whose presence continues to enrich our institution.

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Module 3 Introduction

When the British, French, and other competing European empires arrived in North America, Indigenous peoples were already resident throughout the continent with their own distinct cultures and intricate political structures. Indigenous peoples saw the arrival of these new people as both an opportunity to create new political alliances and new trading partnerships. Module Three examines the subsequent treaty agreements and alliances made between North America's Indigenous peoples and the newly arrived empires in the area that eventually became Canada.

Section One: Perspectives on Treaty Making

The Two Row Wampum Belt

The two-row wampum belt of the Haudenosaunee (Iroquois) is a great example that illustrates one way that Indigenous peoples recorded and preserved their laws and governance systems. The two-row wampum belt is made from either whelk shell, quahog, or hard-shelled clams. The belt's rows of cylindrical purple and white beads are bound together with hemp that runs its full length. It was these belts and their intricate beadwork designs that served as the foundation for all other treaties and agreements between the Haudenosaunee and colonial representatives (Muller 2007, 129). In addition to confirming an individual's credentials and authority, these belts also served as one of the first methods used to document oral agreements. Today, they also act as evidence of pre-existing Indigenous diplomatic relationships.



Figure 1 Wampum beads; Credit: Mary Meredith/ Uyvsvdi/Wikimedia Commons

Wampum belts were used as mnemonic devices to record important events and were often brought out for official gatherings and sacred ceremonies. Indigenous laws were also recorded within the patterns on these belts. Items like masks, medicine bundles,

birch bark scrolls, petroglyphs, and button blankets – although primarily spiritual in nature – could also record and preserve legal traditions (Simpson 2014).

The First Treaty: Gusweñta

Named Gusweñta, this two row wampum belt served as a symbolic and binding agreement that was made in 1613 between Haudenosaunee leaders and Dutch colonial officials. When the Dutch began making incursions into Haudenosaunee territory (Muller 2007, 132), Mohawk runners travelled to Onondaga to request a meeting among the Haudenosaunee leadership to determine how to deal with these new, uninvited guests. This belt represents the outcome of the subsequent meetings between Haudenosaunee representatives and Dutch officials. Like other wampum belts, this living treaty is made up of purple and white wampum beads. The three rows of white beads each represent the shared tenets of friendship, peace, and “forever”.

The two parallel rows of purple represent two vessels. One row embodies the Haudenosaunee, their people, and their lifeways; the other row stands for the Dutch, their people, and their lifeways. Travelling side-by-side as equals down the river of life, the Haudenosaunee and the Dutch share a mutual respect and the promise to not interfere with one another. Two row wampum and its meanings were applied to subsequent agreements that the Haudenosaunee made with the French in 1701 and the British in 1763 to 1762 (Borrows 2010) (“Two Row Wampum – Guswenta” 2014).

Treaty Making Perspectives

According to European history and practice, a treaty is a legally binding agreement outlining the rights and duties of its signatories and is protected by International Law. Negotiated and agreed to by two or more sovereign nations, treaties are formal agreements used to reinforce and protect relations between those parties.

In North America, Indigenous societies and colonial powers often held divergent traditions and understandings on the composition and structure of these agreements

(Goodstriker 1996, 3-4). These understandings were informed by their own social, political, and economic norms (Greer 2005, 104). Far from homogenous, pre-colonial laws, customs, and practices informed Indigenous treaty agreements like that seen in Gusweñta.

Many of these principles were shared among Indigenous nations, ensuring that all parties upheld their obligations. Often drawn on to govern contemporary relationships, many Indigenous nations recognize this treaty legacy and continue to advocate that the original intent of these agreements with the Crown, and then Canada, be honoured.

Treaty Making in What Would Become Canada

Conflict between competing European empires often made its way to North America and almost always involved Indigenous peoples. The Great Peace of Montreal serves as one example of an agreement that brought to a close prolonged period of conflict (Parmenter 2010, 266-271). Signed in 1701 between New

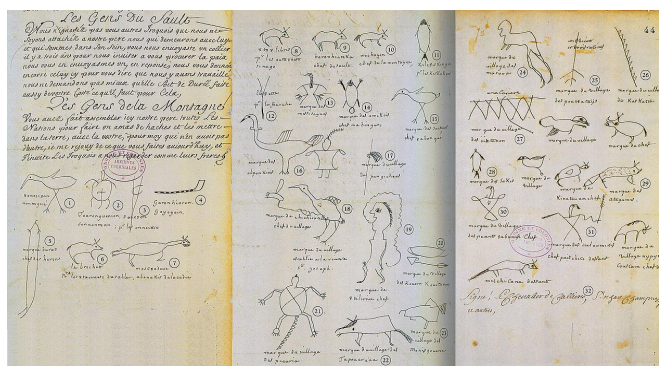


Figure 2 Great Peace of Montreal Treaty, 1701; Credit: Secrétaire de Callière et autre main/Wikimedia Commons

France and forty Indigenous groups of central and eastern North America, this treaty ushered in several years of peace (Blake 2011, 106-7). Treaties such as this laid the groundwork for peace and cooperation between colonial powers and the area's Indigenous populations. They were tested and fractured time and again when European rivals clashed overseas and brought their conflict to the Americas.

In the area of North America that eventually became Canada, there have been five distinct phases of treaty making between Indigenous and non-Indigenous peoples. These are the Peace and Friendship Treaties from 1725-1779, the Robinson Treaties in 1850, the Douglas Treaties from 1850-1854, the Numbered Treaties from 1871-1921, and the Modern Treaties from 1975 to the present (Miller 2009). Bear in mind that there

are over 500 treaties across Canada. This is because all agreements and interactions between Indigenous groups and Britain are referred to as treaties. Many of these treaties are between 1779-1849 in Southern Ontario.

Key differences in treaty making during each of these phases is a direct result of the economic, political, and social dynamics that emerged as colonial powers (and later state powers) competed for control of the continent. As trade relations, wartime diplomacy, increasing land settlement pressures, and resource development increased, so too did the need for officials to deal with the question of Indigenous land title.

Peace and Friendship Treaties (1725-1779)

The first phase of treaty making, the Peace and Friendship Treaties, were entered into with an aim of maintaining peaceful relations between Indigenous groups on the East Coast and the British Crown (Miller 2009, 33-65). These treaties ended years of hostility that were a direct result of conflict between the British and French Empires and their Indigenous allies.

When the British conquest of French Acadia and subsequent colonial agreements along the East Coast of North America failed to take into account the pre-existing Indigenous political order, conflict with local groups increased. To end this conflict and to gain allies in their competition for the continent, British officials were required to incorporate characteristics of Indigenous treaty making in their own diplomatic traditions. To this end, the British entered in the Peace and Friendship Treaties with East Coast Nations to end hostilities and to encourage ongoing cooperation, peaceful relations, and trade with the area's Indigenous peoples.

These treaties were signed between 1725 and 1779 with the Mi'kmaq, Maliseet, and Passamaquoddy throughout present day Maine, New Hampshire, New Brunswick, and Nova Scotia. The treaties established promises and obligations to be honoured by both parties with an aim of stabilizing trade and relations (Wicken 2002, 71–87). In exchange for increased trade and promises to gain consent prior to settling any East Coast

Indigenous territories, Mi'kmaq, Maliseet, and Passamaquoddy signatories agreed to end their hostilities with Subjects of the British Crown. A critical part of these treaties included the Truck House clause requiring the British to establish trading posts for the exclusive use of the treaty's Indigenous signatories.

For the Mi'kmaq, the word used to describe treaties – *Angugamwe'l* – means “adding to our relations.” Speaking to the complexity of Indigenous political order in North America, this interpretation stands in contradiction with the earlier Haudenosaunee use of the two-row wampum belt and their desire for a peaceful but respectful distance. For the Mi'kmaq, treaty agreements would bring all signatories together as though related, making treaties a kinship-based relationship. Indigenous peoples were keenly aware of the need to protect their continued access to their traditional territories. These Peace and Friendship Treaties sought to normalize peace and commercial relations but did not see the Mi'kmaq, Maliseet, or Passamaquoddy surrender their right to land or resources (Wicken 2002, 87).

Renewals of Peace and Friendship Treaties

Aimed at stabilizing relations during periods of intermittent conflict, the renewals of 1749 and 1752 reaffirmed the original agreement and provided for the establishment of the Truck House. The 1760 renewal brought the Maliseet under the provisions of the Truck House, and also acknowledged the possibility of future non-Indigenous settlement within East Coast Indigenous territories without fear of Indigenous reprisal.

Fluctuating tensions between the French, English, and their Indigenous allies saw the negotiation of over a half-dozen treaties up and down the East Coast between 1725 and 1779. As the French and British Empires entered the final phase of their conflict for northern North America, these treaties served as the basis for critical alliances before conflict ended with the Conquest of New France in 1760 (Miller 2009, 33–65). The Royal Proclamation of 1763 sought to protect Indigenous sovereignty and title to traditional lands when facing what British officials knew would be increased settlement demands after the conflict ended. While this protection and title to traditional lands may

have been on the list, for the British, it was not a priority. The British priority aimed to protect their interests from other European nations. (Indigenous and Northern Affairs Canada “Summaries of Pre-1975 Treaties” and “Peace and Friendship Treaties”)

The Royal Proclamation of 1763 and Upper Canada Treaties (1764-1836)

When France ceded its North American claims to Britain after the Seven Years War, colonial officials sought to stabilize their relationship with Indigenous peoples residing within their new territories. King George III issued a Royal Proclamation on October 7, 1763 that acknowledged an interest in Indigenous land title until such a time it was ceded by treaty with the British Crown (Miller 2009, 66). In other words, all lands of the Ohio Valley and west of the Appalachian Mountains were considered off limits to settlers unless the land was first ceded to the Crown during treaty negotiations.

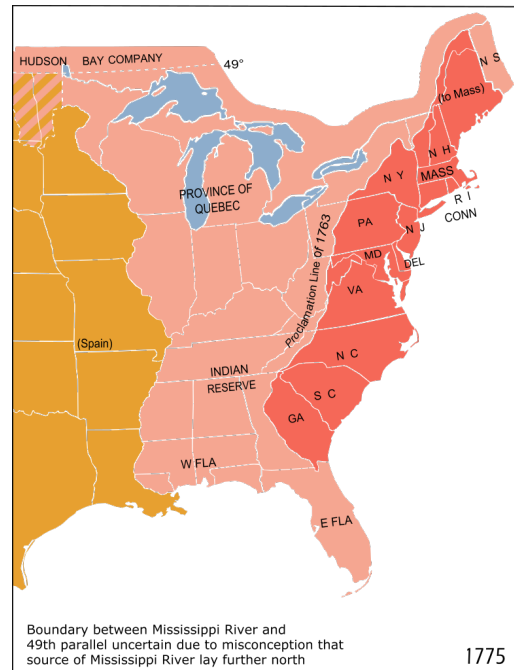


Figure 3 Eastern North America in 1775; Credit: Cg-realms/Wikimedia Commons

The Proclamation described generally how the Crown could go about purchasing lands that fell within this defined “Indian Territory”. The Royal Proclamation was created, in part, to “give” Natives an interest in the lands they occupied (Aboriginal title). The creation would then be eliminated by the Crown and only the Crown. From the British point of view, at no time was the ownership of British North America ever in doubt. The outbreak in 1776 (ending in 1883) of the American War for Independence had profound effects on Indigenous peoples and their British allies, with over 30,000 Loyalist refugees, both Indigenous and non-Indigenous alike, making their way north (Miller 2009, 79).

End of an Alliance

Thirty years later, the War of 1812 saw Britain and the new American Republic fight over the American Republic's attempts at northern expansion, a conflict in which Britain's Indigenous allies played a crucial role. When the conflict ended in a stalemate in 1814, Indigenous peoples saw a significant drop in their influence with colonial officials (Miller 2009, 121–122). This post-1812 period saw Indigenous peoples transformed from crucial allies into a barrier to colonial expansion and settler occupancy. This marginalization became official in 1830 when responsibility for Indigenous relations was transferred from the British Military to the civilian government in both Upper and Lower Canada, which from embarked on a mission of “civilization”.

In light of these conflicts and the changing political, social, and economic dynamics, the years between 1764 and 1836 saw the newly created colonies of Upper and Lower Canada negotiate roughly twenty-seven land treaties to secure the lands falling within their newly defined territories. This also coincided with the post-1812 shift in colonial policy, away from military alliance and towards demands that Indigenous peoples abandon traditional lifeways and adopt an agrarian and sedentary lifestyle. These plans for “civilization” saw a shift from cash payment and trade relationships in favour of annuity, payments used to develop permanent agricultural communities (Borrows 1997, 155–172; Fee 2015; Indigenous and Northern Affairs Canada “Upper Canada Land Surrenders and the Williams Treaties”; Steckley and Cummins 2008, 122).

The Robinson Treaties (1850)

As non-Indigenous settlement moved west, and there was escalated conflict over the land and resources it held, colonial officials sought to speed up land cession agreements around the areas of Lake Huron and Lake Superior (Hildebrandt, Rider, and Carter 1996, 206). The slow approach of officials in making treaties with Indigenous communities whose territories they were moving into resulted in an armed insurrection at Mica Bay on



Figure 4 William Benjamin Robinson, 1914; Credit: Wikimedia Commons, author unknown

Lake Superior in 1849. Canada, now a unified colony, selected William Benjamin Robinson, an experienced trader familiar with Indigenous language and trade customs, as their primary negotiator. Negotiations began in Sault Ste. Marie, and Indigenous leaders were at first hesitant to accept the Crown's terms and requested additional time to consider them. Robinson confirmed that Indigenous groups would maintain their hunting and fishing rights, terms that encouraged reticent leaders to sign. Although Lake Huron leaders demanded accommodation be made for the half-breed kin, Robinson refused (Miller 2009, 115).

The Robinson Treaties, also known as the Robinson-Huron and Robinson-Superior Treaties, saw what is now known as Canada, secure almost all of northwest Ontario for settlement and resource development. New in these agreements were provisions made for reserves based on sites chosen by Indigenous leaders. These Robinson Treaties of 1850 are credited with laying the foundation for what later became known as Western Canada's Numbered Treaties. (Morris 1991, 17–21).

The Douglas Treaties (1850-1854)

Treaty making during this period was not just confined to the eastern and central areas of what would become Canada. When Hudson's Bay Company established a colony on Vancouver Island in 1849, little thought was given to the pre-existing Indigenous presence. In the four years that followed, the colony's Chief Factor James Douglas, who despite the indifference of HBC officials, oversaw fourteen agreements to purchase land from the Island's Indigenous inhabitants. As far as HBC officials were concerned, these agreements abolished Indigenous land title in exchange for an agreement to protect Indigenous fisheries and village sites. Differing in their interpretation, Indigenous leaders understood these agreements to be peace treaties rather than a land purchase, and Douglas' promise to protect winter villages and fisheries would have encouraged many Indigenous leaders to sign these agreements. Indigenous leaders also understood these agreements to represent a desire for both Indigenous and newly arrived settlers to co-exist peacefully while sharing the land (Claxton 200; Madill 1981).

Section Two: Red River and the Numbered Treaties

HBC Given Title

Rupert's Land, the area of present-day northwest Canada, was originally granted in 1670 to HBC for the purposes of trading. Although HBC never owned title to lands in the northwest, they were expected to negotiate with the area's Indigenous peoples if they wanted to develop or settle any of the territory. When the Earl of Selkirk was granted 300,000 km² at the Forks of the Red and Assiniboine Rivers, the resident Cree, Assiniboine, Saulteaux, and Métis were not consulted. To rectify this, in 1817 Chief Peguis and four other leaders entered into an agreement with Selkirk granting the Red River Settlement access to the lands adjacent to the Forks (Tobias 1991, 213).

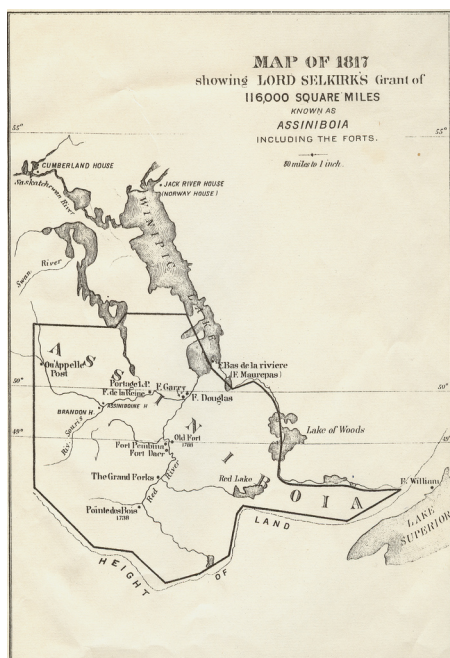


Figure 5 Selkirk's land grant, 1817; Credit: George Bryce/Royal Society of Canada

Reverting to HBC in 1836, and the Canadian government in 1869, both argued that Selkirk's 1817 agreement constituted a land surrender, but in 1863 Peguis published a rebuttal stating that the Selkirk Treaty was never intended as a cession of title.

The Métis community at Red River had become a well-established community by the time of Confederation. For the newly formed government of Canada, formalizing their ownership of Rupert's Land was critical (Miller 1991, 243-256). Despite the fact that much of the land in the northwest outside of Red River was still unceded First Nation and Métis territory, Canada negotiated to purchase these lands from HBC

without consulting the region's inhabitants. When the Métis and the area's other Indigenous peoples heard of the planned transfer of Rupert's Land from HBC to the new Dominion of Canada, many were angry at not being consulted.

To formalize the transfer and determine the area's resources, a group of government representatives led by William McDougall, the territory's first Lieutenant Governor, travelled to Red River to begin the process of resurveying the settlement's river-lot farms. This decision put in motion a series of events culminating in what is now known as the Red River Resistance of 1869-1870.

In November of 1869, Louis Riel, a prominent member of the Métis community, organized a group of Métis to block the government's representatives from entering the settlement. Successful in their efforts, community representatives proclaimed a Provisional Government under the leadership of Riel. This Provisional Government entered into negotiations with the Canadian Dominion for the settlement's anticipated entry into Confederation. The Manitoba Act of 1870 was the result of these negotiations between the Government of Canada and Riel's Provisional Government (Carter 1999, 111, 167).

The Manitoba Act

Establishing the postage stamp province of Manitoba, the Manitoba Act of 1870 resolved the dispute between the Red River Métis and the Government of Canada (Sprague 1980, 74). The Act included a provision for 1.4 million acres of land to be reserved for the children of Métis heads of household, which the government felt extinguished Métis Aboriginal land title to the Red River Valley. This land was to be distributed through the issuance of scrip. Métis scrip consisted of certificates redeemable either for land or for money. Métis were given scrip individually, and each certificate was worth 160 or 240 acres or dollars. The amount depended on each individual's age and status. Due to delays and administrative problems, distribution of scrip did not commence until 1876, causing many Métis to disperse to areas of Saskatchewan, Alberta, and Montana. It should be noted, because this land distribution was never realized, the Manitoba Métis Federation filed a lawsuit in 1981. After a lengthy debate in the courts, the Supreme Court of Canada ruled in 2013 that the Métis did not receive the land they were promised in the Manitoba Act (Supreme Court of Canada, 2013).

Treaty Negotiations

Before beginning to discuss the Numbered Treaties, it is important to understand the two perspectives of ownership as it pertains to land. Broadly speaking, from the perspective of Native peoples the ownership of land was gained or lost due to conflict, surrender, or legal legislation. This perspective differed from the Crown, which was that land was a commodity, and it was the very “discovery” of land that led to ownership. In 1670, the Crown gave HBC the Charter for Rupert’s Land, extinguishing Aboriginal title to the area. Then the Royal Proclamation happened in 1763, and Native people were given usufructuary rights (use and benefit of land), with the exception of Rupert’s Land. When the Rupert’s Land Charter was sold to the government of Canada, the extinguished Aboriginal title was reversed. Generally speaking, the Numbered Treaties became Canada’s legal process to extinguish Aboriginal title again.

As the fur trade economy faltered, and the bison herds began their steady decline, many Indigenous peoples knew that engaging in the settler state’s new economies of agriculture, ranching, mining, and forestry provided an avenue for income and survival, especially in the face of an uncertain future (Miller 1991, 254).

Following the problematic sale of Rupert’s Land, Indigenous leaders in the northwest were demanding formal agreements to be made with government representatives in the form of treaties. When Hudson’s Bay Charter (Rupert’s Land) was sold to Canada, Aboriginal title came back into existence, and these agreements took the form of the Numbered Treaties. For the Canadian government, they would be better able to settle the northwest with agricultural immigrants and to extract the area’s natural resources if Indigenous land title was dealt with prior to the anticipated settlement boom (Carter 1990, 50-57). For Indigenous peoples, they hoped to address what would soon be a rapidly expanding Canadian state and settlers as they began to make their way west and fill the fertile belt.

Numbered Treaties

Following Confederation in 1867, the new government looked westward as a place to expand its territorial claims, settle its anticipated immigration boom, and provide a source of natural resources. To accomplish this, as per the Royal Proclamation of 1763, the new government needed to deal with pre-existing Indigenous land title throughout Rupert's Land (Ray, Miller, and Tough 2000, 45). Urged as well by fears of American annexation, they adopted a formula similar to the Robinson Treaties and negotiated eleven Numbered Treaties between the Dominion and the Indigenous peoples of the west between 1871 and 1921. This encompassed all territory falling between the Lake of the Woods in the east, the Rocky Mountains to the west, and the Beaufort Sea to the north.

In exchange for signing these treaties, Indigenous groups were promised reserve lands, annuities, and the right to continue hunting and fishing on Crown lands. These agreements also held clauses that closely resembled the civilization programs initiated during the treaties of central Canada. This included clauses for schools and/or teachers to educate Indigenous children and a provision for agricultural implements to ensure the transition from a mobile to sedentary life.

Thus, all Indigenous signatories of the treaties were encouraged to settle on reserve lands, to build permanent communities, adopt agriculture, and permit the state to educate their children (Carter 1991, 50). For Indigenous signatories, these agreements had a stronger emphasis on shared usage, rights, and responsibility for the lands being ceded, rather than a complete surrender of land. For the state, these treaties were considered a massive land surrender, bringing Indigenous peoples under the jurisdiction and law of the new Dominion. Treaties 1 through 7 became a way in which the new Department of Indian Affairs implemented assimilation policies in the northwest, and 8 through 11, with many of the same aims, also focused on opening the north to resource development.

Although based on the earlier Robinson Treaties, Treaties 1 through 11 were not identical. While the scope of the agreements share a number of similarities, individual circumstances reflected the unique demands of each group and competing interests of each party and their goals.

Concluded in 1871, the first two treaties had the fewest number of provisions and did not outline an ongoing right for Indigenous signatories to hunt and fish in the defined treaty area. Reserve lands were also fixed at 160 acres per family of five, and annuities were fixed at \$3. These substantial differences, and many of the agreements Indigenous leaders claimed were left out of the final text, led to an 1875 amendment that sought to deal with many of these concerns. Treaty 3 was signed in 1873 at Lake of the Woods and covered the highly desirable land between Lake Superior and the Red River Valley. Land allocation was increased to 640 acres per family of five and included guaranteed hunting and fishing rights on unoccupied lands. In addition to a \$5 annuity, a one-time gratuity of \$12 was granted to each person, as well as an annual allocation of \$1,500 for purchasing ammunition and twine. Due to Treaty 3's increases, both Treaty 1 and 2 were brought up to the same standard.

Negotiated at Fort Qu'Appelle, Treaty 4 was finalized in 1874, where a larger gratuity was granted in addition to the inclusion of trapping along with hunting and fishing rights. Treaty 5 was similar to Treaty 3 with the exception of a reduction in land allocation to 160 acres of land per family of five and a one-time payment of \$5,500 for ammunition, twine, agriculture, and tools (Indigenous and Northern Affairs Canada "The Numbered Treaties").

Indigenous Interpretation of the Numbered Treaties

"You are telling us all this, you will never be able to treat us the way you are treated by Manito. Look at this land with its abundance of food you'll never be able to match that, you will not be able to do this" (Nehiyawak elder, quoted in McLeod 1999, 82). This elder's scepticism of the government's promises made during the negotiation of the Numbered Treaties echoes the sentiment of many First Nations.

Cultural and language differences played a significant role in the divergent interpretations of the written and oral contents of the treaties. The Indigenous understanding of the spirit and intent of the treaties accepted the Numbered Treaties to be a nation-to-nation agreement, similar to the spirit of the Peace and Friendship Treaties. However, for the Crown, the treaties granted certain benefits to Indigenous signatories in return for the complete surrender of land title.

From Chief Sweet Grass

Our country is getting ruined of fur-bearing animals, hitherto or sole support, and now we are poor and want help – we want you to pity us. We want cattle, tools, agricultural implements, and assistance in everything when we come to settle our country is no longer able to support us.

Make provision for us against years of starvation. We had a great starvation the past winter, and the smallpox took away many of our people, the old, young, and children. We want you to stop the Americans from coming to trade on our lands, and giving firewater, ammunition, and arms to our enemies the Blackfeet. Our young men are foolish, it may not last long. (Chief Sweet Grass in Morris 1991, 171).

Divergent Interpretations

As far as Indigenous leaders were concerned, in exchange for shared use of the land and annual provisions, the commissioners were guaranteeing that Indigenous communities would be protected and provided for. As an example, a letter from Mr. Christie, then Chief Factor of HBC, and one of the treaty commissioners to Lieutenant Governor Archibald states, “I had dealt most liberally with them, and that they were now in settled houses and well off, and that I had no doubt in settling with them the same liberal policy would be followed” (Morris 1880, 169).

An oral history of each of the Numbered Treaties has been passed through the generations, as seen in this example from Treaty 6. During an interview with Lazarus Roan at Smallboy Camp in 1974, he recounts a story shared by his father, Chabachian, who was at the first signing of Treaty 6. During the negotiations, an elderly man stood and stated, “Ahow Okeymow (chief), I do not believe what you are saying. Does the

Queen feel her breasts are big enough to care for us all? There are many of our people.” Although government representative thought him unstable, they responded “Yes, she has a large breasts, enough so there will never be a shortage” (Price 1999, 116-17). The old man in question knew that the land had always supplied the Nehiyawak with everything they needed, and it would be difficult for any one person to promise the same abundance and wealth of resources.

Indigenous frustration over the arrangement made between the Dominion and HBC for the transfer of Rupert’s Land was on display during Treaty 4 negotiations, when Indigenous leaders refused to meet the government’s representatives on HBC land. Symbolically important, leaders refused to engage for two days explaining that HBC did not have the right to dispose of Indigenous lands. Arguing that the Company (HBC) had stolen their land and given it to Canada, they wanted the injustice righted before entering into any negotiations. As expressed by Otahaoman, the Gambler, a prominent Saulteaux leader:

The Company have no right to this earth, but when they are spoken to they do it in spite of you...These Indians you see sitting around report that they only allowed the store to be put up...The Indians were not told of the reserves at all[.] I hear now, it was the Queen gave the land. The Indians thought it was they who gave it to the Company, who are now all over the country. The Indians did not know when the land was given. (Quoted in Ray, Miller, and Tough 2002, 109)

These treaties signified an ongoing relationship between their Indigenous signatories and the Canadian government. They were established and covenanted by oral agreements, ceremony, feasting, and the physical signing of the treaty, along with the giving of gifts to Indigenous leaders and negotiators. In return, government representatives offered an initial gift of a per capita payment to solidify the agreement. From an Indigenous perspective, this meant that each year thereafter the treaties would be renewed and solidified through treaty annuities. Today, Treaty Days are held close to the anniversary date of each treaty signing, and annuities are handed out to all members. This payment is a powerful symbol of the agreement made between two

sovereign nations, and these celebrations renew that understanding every year. This concept of a reciprocal relationship is not embraced in its entirety by the Canadian government, who argues that the written version of the treaties is an attestation of the total surrender of Indigenous lands.

Terms of Negotiation

Treaty 6 reflects a significant shift in the treaty negotiations between the Canadian government and Indigenous peoples. Indigenous leaders took note of several important trends: the government's broken agreements and undelivered promises of the first five Numbered Treaties; the collapse of the bison robe trade; and increasing conflicts with encroaching settlers. Despite Indigenous requests to begin treaty negotiations, government officials were slow to approach the bargaining table. Frustrated by the delay, Mistahimaskwa (Big Bear) stated, "We want none of the Queen's presents. When we set a trap for a fox we scatter meat all around but when the fox gets into the trap we knock him on the head. We want no baits. Let your Chiefs come to us like men and talk to us." (quoted in Ray, Miller and Tough 2002, 103).



Figure 6 Cree Chief Big Bear at a Hudson's Bay Company trading post, ca 1885; Credit: Library and Archives Canada

When government officials made their initial offer, not all leaders were present, and those that were did not necessarily agree to the terms. Several chiefs demanded that a large area in the Cypress Hills be set aside for Indigenous use so that they could continue to live in peace and hunt the remaining bison herds. Although treaty provisions gave signatories the right to select an area for their reserves, Indian Commissioner Edgar Dewdney refused their requests to create a reserve in the Cypress Hills.

Remaining firm, Big Bear continued with their demands for a unified territory and refused to sign with the others in 1876 at Forts Carlton and Pitt. This was despite the threat of starvation. For seven years, Big Bear and his followers continued to move across the Plains in hopes that the government would choose to reopen treaty negotiations for more beneficial terms. With the end of the bison and dramatic reduction in government rations, Big Bear had little choice but to sign an adhesion to Treaty 6 in 1882 and settle on a reserve, making him one of the last to do so (Indigenous and Northern Affairs Canada, The Numbered Treaties).

To Sign or Not to Sign

Despite the refusal of Big Bear to sign, other leaders such as Sweetgrass, Wihkaskokiseyin, and Mistawawis did sign Treaty 6 in 1876 at Forts Carlton and Pitt. For Chief Sweetgrass his days as chief were numbered, and his death at the hands of his people demonstrated their dissatisfaction with several of his leadership decisions. Big Bear continued to demand better terms.

During negotiations, when offered one square mile for each family within the reserve, Nehiyawe leader Pitikwahanapiwiyin (Poundmaker) famously argued:

The governor mentions how much land is to be given to us. He says 640 acres, one mile square for each family, he will give us. This is our land! It isn't a piece of pemmican to be cut off and given in little pieces back to us. It is ours and we will take what we want. (Quoted in St. Germain 2009, 48)



Figure 7 Poundmaker, 1885;
Credit: O.B. Buell/Library
and Archives Canada

Treaty Six

Desperate to provide for current and future generations, Indigenous leaders accepted the government's affirmations of their right to hunt and fish within their traditional territories (Ray, Miller, and Tough 2000, 130–147). After Big Bear signed onto Treaty 6 in 1882, the remaining chiefs followed and signed adhesions at Montreal Lake and Lac

La Ronge. Treaty 6 held many of the provisions found in Treaties 1 through 5, including 640 acres per family of five for reserve land. It also provided for a medicine chest to be maintained by the Indian Agent for the use of the band. As well, a famine and pestilence clause was added. An additional \$1,000 per year for three years was also promised when needed to help with the transition to agriculture. Annuities of \$5 were also provided for each person, as well as \$25 for headmen and chiefs each year, a one-time initial sum of \$12 per person, and a school for each reserve. In exchange, Indigenous leaders understood they were granting the Canadian government and its settlers permission to occupy their territories alongside their own communities.

As expressed by Jim Kâ-Nîpitêhtêw:

“iskoyikohk pisim kapimohtet, iskoyikohk sipiy kapimiciwahk, iskoyikohk maskosiya kesakikihi”

Translation: “...so long as the Sun shall cross the sky, so long as the rivers shall run, so long as the grass shall grow, that is how long these promises I have made to you will last.” (Quoted in McLeod 2014, 94).

Oral vs. Written

For Indigenous peoples, the spirit and intent of these treaties is based on an understanding that the agreements were made between two sovereign nations (Hildebrandt, Rider, and Carter 1996). Alexander Morris, the Lieutenant Governor of Manitoba, was one of four men commissioned to negotiate Treaty 6. During those negotiations, commemorative medals were given to all chiefs and headmen, and the iconography that adorns them holds a great deal of significance.



Figure 8 Commemorative medals presented during Numbered Treaties 3 through 8, 1873-1899; Credit: Library and Archives Canada

On one side, there is the image of Queen Victoria, and on the other is an image of an Indigenous chief and a British officer shaking hands. The image also portrays the flowing waters, sun, and grass, as a representation of earlier treaty promises.

These figures also represent the permanency, or “forever”, of many treaties, and the image of a hatchet buried in the soil between the feet of the figures indicates peace and sharing of the land. Most important, the image reflects the emphasis that First Nations placed on their reciprocal relationship with the land and resonates the importance placed on a relationship of equality.

In juxtaposition, the text of the treaties declares that Indigenous signatories “do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and Her successors forever, all their rights, titles and privileges whatsoever, to the lands included within the following limits”. This concept diverges from the Indigenous understanding and speaks to a very different understanding of land stewardship (Morris 1991, 344).

Ownership vs. Stewardship

The understanding held by Treaty 6 Indigenous signatories suggested a mutual use and sharing of the land alongside settlers for as long as the treaty relationship lasted, whereas the Government of Canada claimed complete ownership of the land. For Indigenous peoples, there could be no surrender of land, as land was not something they could, or would, give or sign away. Although written records are heavily relied upon, Indigenous peoples call upon oral history to recount the treaty negotiations in great detail (Hildebrandt, Rider, and Carter 1996, 328). The disagreement in the spirit and intent of the treaties remain a point of contention and discord today in the treaty relationship between Indigenous peoples and the Canadian government.

Treaties 7 – 11

A majority of Treaty 7 signatories elected to focus their efforts on ranching rather than agriculture, and as such requested fewer agricultural supplies in exchange for an increase in the number of allotted cattle. Signed in 1877 with members of the Blackfoot Confederacy and Stoney in southern Alberta, it includes areas of Saskatchewan added during adhesion (Miller 2009, 166–170).

Treaties 8 through 11 share a number of similarities with those that preceded them. Treaties 8, 10, and 11 made allowances for 160 acres for those who chose to live beyond the limits of the reserve. These “lands in severalty” addressed the significant population that no longer resided in their traditional



Figure 9 Figure 10 At the Treaty 9 payment ceremony, July 1906;
Credit: Duncan Campbell Scott/Library and Archives Canada

territories. Treaty 8 was signed in 1899 and includes parts of British Columbia, the northern half of Alberta, Saskatchewan and parts of the Northwest Territories (Ray, Miller, and Tough 2000, 148). Negotiated by Deputy Superintendent General Duncan Campbell Scott, Treaties 9 through 11 were finalized between 1905 and 1923. Treaty 9 covers most of northern Ontario and the very northeast tip of Manitoba. Treaty 10 encompasses those portions of northern Saskatchewan not previously ceded, as well as a small portion of east-central Alberta. Treaty 11 includes a large area of the Northwest Territories as well as a small section of both the Yukon and Nunavut Territories. The finalization of these treaties was key to the government’s aim of extracting valuable natural resources from Canada’s North.

Section Three: Métis Scrip

Northwest Resistance of 1885

The events of 1885 represented the end to any hope that Native peoples or the Métis of the northwest may have had in forging an equal partnership with the Canadian state. Having dispersed across the plains after the Red River Resistance of 1869-70, the Métis grew increasingly concerned as the government began to assert itself in the region and was doing little to address Métis' land title (Ray, Miller, and Tough 2000, 144). Coinciding with this growing state presence, the bison had disappeared, and Métis and Prairie First Nations alike found themselves without their main form of subsistence (Miller 2009, 235).

Having established permanent settlements at sites like St. Laurent and Batoche, the Métis settlements along the South Saskatchewan River contained farms, churches, mills, and stores and far outnumbered the non-Indigenous population. It was questions tied up with land that dominated the events leading up to the Northwest Resistance of 1885. Requesting title to their river lots, they also wished similar agricultural assistance as found in the Numbered Treaties. To this end, the Métis community drafted several petitions expressing these concerns, which were supported with warnings from missionaries and members of the North-West Mounted Police who urged the government to deal with these outstanding issues.

The Conservative government of Prime Minister John A. Macdonald did not heed these petitions and warnings. While government motivation for this oversight remains contested, the ramifications were crucial for the Métis and the new Canadian nation. Riel, who had been in a self-imposed exile in Montana (as he was wanted by the Canadian government), was persuaded to return to Canada to assist in the Métis campaign. Drafting a petition outlining land concerns and demands for self-government, the government again denied these requests. The ongoing lack of government action saw discussion shift to the use of force. Seizing arms and ammunition in March of 1885, the Métis community elected a provisional government with Riel as president and

Gabriel Dumont as military commander. They then issued a 10-point Revolutionary Bill of Rights asserting, among other things, title to their farms. Métis forces initially claimed military victory against the NWMP at Duck Lake, and this event and other circumstances inevitably pulled Big Bear and Poundmaker into their vortex. Both of these Nehiyawe leaders rallied to Riel due to the related issues of their own people (Miller 2009, 240).

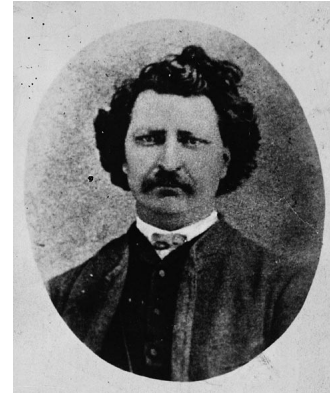


Figure 11 Louis Riel; Credit: Duffin and Co./Library and Archives Canada

In response, the Canadian government mobilized over 5,000 troops and moved them west on the just-completed transcontinental railway. The final battle at Batoche took place between the 9th and 12th of May, ending the Métis resistance. Following his surrender, Riel was tried for high treason, and being found guilty was executed in Regina that November.

Modern Day Treaties

Having signed fifty-six treaties with Indigenous peoples between 1760 and 1923, the Canadian government ended its treaty negotiations following the completion of the Williams Treaties in 1923, believing outstanding questions of Indigenous land title had been settled (Miller 2009, 222–249). By the mid-twentieth century, the hydroelectric power development along James Bay and oil development projects saw a significant impact on the traditional livelihood of the area's Indigenous peoples. These projects precipitated a new conversation between affected groups and the Canadian government.

The Office of Native Claims, created in 1973, within the Department of Aboriginal Affairs and Northern Development (DIAND) seeks to deal with the unfinished business of treaty making in Canada. Today, these are colloquially known as modern day treaties, and usually began as comprehensive claims. This office accepts the legitimacy of Indigenous land rights, making its primary function to coordinate federal negotiations regarding claims that Indigenous peoples present to government officials.

Compensatory agreements have been made in those territories not previously covered by treaty, and the government has agreed to honour obligations it made previously through the treaty process (Miller 2009, 250). Since 1973, twenty-six comprehensive land claims and four self-government agreements have been reached.

Nunavut: Example of a Modern-Day Treaty

As resource companies and the government looked to the North and its vast as-yet untapped resources, one key example of a modern treaty is the 1993 Nunavut Land Claims Agreement. In 1999, Nunavut, or “Our Land”, became Canada’s largest land claims settlement to date. An agreement reached between the Tunngavik Federation of Inuit, the Government of Canada, and the Government of the Northwest Territories returned the central and eastern portions of the Northwest Territories to the Inuit. Remaining the largest land claim settlement to date, the territory contains over 2.2 million km². This agreement saw the Inuit surrender land title, but provided for Inuit private landholding of 350,000 km² within their traditional territory, as well as wildlife management and harvesting rights, a share of resource development on Crown Lands, land and water stewardship, and public sector employment. As a territory, Nunavut is self-governing, and the Nunavut Legislative Assembly follows a consensus model to reach decisions, becoming a fully independent government in April of 1999 (Nunavut Tunngavik Incorporated).

Conclusion

Treaty as Conservation

Modern day treaties often involve the protection of land and resource development within a particular area, preventing others from exploiting Indigenous traditional territory. These types of land claim agreements allow the government to use portions of the lands, while Indigenous peoples still retain their treaty rights to the land. This includes the right to self-government, assertion of traditional laws, harvesting management rights and economic development as laid out in each individual agreement.

Modern day treaties resonate with many of the same Indigenous concepts of treaty making that we discussed earlier. These concepts rely upon ideas first introduced during the Peace and Friendship Treaties, and for the most part, included the ideas of respect, coexistence, and a sharing of the land's resources.

Credits

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- Figure 2. Great Peace of Montreal, Copy of the Treaty Including Signatures. 4 August 1701; Credit: Secrétaire de Callière et autre main/Wikimedia Commons; License: Public Domain; URL: https://commons.wikimedia.org/wiki/File%3AGrande_Paix_Montreal.jpg
- Figure 3. Eastern North America in 1775: The British Province of Quebec, the British thirteen colonies on the Atlantic coast and the Indian Reserve (as of the Royal Proclamation of 1763). Modern state boundaries are shown; Credit: Cg-realms; adapted from a scan from the National Atlas of the United States. This vector image was created with Inkscape; License: Public Domain; URL: https://commons.wikimedia.org/wiki/File%3AMap_of_territorial_growth_1775.svg
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- Figure 6. Cree Chief Big Bear at a Hudson's Bay Company trading post, ca 1885; Credit: Library and Archives Canada/C-008183; Restrictions on use: Nil; Copyright: Expired; URL: http://collectionscanada.gc.ca/pam_archives/index.php?fuseaction=genitem.displayItem&lang=eng&rec_nbr=3194523
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- Figure 8. Indian Chiefs Medal, Presented to commemorate Treaty Numbers 3, 4, 5, 6, 7, 8 (Queen Victoria); Credit: Library and Archives Canada, Acc. No. 1986-79-1638; Copyright: Expired; URL: http://collectionscanada.gc.ca/pam_archives/index.php?fuseaction=genitem.displayItem&lang=eng&rec_nbr=2851185
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- Figure 10. Louis Riel; Credit: Duffin and Co./Library and Archives Canada/C-052177; License: Public Domain; URL: <https://www.collectionscanada.gc.ca/confederation/023001-4000.61-e.html>

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