

From Dream to Reality



The Story of Treaty Land Entitlement

Cover art by Kevin PeeAce

“The central figure represents Mother Nature who stands as witness to the negotiations of the Treaty Land Entitlement process. The twenty-seven tee-pees represent twenty-seven reserves that participated in this process located in the scenic location of the Qu’Appelle Valley. The eagle and buffalo that make up the eyes symbolize the importance of TLE. The medallion is a reminder of the important treaties that were signed many years ago.”

- Kevin PeeAce

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The Story of Treaty Land Entitlement

Acknowledgements

This publication was developed for the Office of the Treaty Commissioner (OTC) as part of its mandate to support a better understanding of the historic treaties between First Nations People and the Crown in what is now known as Saskatchewan.

The purpose of this publication is to provide support to Social Science teachers as they teach about treaties. This publication provides teachers, students and the general public with information about treaty land entitlement and the law. The content of this publication is intended as general information only and should not form the basis of legal advice of any kind. Individuals seeking specific legal advice should consult a lawyer.

This publication was researched, written, and produced by the Public Legal Education Association of Saskatchewan (PLEA) for the OTC.

The OTC and PLEA gratefully acknowledge the following organizations and individuals who provided valuable consultative support.

- Saskatchewan Learning - Brent Toles, Social Sciences Consultant
- James Sifert - Leader Composite School
- Devin Bitschy - Beechy School
- Matthew Tumbach - College of Education, University of Saskatchewan
- Eugene Arcand
- Ray Ahenakew
- Howard McMaster
- Senator Roland Crowe
- Cliff Starr
- Senator Alma Kytwayhat
- Doug Cuthand
- Commissioner McKnight
- Harry Lafond

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Overview

Saskatchewan Treaty Land Entitlement - How It All Began

First Nations are the original inhabitants of Canada. For thousands of years before people came from Europe or Britain and before anyone thought of this part of the world as Canada, First Nations occupied this land. From first contact the First Nations and those who later came to this land have had to find ways to live together. The Treaties played a pivotal role in providing a peaceful means for newcomers and First Nations to live in harmony, both historically and today.

The Treaties were of enormous benefit to the people of what would later become Saskatchewan and continue to be of benefit today as they allowed the peaceful settlement and use of First Nation lands. However, the British and later Canadian governments did not only have practical and policy reason for entering into Treaties with First Nations. They also had to consider their own laws that recognized the rights of the First Nations and accepted that the Treaties were a legitimate way of dealing with those rights.

Within the Treaties, First Nations and the Crown, representing the government of Canada, made solemn promises that form the foundation of the relationship between First Nations and all the people of Saskatchewan.

First Nations viewed the Treaties as a way to share the land, have peace, continue with their traditional way of life and assure the future of their children by learning how to survive in the white man's world. In this regard, the Treaty promise of setting aside land for the exclusive use of First Nations was, and is, of vital importance to First Nations. Identity, culture and livelihood are all intimately related to the lands First Nations occupy. And although more than a century has passed since the time the Treaties were signed, the issue of setting aside land for the exclusive use of First Nations has only recently been addressed head-on.

The story of Saskatchewan Treaty Land Entitlement is the story of how people came together to find a way to fulfill this cornerstone obligation of the Treaties.

As discussed, land for the exclusive use of First Nations of what is now Saskatchewan was promised when the Treaties were first entered into. Specifically, the Treaties provided that the First Nations would receive a certain number of acres based on their population.

In order to accurately determine the populations, each First Nation had to be surveyed. However, historical research shows First Nations populations were undercounted when the reserves were initially surveyed. In many instances individuals who happened to be away fishing, hunting or even simply visiting a neighbouring Nation were not included in the population count. In other instances the Indian agents responsible simply did not accurately record the population. As an accurate population count was critical for ensuring that First Nations received all of the land they were entitled to under the Treaties, undercounting resulted in what would come to be known as the Treaty land debt.

The resulting Treaty land debt was not dealt with for many, many decades following the signing of the Treaties. During this time both the nature of the First Nations themselves and how land was used in Saskatchewan had changed dramatically. Because of these changes a number of issues had to be resolved before the Treaty land debt could be addressed in any meaningful way and the Treaty promises fulfilled.

One issue that needed to be resolved was how to determine the cut-off date for establishing First Nation populations in order to calculate how much land was still owed under the Treaty. Using the population as of the date of first survey left First Nations whose populations had grown significantly without adequate land, and was not in keeping with the spirit and intent of the Treaties that suggested that the Treaties should be interpreted as living documents capable of embracing changing circumstances. Using a later date, however, could be seen as arbitrary and could also result in inadequate compensation to First Nations whose populations had been seriously undercounted at the date of first survey but who had not seen rapid growth of their population in the following years.

Another issue was finding the land to fulfill the obligation of setting aside land for the exclusive use of First Nations. At the time of the signing of the Treaties much of the land in Saskatchewan was held by the federal government as Crown land. There were vast tracts of unoccupied Crown land that could be selected under Treaties. However, in the years since the first surveys much of the productive land had come to be owned by private individuals. The Crown land that was available was generally of poor quality and Crown land that was productive was often subject to third party interests because it was being used for things like community pastures.

The problem of finding land was further complicated by the division of powers and responsibilities between the federal and provincial governments. The federal government is responsible for fulfilling the obligations under the Treaties. However, upon Saskatchewan becoming a province, the federal government transferred ownership of Crown land in Saskatchewan to the province. At the same time the province agreed to provide provincial Crown land, at no cost, to the federal government to fulfill the Treaty promise to set land aside for the exclusive use of First Nations. Now a meaningful way had to be found to fulfill the obligations under the Treaties with productive land, while at the same time meeting the needs of other citizens of Saskatchewan and various levels of government.

How these complex land issues were resolved in a way that honoured the land promises in the Treaties and also honoured a relationship based on the “spirit of negotiation rather than confrontation” is the story of Treaty Land Entitlement in Saskatchewan. The lessons in this guide, framed around the Office of the Treaty Commissioner’s video *From Dream to Reality: The Story of Treaty Land Entitlement in Saskatchewan*, explore this story, and are designed for use with Unit Three: Claims and Treaty Land Entitlements of Saskatchewan Education’s Native Studies 30 Curriculum (1997). For teachers of other disciplines looking to introduce Treaty Land Entitlement into their programs, Key Concepts are pointed to in each lesson to aid in the implementation process.

Lesson 1

Treaties - The Foundation for
Treaty Land Entitlement



Key Concept

Treaties are part of the law of Canada and there is a legal obligation to fulfill Treaty promises, including the promise to set aside a specific amount of land for the exclusive use of First Nations.

This concept is best illustrated with the handout *Upholding the Honour of Treaties*.

Rationale

This lesson is designed to introduce students to the basics of the legal system and to Canada's system of law-making. This will help students understand how society must adhere to laws, how agreements must be honoured, why Treaties were entered into and how Treaties and Treaty Land Entitlement fit into this legal framework.

Learning Objectives

Knowledge:

- Students will describe the basis for Treaty Land Entitlement.
- Students will examine the relationship between Aboriginal peoples and the land.
- Students will synthesize the relationship between worldview and the approach to settling Treaty Land Entitlement issues in Canada.

Values:

- Students will develop respect for the legal and moral basis for fulfilling Treaty rights.

Skills:

- Students will practice group process skills.
- Students will justify their position toward Treaty Land Entitlement and be prepared to demonstrate rational support.

Teacher's Background Information

By the 1970s both federal and provincial levels of government and First Nations recognized that the obligation to provide land to First Nations as part of what was agreed to in the Treaties had not been fulfilled. The federal government would not be keeping their part of the bargain, created when Treaties were entered into, if this debt was not satisfied. The province also had obligations under the *Natural Resources Transfer Agreement* to transfer provincial Crown land to the federal government to allow them to fulfill these obligations.

To understand the gravity of breaching a Treaty it is helpful to understand why Treaties were entered into in the first place and how governments, First Nations and Canadian law view the fulfillment of obligations under Treaties.

Mutual Benefit

When people from Britain and other countries came to what is now Canada they found it already occupied by First Nations. They could have chosen war or peace. They could have chosen negotiation or confrontation. They chose peace and negotiated mutually binding and beneficial agreements. They chose to enter into Treaties. The choices that the newcomers and the original occupants of this land made about how to live together form the foundation of what is Canada today.

Treaties by their very nature involve at least two parties and represent an agreement between those parties. Treaties are not about one side giving and the other side taking. They involve mutual benefit, compromise and give and take on the part of both parties. Both First Nations and the Canadian government signed the Treaties. They did so on behalf of their people and for the future benefit of their people. The descendants of the newcomers continue to benefit from the use of the land opened up by the Treaties while the descendants of the First Nations continue to have the right to the benefits promised to them in exchange for enabling peaceful settlement of the land. As the descendants of the people on whose behalf the Treaties were signed we are all Treaty people and have both the obligation to uphold the Treaties and the right to benefit from them.

The Need for Treaties

There were a number of very practical reasons that Britain, and later Canada, chose to negotiate Treaties with the First Nations. Early on the British needed military support from the First Nations if they were to succeed in claiming what is now Canada for their own in the face of competing claims from other countries. As more people came from Britain and other places to what is now Canada it also became clear that conflict could result if no agreement was reached about sharing the land. The government was anxious to avoid this conflict and at the same time secure for itself access to the land and resources.

This reality has been recognized by the Supreme Court of Canada. When looking back at the 1752 Mi'kmaq Treaty the Supreme Court noted that this Treaty was entered into after more than a decade of intermittent hostilities between Britain and the Mi'kmaq, that the British wanted peace and safety for their settlers and that they did not feel completely secure in occupying what is now Nova Scotia.

Similarly the Supreme Court, when considering the 1760 Treaty with the Huron First Nation concluded that "...both Great Britain and France felt that the Indian nations had sufficient independence and played a large enough role in North America for it to be good policy to maintain relations with them very close to those maintained between sovereign nations." The court went on to note that Britain did everything it could to keep each Indian nation as an ally and to encourage nations that supported their enemy, France, to change sides. Once Britain secured a nation's alliance a Treaty would be negotiated. The Treaties and the relationships created by them stopped wars between the First Nations and the French and the British and helped to ensure the peaceful settlement of what is now Canada.

After becoming independent of Britain, the Canadian Government used the already well established Treaty-making tradition when negotiating with the First Nations on the prairies. Just as Britain had before Confederation, Canada benefited from these Treaties in many lasting ways. Treaties 1 to 7 cleared the way for the Canadian Pacific Railway and agricultural settlement in the prairies and northwestern Ontario. The waterways of the north, the Peace, the Athabasca and the Mackenzie Rivers all afforded passage to the Yukon and once the gold rush began the potential for conflict between First Nations and those travelling to the Yukon through First Nations territory increased. Treaty 8, giving access to the Yukon Territory, was entered into after the start of the gold rush. Treaty 9 followed silver discoveries and expected hydroelectric, pulp and paper development in northern Ontario and Treaty 10 served a similar purpose in northern Saskatchewan. Treaty 11 was entered into after Imperial Oil's first gusher at Norman Wells and gave access to this potentially lucrative resource.

The Treaties were made because First Nations and non-First Nations people were occupying a common territory and could have come into conflict unless some means of reconciling the rights of each were found. While the American government spent around \$20 million every year during the 1870s forcing First Nations off of the United States plains through bloody conflicts, Canada spent only slightly more than \$730,000 between 1875 and 1905 on costs related to the Treaties. There was also considerably less bloodshed in Canada during these years. The Treaty rights that the Crown received have had a profound influence on the history of Canada, and the Crown and Canadian people continue to exercise their Treaty rights today.

Procedure

1. Using the Teacher's Background Information, introduce students to the concepts surrounding entering into Treaties between the Crown and the First Nations. Using a talking circle format, discuss what the statement "We are all Treaty People" means to students.
2. As a group, read and discuss the handout *Law and Treaties*.
3. Break students into groups of four to discuss the handouts *Upholding the Honour of Treaties: The Crown* and *Upholding the Honour of Treaties: First Nations* as First Word, Last Word activities:
 - Students should independently read *Upholding the Honour of Treaties: The Crown* then highlight two or three different passages about which they have thoughts.
 - In groups, have first student read one of their highlighted passages without comment.
 - Rotate through circle and allow each remaining student an opportunity to share their thoughts on that highlighted passage while others listen but do not interject.
 - End with student who originally shared passage to summarize their thoughts given the feedback of others.
 - Continue activity with next student sharing a passage until all have had the opportunity to discuss pertinent passages from the reading.
 - Have students repeat activity with reading *Upholding the Honour of Treaties: First Nations*.
4. Using the overhead *Considering Treaties: The Courts* discuss how Treaties are meant to ensure that First Nations continue to have the ability to support themselves and share the economic benefits of the land. Teachers may wish to use the *Considering Treaties: Case Studies* overhead notes to illustrate how Treaties are not concepts frozen in time.
5. To summarize the concepts about the legal and moral obligations of fulfilling Treaty obligations, have students create a concise position statement: Why should Treaty Land Entitlement be honoured? Students should be able to justify their position with evidence.
6. For further understandings on the relationship between the law and Treaties, consider checking out the learning resource *Treaties and the Law*. This learning resource features both an Information Backgrounder and a full-length Teacher's Resource Guide. Find it online at plea.org.



Law and Treaties

According to the rule of law government must uphold and enforce the law and everyone, including the government, must obey the law. There are legal reasons, found within the laws of Canada, for entering into Treaties. For this reason the government is obligated by the laws of Britain and later Canada to deal with the interests of the First Nations in certain ways. One of these ways is by Treaty.

The common law is where the laws concerning the rights of the First Nations developed. This part of the common law is referred to as the common law of Aboriginal rights. Common laws are laws that are not created by governments. They are not written in a law passed by the government. Common law dates back to a time in Britain before there was a parliament with the power to pass legislation. Judges then applied a common standard of rules to all cases heard in the country. These rules originated from local customs. Common law rules continued to be laws even after laws could be passed by governments and continue to be part of British and Canadian law today.

The concept of Aboriginal rights became part of the British

common law and then part of Canada's common law after Canada became a country. Because the common law recognized the rights of the First Nations, the

Because the common law recognized the rights of the First Nations, the British needed to deal with those rights before they could lawfully settle on First Nation lands

British needed to deal with those rights before they could lawfully settle on First Nation lands. The common law recognized Treaties as a legitimate way of dealing with First Nations' interests in their lands.

Because of common law Aboriginal rights, the local customary laws of the people who had historically occupied the land continued to apply even after Britain began to rule Canada. One of the local customary rights that continued to exist even after the British began to rule what is now Canada was the right of First Nations to occupy their traditional lands. This right did not come from any action of the British government; it existed because the First Nations were already occupying the land when the British came to Canada. The Supreme Court of Canada has observed that the "...British policy towards the native population was based on respect for their right to occupy their traditional lands."

Because the rights of First Nations were recognized, Treaties were the legal means of gaining the consent of First Nations to open up land for settlement and in return First Nations were promised certain things, such as land for their exclusive use. Under the common law it was not possible for individual settlers to make legal agreements regarding the use of First Nation lands. It was up to government to deal with the First Nations before settling land they occupied. The Treaties can be viewed as part of the foundation of our legal system. Without these Treaties the right of Britain and later Canada to settle the land could be called into question.

Under the common law it was not possible for individual settlers to make legal agreements regarding the use of First Nation lands

The common law was not the only law which recognized the rights of the original occupants. The right of First Nations to continue to occupy their lands was recognized by the British Crown in the *Royal Proclamation of 1763*. This Proclamation did not create new rights for First Nations but it did recognize that these rights existed.

When the Proclamation was passed it became the law in the British colonies and, since it

Law and Treaties

...continued

has never been repealed, it continues to be the law today in Canada. The Proclamation forbade British subjects from moving onto or purchasing lands occupied by First

Nations. It also stated that if “Indians should be inclined to dispose” of their lands they

could only be purchased by the Crown. The Proclamation not only recognized the rights of First Nations to their land, it recognized the need for Treaties between the Crown and First Nations concerning the use of First Nation lands.

The Proclamation forbade British subjects from moving onto or purchasing lands occupied by First Nations

Questions for Consideration

1. a) What is the rule of law?
b) Why do you think this concept is key for law-abiding, democratic societies?
2. a) What does the common law say about First Nations’ rights to the land they have always lived on?
b) What agreements did the Crown and the First Nations enter into in order to allow First Nations’ land to be opened up for settlement?
3. What important right was recognized by the *Royal Proclamation of 1763*?
4. This reading notes that “Without these Treaties the right of Britain and later Canada to settle the land could be called into question.” What do you think is the significance of this statement?



Upholding the Honour of Treaties: The Crown

Treaty rights are part of the law of Canada. The Treaties created enforceable obligations. The Crown, having made solemn, sacred promises and having received benefits under the Treaties, is obliged to uphold its honour by fulfilling the promises made to the First Nations. The

‘the honour of the Crown is always at stake in its dealing with Indian people [and] it is always assumed that the Crown intends to fulfill its promises’

lasting and binding nature of the Treaty promises was reinforced when these rights were made part of the Constitution of Canada. The Constitution is the highest law of the land.

In 1991 a Royal Commission on Aboriginal Peoples was established by the federal government. This Commission looked at a broad range of issues concerning the relationship between Aboriginal peoples, governments and other Canadian citizens with a focus on the question: What are the foundations of a fair and honourable relationship

between the Aboriginal and non-Aboriginal people of Canada? In their final report they recognized the Treaties

as fundamental to that foundation. They noted that the Treaties are promises and the importance of keeping promises is “deeply ingrained in all of us, and indeed is common to all cultures and legal systems.” And that the fact that Treaties were entered into represents “...a profound commitment by both parties to the idea of peaceful relations between people.” Canada would not be the Canada we know today if both the First Nations and those representing the British and later Canadian governments had not been committed to the Treaties as peaceful means of deciding how they were going to live together.

Just as Canada gained certain rights under the Treaties with First Nations, Canada also has certain obligations to the First Nations that entered into Treaties. The Supreme Court of Canada, when considering a First Nation Treaty entered into in 1752, stated “the Treaty was an exchange of solemn promises between the Micmacs and the King’s representative entered into to achieve and guarantee peace... it is an enforceable obligation between the Indians and the white man...”

the Treaty promises were ‘...not for to-day but for to-morrow, not only for you but for your children born and unborn, and the promises we make will be carried out as long as the sun shines above and the water flows in the ocean’

As early as 1895 the Supreme Court of Canada described the fulfillment of Treaty promises as a matter involving the “faith and honour of the Crown.” One hundred years later the Supreme Court still stressed that “the honour of the Crown is always at stake in its dealing with Indian people” and that “it is always assumed that the Crown intends to fulfill its promises.”

Former National Chief of the Assembly of First Nations Phil Fontaine has noted that Treaties are sometimes seen as “...ancient, obsolete relics of marginal historical interest.” However, at the time that Treaties were originally entered into, the Crown’s chief negotiator stated that the Treaty promises were “...not for to-day but for to-morrow, not only for you but for your children born and unborn, and the promises we make will be carried out as long as the sun shines above and the water flows in the ocean.”

Just as the Canadian government over the years continues to rely on its Treaty right to the land, the Treaties continue to give rights to First Nations.



Upholding the Honour of Treaties: The First Nations

For First Nations the Treaties are sacred and spiritual agreements, representing an alliance with the Crown that cannot be broken. From the First Nation perspective the Treaties were entered into on a “nation-to-nation” basis to set out the relationship between the First Nations and the British Crown and later the Canadian Government.

The Treaties represented many different things to the First Nations including a way to share the land, have peace, continue with their way of life and assure the future of their children by learning how to survive in the white man’s world.

First Nations generally saw Treaties as a way of planning for their economic future. Especially during the time when the Treaties were entered into on the prairies, the First Nations were faced with famine, disease and hardship as the buffalo they depended on

about the continuation of their traditional means of living - such as hunting and fishing - in nearly all records of Treaty negotiations.

Many First Nations also recognized that their world was changing and regarded the Treaties as a way of helping their people adjust to these changes. Treaty promises of schools and help with farming were

Influenced by these harsh conditions, the First Nations focused on the future and how they could ensure their survival for generations to come

became very scarce. Influenced by these harsh conditions, the First Nations focused on the future and how they could ensure their survival for generations to come.

Many First Nations saw the Treaties as a way of being able to continue living as they had for countless generations. For this reason great concern was expressed by the First Nations

included because “First Nations negotiators wanted training for their people so that they could adapt to the new way of life being brought upon them.”

OVERHEAD



Considering Treaties: The Courts

The Supreme Court has said courts must consider:

- context of Treaties
- oral promises
- how the words would have been understood by First Nations
- that Treaties were intended to evolve over time

R. v. Simon [1985] 2 S.C.R. 387

The Supreme Court found that the Treaty right to hunt “as usual” evolved over time to include hunting with a rifle even though rifles were not used when the Treaty was signed.

R. v. Sundown [1999] 1 S.C.R. 393

The Supreme Court ruled that the traditional right to hunt, by using temporary shelters for expeditions, had evolved to allow the building of small log cabins for this purpose.

R. v. Marshall [1999] 3 S.C.R. 533

The Supreme Court found that the obligations of both the Crown and the First Nations had evolved over time. They found that the Crown did not have to continue with the trading post system that existed when the Treaty was signed.



OVERHEAD Notes

Considering Treaties: Case Studies

The Supreme Court has said that when considering a Treaty a court must consider "...the context in which the Treaties were negotiated, concluded and committed to writing." Courts will also consider oral promises and interpret the words in a Treaty as they would have been understood by the First Nations when the Treaties were signed.

Part of the context of the Treaties is that they were intended by both First Nations and governments to ensure that First Nations would be able to continue to support themselves.

One way to gain peace and support from the First Nations and at the same time ensure that the First Nations could support themselves was to protect their way of life by Treaty. When considering why the 1752 Mi'kmaq Treaty was made the Supreme Court stated that "peace was bound up with the ability of the Mi'kmaq people to sustain themselves economically." The Court went on to say that the "British certainly did not want the Mi'kmaq to become an unnecessary drain on the public purse..." and that "to avoid such a result, it became necessary to protect the traditional Mi'kmaq economy, including hunting, gathering, and fishing."

Another principle of Treaty interpretation is that Treaties are not frozen in the point of time when they were made. Many changes have taken place since the Treaties were signed. The Treaties are the foundation for how the newcomers and the First Nations would live together and as such they have been seen to evolve over time to meet the changing needs of the parties who entered into them.

R. v. Simon [1985] 2 S.C.R. 387

The Supreme Court had to consider whether a Treaty promise that "the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting & Fishing as usual..." meant that only implements used when the Treaty was signed could be used. A member of the Treaty First Nation was relying on his Treaty right to hunt as a defence to an illegal hunting charge. He had been hunting with a rifle. The Court noted the principle that Treaties should be liberally construed and found that limiting it to implements used in the 1700s would be an "unnecessary and artificial constraint." The Court found that the words "as usual" required that hunting rights under the Treaty "...be interpreted in a flexible way that is sensitive to the evolution of changes in normal hunting practices."

R. v. Sundown [1999] 1 S.C.R. 393

The Supreme Court had to consider whether cutting down trees and building a log cabin in a forest was part of a Treaty right to hunt. The Court stated that "...judges must not adopt a 'frozen-in-time' approach to Aboriginal or Treaty rights." The Court noted that "the phrase 'existing Aboriginal rights' [in Canada's Constitution] must be interpreted flexibly so as to permit their evolution over time" and found that this applies to Treaty rights as well. The Court considered that the Treaty hunters had traditionally built shelters as a base from which to hunt for extended periods. The Court found that originally this would have been a moss-covered lean-to and later a tent. The Court concluded that the shelter "has evolved to the small log cabin, which is an appropriate shelter for expeditionary hunting in today's society."

OVERHEAD Notes ...continued



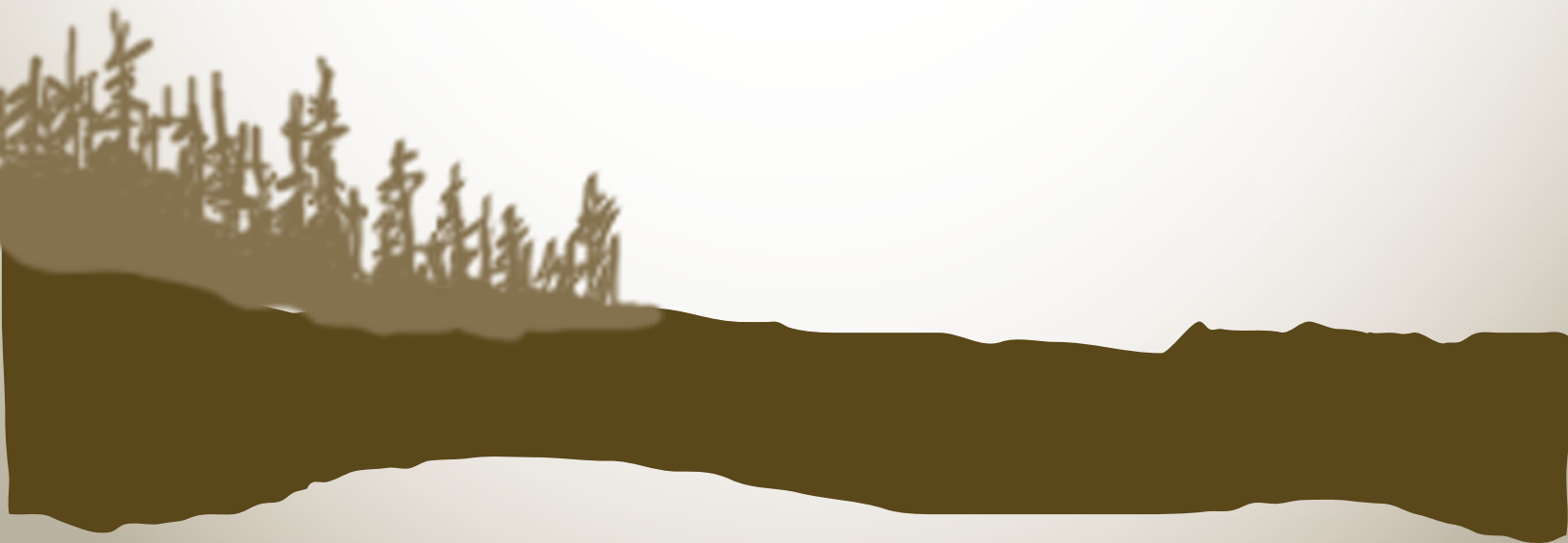
R. v. Marshall [1999] 3 S.C.R. 533

The rights and obligations of both the Crown and the First Nations have evolved over time. The Supreme Court decided that the Crown was not breaching a Treaty that provided for the establishment of “truckhouses” (a type of trading post) simply because the truckhouse system had been ended. The Crown did not have to use this particular method of fulfilling their obligation to allow the Mi’kmaq to continue to trade hunting and fishing products for necessities, anymore than the Mi’kmaq had to use weapons that existed in the 1700s.



Lesson 2

Treaty Land Entitlement - The
Saskatchewan (1976) Agreement



Key Concept

The Saskatchewan (1976) Agreement was intended to resolve the Treaty land debt, created due to the undercounting of First Nations' populations at the time land was first set aside under Treaty. The 1976 agreement calculated entitlements based on 1976 populations and used Crown land to make up for the shortfall. The quality and quantity of available Crown land and existing third party interests in Crown land hampered the process, and eventually the provincial and federal governments backed away from the 1976 agreement.

These concepts are best illustrated with the handout *The Saskatchewan (1976) Agreement* and at points 0:29 to 1:55 and 5:19 to 6:36 in the *From Dream to Reality* video.

Rationale

This lesson is designed to make students critically examine and understand the first attempt at resolving Treaty Land Entitlement - the Saskatchewan (1976) Agreement. By examining this agreement they will gain an understanding of the issues and challenges that had to be faced to ultimately resolve Treaty Land Entitlement.

Learning Objectives

Knowledge:

- Students will analyze the nature of local involvement in Treaty Land Entitlement negotiations.
- Students will describe the basis for Treaty Land Entitlement.

Values:

- Students will appreciate the diversity of perspectives and empathize with the positions of various stakeholders in relation to Treaty Land Entitlement.
- Students will appreciate the changing nature and content of negotiations over Treaty Land Entitlement.

Skills:

- Students will interpret and analyze the diversity of positions with respect to Treaty Land Entitlement.

Teacher's Background Information

One of the agreements made between First Nations and the Crown, represented by the federal government when the Treaties were entered into in what is now Saskatchewan, was that some land would be set aside for the exclusive use of the First Nations. Land set aside in this way is called a reserve.

The purpose of the land was to allow First Nations to continue to support themselves in the face of diminishing food and fur resources. Agriculture was thought to be the way that First Nations would use this land, but having land for their exclusive use was and is important to the First Nations in many other ways as well. The land is a place where First Nations can continue to govern themselves and it is also the source of revenue from agriculture, minerals, timber and other resources.

Creation of Treaty Land Debt

The Treaties promised First Nations a certain number of acres per member of their nation. To fulfill the promise of setting aside land for the First Nations it was necessary to know how many people belonged to the First Nation in question and calculate how much land should be included. Except for Treaties 2 and 5, the Treaties covering Saskatchewan provided for one square mile per family of five or 128 acres per person. Treaties 2 and 5 provided for 160 acres per family of five in most cases.

After the Treaties were entered into surveyors did not immediately come to survey for reserves. Many Plains First Nations wanted to continue to hunt for as long as possible and the Northwest Conflict created turmoil. When the surveyors did come they had to find out how many people belonged to the First Nation for which a reserve was being surveyed. In some cases they talked with government representatives called Indian Agents. Present day research suggests that some Agents gave misleading information about population size. Some members of the group would likely have been away as it was common practice to travel to find food, for social interaction or for protection. The result was that some First Nations did not receive all the land they were entitled to by Treaty.

Groups that did not receive what they were entitled to under Treaty are called an Entitlement Band or an Entitlement First Nation. Band is a word used to describe a First Nation for whom a reserve has been set aside by the federal government. The term First Nation refers to a group of original occupants and is sometimes used interchangeably with the word Band.

A number of other terms are used when talking about the Treaty land debt. Treaty Land Entitlement refers to land owed under Treaties. This is also sometimes called the Treaty land debt. The term shortfall is used to describe the difference between the amount of land a First Nation received when their reserve was first surveyed and what they should have received based on their population at this time.

Challenges to Fulfilling Treaty Land Debt

Although it was recognized that in order to fulfill Treaty promises more land than had initially been surveyed for reserves had to be set aside for First Nations, two issues had to be resolved. First, a way to calculate how much, if any, land was still owing under the Treaties had to be developed. Because the amount a First Nation is entitled to is based on their population, an agreement had to be reached on what date to use for population measurement. A choice had to be made between using the date of first survey or some other date based on more current population numbers.

Second, how land was going to be found to fulfill these promises had to be determined. When reserves were first set aside for First Nations, Crown land was used. Crown land is land that belongs to the government. By the 1970s, when the parties were trying to resolve the question of Treaty Land Entitlement, there was much less productive Crown land available and some of it was subject to third party interests. For example, some individuals had leased (rented) Crown land to use as pasture.

Procedure

1. Using the Teacher's Background Information, discuss with students why more land had to be set aside for First Nations than what they had been allotted, in order to fulfill Treaty promises.

2. Discuss the terminology used when talking about Treaty Land Entitlement using the handout *Definitions*.
3. Lead group discussion of the handout *The Saskatchewan (1976) Agreement*.
4. VIDEO ACTIVITY - To reinforce and contextualize The Saskatchewan (1976) Agreement and the challenges faced on resolving Treaty Land Entitlement provide students with Key Question and view Part One of *From Dream to Reality*.

KEY QUESTION: What were the features and failures of The Saskatchewan (1976) Agreement ?

HANDOUT



Definitions

- Shortfall
- Band
- Crown Land
- Lease
- First Nation
- Reserve
- Saskatchewan (1976) Agreement
- Entitlement Band or First Nation
- Date of First Survey

1. _____ A group of First Nations people for whom a reserve was set aside by the federal government.

2. _____ Used instead of band or sometimes interchangeably with band to refer to a group of original occupants.

3. _____ Land that has been set aside for the exclusive use and occupation of a band/First Nation by the federal government because of Treaty obligations or for other reasons.

4. _____ Land that belongs to the federal or provincial government.

5. _____ A negotiated agreement to fulfill Treaty land debt using a First Nation's population as of 1976 and using available provincial Crown land to fulfill the debt.

6. _____ The date when the government first sent a surveyor to determine the population of a First Nation and establish the boundaries of the reserve based on the number of acres per person provided for in the Treaty.

7. _____ An agreement to rent property for a period of time.

8. _____ The difference between the amount of land a First Nation received when their reserve was first surveyed and what they should have received based on their population at this time.

9. _____ A First Nation that did not receive the amount of land they were promised under Treaty.



The Saskatchewan (1976) Agreement

Treaty Land Entitlement was initially determined by the federal government by multiplying the population of a First Nation by the number of acres promised in the Treaties. Except for Treaties 2 and 5, the Treaties covering Saskatchewan provided for one square mile per family of five or 128 acres per person. Treaties 2 and 5 provided for 160 acres per family of five in most cases.

Under this agreement the amount of land owed to First Nations was determined based on their population as of December 31, 1976

First Nations were aware that they had not received all the land promised under the Treaties and wanted governments to fulfill the promises they had made in the Treaties. During the 1970s the Federation of Saskatchewan Indians (FSI), the precursor group to the current Federation of Saskatchewan Indian Nations (FSIN), researched and negotiated an agreement known as The Saskatchewan Agreement in 1976. The Agreement was not a formal agreement but was based on exchange of letters.

Under this agreement the amount of land owed to First Nations was determined based on their population as of December 31, 1976. This formula was agreed to

by the province, the federal government and the FSI. When the FSI accepted this cut-off date it was in the hope that within five years land entitlement under the Treaties would be largely satisfied.

After the Agreement was reached further research was done and eventually 30 First Nations in Saskatchewan were recognized as being owed land under the Treaties. These First Nations are called Entitlement

First Nations or Bands. The final total of land required to fulfill this debt exceeded 1.2 million acres.

Under the Agreement the land made available to fulfill the Treaty promises was Crown land, owned by the government. There was no provision for government to purchase private land to fulfill the Treaty debt. This meant that the land had to come from Crown land that government had available. For land to be available it would have to be land that was essentially not being used. Land that was not being used tended to be non-productive land.

There was no provision for government to purchase private land to fulfill the Treaty debt

As well under this agreement First Nations had to deal with people who had an interest in the Crown land that was needed to settle the treaty debt. There was considerable hostility from people who depended on Crown lands for their livelihood. While for the most part these people felt that the Treaty land debt should be satisfied, they did not feel it was fair for them to have to suffer financial losses so the debt could be satisfied. There were no provisions in the Agreement for compensation for third party interests.

As the years went by very little land was transferred to First Nations to satisfy outstanding Treaty obligations. Almost all of the few transfers that were made were in the north of the province where existing third party and government interests posed no serious problems.

There was considerable hostility from people who depended on Crown lands for their livelihood

The FSIN was frustrated by the slow pace of land settlements. They saw the province as giving into pressures from rural populations, such as those who leased Crown land as pasture and rural municipalities, and the federal government

HANDOUT



The Saskatchewan (1976) Agreement

...continued

as neglecting their obligations by remaining silent and letting the province develop their own position. For land of some

intent of the Treaties and the Saskatchewan Agreement.

A group of First Nations started a legal action taking the position that the Saskatchewan Agreement was a binding legal agreement and not just a statement of policy. As far as the First Nations and the FSIN were concerned the

at the time the entitlement was settled. Between 1976 and 1989 when the action was started many First Nations' populations had grown considerably. For example, the Starblanket First Nation had gone from 196 to around 300. It was also a compromise for governments because they would

For land of some economical value to be transferred to fulfill Treaty obligations there would be both political and financial costs and the FSIN did not see governments as willing to meet these

As far as the First Nations and the FSIN were concerned the Saskatchewan Agreement was a negotiated agreement based on the interpretation of the Treaties

economical value to be transferred to fulfill Treaty obligations there would be both political and financial costs and the FSIN did not see governments as willing to meet these.

Both levels of government eventually backed away from the Saskatchewan Agreement and moved in the direction of determining entitlements based on the date of first survey. The FSIN rejected this idea because it ignored the terms, spirit and

Saskatchewan Agreement was a negotiated agreement based on the interpretation of the Treaties. To them it represented a compromise between all three parties (First Nations, Government of Saskatchewan, Government of Canada) and was binding on all three parties.

It was a compromise for the First Nations because it used a cut-off date of 1976 instead of what the First Nations had argued for which was the current population

have liked to use the population as of the date of the first survey.

The launching of this lawsuit and the opinion of some government representatives that this lawsuit could be successful were catalysts that prompted the parties to find another solution.

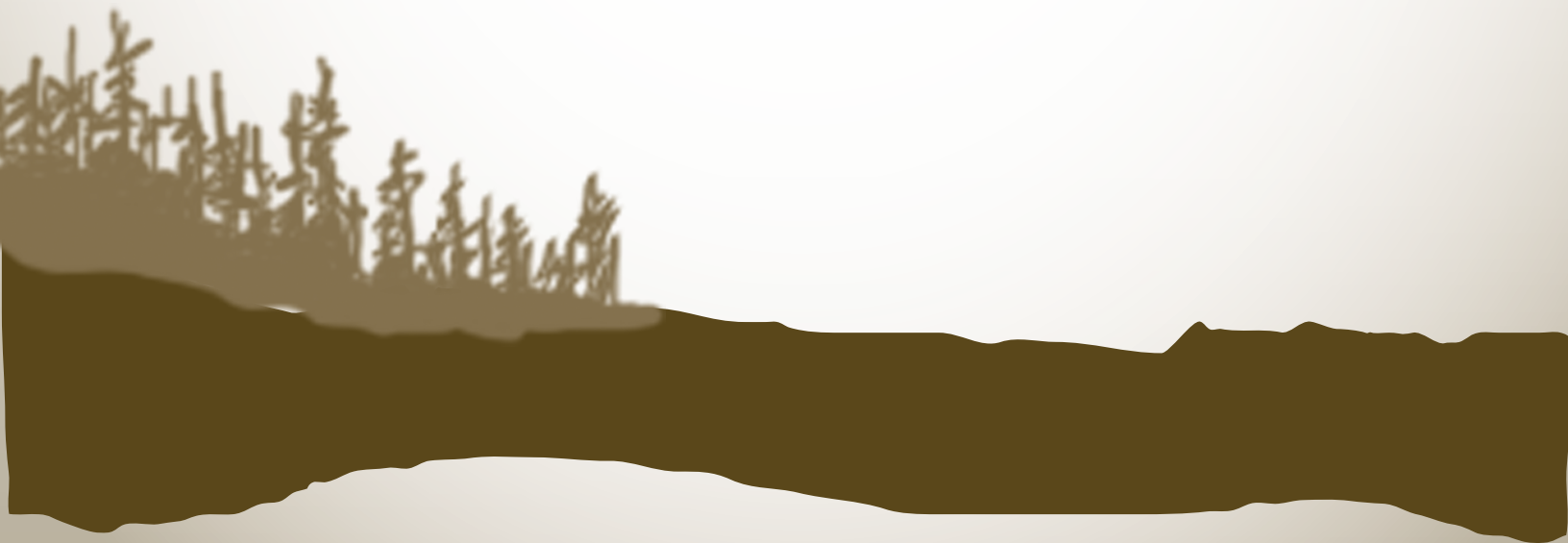
Questions for Consideration

1. How was the amount of land to be set aside under the Treaties calculated?
2. What arguments were there for and against using 1976 as the cut-off date for determining population size?
3. What problems existed with using Crown land to fulfill the requirements for Treaty Land Entitlement?
4. What effect did the Government not honouring The Saskatchewan (1976) Agreement have on settling Treaty Land Entitlement issues?



Lesson 3

Treaty Land Entitlement
Negotiations – Who's Who



Key Concept

In negotiating Treaty Land Entitlement, the Federation of Saskatchewan Indian Nations believed the Treaty promises must be upheld. The federal and provincial governments agreed that initial land allotments were inadequate, but they wanted to limit the land debt to an amount that was more manageable given the land currently available and third party interests in that land. The Office of the Treaty Commissioner was formed to find a way to resolve Treaty Land Entitlement issues.

This concept is best illustrated with the handout *From Dream to Reality: Video Activity*, and at points 7:05 to 8:26, 15:06 to 15:55, and 18:19 to 18:38 in the *From Dream to Reality* video.

Rationale

This lesson is designed to introduce students to the major groups involved in negotiating the terms of Treaty Land Entitlement settlement. By understanding the roles of these groups, students will be better able to understand the multifarious needs to be addressed in negotiating a Treaty Land Entitlement agreement.

Learning Objectives

Knowledge:

- Students will define the major issues contained within the scope of Treaty Land Entitlement.
- Students will describe the process used to settle Treaty Land Entitlement.

Values:

- Students will develop empathy for all persons based upon an understanding of human needs.
- Students will appreciate the diversity of stakeholder perspectives in relation to Treaty Land Entitlement.

Skills:

- Students will interpret and analyze the diversity of positions with respect to Treaty Land Entitlement.
- Students will practice group process skills.

Procedure

1. Divide the students into groups of three for a jigsaw activity that introduces the stakeholders that are parties to the Treaty Land Entitlement Agreement: the Federation of Saskatchewan Indian Nations, the Federal Government, and the Provincial Government.
 - a) Assign each student to one of the handouts *Treaty Land Entitlement Negotiations: Background on the Federation of Saskatchewan Indian Nations*, *Treaty Land Entitlement Negotiations: Background on the Federal Government*, or *Treaty Land Entitlement Negotiations: Background on the Provincial Government*.
 - b) Students should summarize the role of their assigned stakeholder by answering the following questions, then reporting back to their group:

- What are the obligations of their stakeholder in negotiating Treaty Land Entitlement?
 - What complicating factors exist for their stakeholder?
- c) Once each group has discussed the various stakeholder perspectives, each student should create a position statement for the stakeholder they have been assigned...

“As head of the FSIN/Provincial Government/Federal Government, I believe...”

2. Regroup the class as a whole for students to share their position statements, looking for commonalities and differences.
3. Bridge class discussion into a reading of the handout *Treaty Land Entitlement Negotiations: Background on the Office of the Treaty Commissioner*, to understand the importance of the Office of the Treaty Commissioner in negotiating a Treaty Land Entitlement agreement.

KEY QUESTION: Given the many parties with interests in seeing Treaty Land Entitlement resolved, why was it important that an independent organization like the Office of the Treaty Commissioner be formed to achieve common understandings on the Saskatchewan Treaties (No. 4, 5, 6, 8, and 10)?

4. To summarize the concepts, discuss the overhead *Treaty Land Negotiation* with class.
5. VIDEO ACTIVITY – To better illustrate and understand the directions taken in Treaty Land Entitlement negotiation from the perspectives of the Federation of Saskatchewan Indian Nations, the Federal and Provincial Governments, and the Office of the Treaty Commissioner, have students view Part Two of *From Dream to Reality*, and complete the handout *From Dream To Reality: Video Activity*. For a more in-depth examination, teachers may also wish to have students view Part One when completing this activity.

Treaty Land Entitlement Negotiations: Background on the Federation of Saskatchewan Indian Nations

The Federation of Saskatchewan Indian Nations (FSIN) represents 74 First Nations in Saskatchewan. The Federation is committed to honouring the spirit and intent of the Treaties as well as the promotion, protection and implementation of Treaties that were made with the First Nations more than a century ago.

The FSIN of today has its roots in the Federation of

Nations people in Saskatchewan, concerns were raised regarding the non-profit status of the organization. It was felt it did not accurately reflect the organization's changing nature or mandate.

As a result a massive re-organization of the FSI was undertaken. On April 16, 1982, Saskatchewan Chiefs agreed to form Canada's first Indian Legislative Assembly. The FSI was no longer a non-profit organization but a Federation of Nations and its name was changed to reflect this by the addition of the word "Nations." This unification of First Nations in Saskatchewan put the First Nations in a better position to negotiate a settlement of the Treaty land debt.

For First Nations Treaty land is fundamental to their identity and their survival. However, for generations First Nations did not receive the land they were promised under the Treaties.

The FSIN's position was that the federal government needed to uphold the honour of the Crown by fulfilling the Treaty promises for land in a way that honoured the spirit and intent of the Treaties. This would mean both that the land would have to be productive land that could contribute to First Nations' economic foundations, as well as being of sufficient amount to meet the current needs of the First Nations based on increases in population since the time the Treaties were entered into. At the start of the negotiations both the federal and provincial governments had rejected the Saskatchewan Agreement and wanted to go back to using the population as of the date of first survey and some First Nations groups had joined together to commence a law suit to force governments to comply with the Agreement.

The Federation is committed to honouring the spirit and intent of the Treaties as well as the promotion, protection and implementation of Treaties that were made with the First Nations more than a century ago

Saskatchewan Indians (FSI). The FSI organization was created in 1958 through a combination of the three major existing First Nation organizations in Saskatchewan - the Saskatchewan Treaty Protection Association, the Association of Saskatchewan Indians and the League of Indians of Western Canada.

Despite the progress that the FSI was making on behalf of First

Position of FSIN

For First Nations the Treaties are sacred and spiritual agreements, representing an alliance with the Government that cannot be broken. From the First Nation perspective the Treaties were entered into on a "nation-to-nation" basis to set out the relationship between the First Nations and the British Crown and later the Canadian Government.

For First Nations Treaty Land is fundamental to their identity and their survival

HANDOUT



Treaty Land Entitlement Negotiations: Background on the Federal Government

The Treaties were made between First Nations and the representatives of the head-of-state of first Britain and later the representatives of the federal

The federal government wanted to go back to populations as of the date of first survey

government of Canada. Canada's Constitution gives the federal

government law-making power concerning "Indians and land reserved for the Indians."

Position of the Federal Government

By the mid-1970s the federal government was committed to dealing with outstanding land promised under the Treaties. In doing this they faced a number of challenges. While they agreed that land was owed, because the First Nations' populations had been undercounted, they had to find a way of determining the date at which the population should be counted for calculating the amount of land owed under the Treaties.

At the start of the negotiations the federal government had rejected the Saskatchewan formula that used populations as of December

31, 1976 to determine outstanding entitlements. A lawsuit started by First Nations to enforce that agreement brought the parties back to the table. The federal government wanted to go back to populations as of the date of first survey. This was viewed as limiting the land debt to what was considered to be a more manageable amount. The federal government also had no land purchase policy at the time, which meant that they were not considering purchasing land to meet their obligations. They did however have a policy that additions to reserves had to be continuous with the existing reserve. This meant that land to fulfill the Treaty debt would have to be found right next to the existing reserve of the First Nation.

Treaty Land Entitlement Negotiations: Background on the Provincial Government

Although Treaties were made between the Crown, representing the federal government, and First Nations, the First Nations people live in the provinces of Canada. For this reason it was necessary for the provinces and the federal government to cooperate in fulfilling Treaty promises, especially promises regarding setting aside lands for reserves.

When Saskatchewan became a province in 1905, Crown lands remained under federal control and Treaty rights were unaffected. Manitoba and Alberta were in the same position. *Natural Resources Transfer Agreements* (NRTA) were later made between each of these provinces and the federal government to give these provinces jurisdiction over and ownership of their natural

resources. This meant that Crown land in the province was for the most part transferred to ownership by the province.

The agreements did not transfer to the provinces any land selected and surveyed for reserves. The agreements required the provinces to transfer back to the federal government, free of charge, lands that were needed to

Natural Resources Transfer Agreements (NRTA) were later made between each of these provinces and the federal government to give these provinces jurisdiction over and ownership of their natural resources

fulfill Canada's obligations under the Treaties. The provinces were given the right to agree with the selection of land for a reserve before it would be transferred to the federal government.

Position of the Province

The province faced a situation where, while the need for land to fulfill outstanding Treaty promises was increasing, the amount of unoccupied provincial Crown land available to fulfill

these promises had decreased substantially from the time the Treaties were signed. In addition third parties now depended on these lands as part of the way they made a living, for example as community pastures. Rural municipalities also expressed concerns to the province regarding their loss of a tax base if land in their municipalities became reserve land. Depending on the percentage of municipal land that could become a reserve there were concerns about being able to maintain rural services such as roads.

Like the federal government, at the time the negotiations started the provincial government had indicated that they wanted to go back to the date of first survey to determine the amount of land owed to First Nations under the Treaties. Also like the federal government, the provinces wanted to reduce the amount owed to what they considered a manageable amount given the land that was available and third party interests in that land.

HANDOUT



Treaty Land Entitlement Negotiations: Background on the Office of the Treaty Commissioner

In 1989, the Federation of Saskatchewan Indian Nations and the Government of Canada created the Office of the Treaty Commissioner (OTC) with a mandate to provide recommendations in the areas of Treaty Land Entitlement and Treaty education. Cliff Wright was appointed as the first Commissioner. The OTC continued its work in Treaty Land Entitlement and education until its mandate expired in March 1996.

With the conclusion of the original OTC mandate, the FSIN and Canada seized the opportunity to renew the Office of the Treaty Commissioner. The Honourable

Judge David M. Arnot was appointed Treaty Commissioner for a ten-year period by an Order of the Governor in Council signed by the Governor General of Canada effective January 1, 1997.

After that term was completed the office was continued under the leadership of the Honourable Bill McKnight. The Office of the Treaty Commissioner (OTC) is an independent body that serves as the primary mechanism to coordinate and facilitate a bilateral process between the Government of Canada and the Federation of

The Office of the Treaty Commissioner (OTC) is an independent body

Saskatchewan Indian Nations to achieve a common understanding on Saskatchewan Treaties (No. 4, 5, 6, 8, and 10).

Position of the OTC

By 1989 both the province and the federal government had rejected the Saskatchewan (1976) Formula and the First Nations had launched a lawsuit to hold governments to the formula. Shortly thereafter the OTC was created by a memorandum of agreement between the then Minister of Indian Affairs and Northern Development and the FSIN in June of 1989.

By May of 1990 the Treaty Commissioner Cliff Wright presented a “Report and Recommendation on Treaty Land Entitlement” to the Minister of Indian Affairs and Northern Development and to Chief Roland Crowe of the FSIN. The recommendations in this report provided the basis for the negotiations that resulted in the signing of The Treaty Land Entitlement Framework Agreement in the fall of 1992.



OVERHEAD

Treaty Land Negotiation

When my grandfather and great grandfather signed the Treaty, they were talking about me and now I've got to talk about my grandchildren and the youth, and so that's the kind of process we're trying to continue in this whole Treaty-making process and that's what we try to remember when we work in TLE [Treaty Land Entitlement], to think about the future and make sure that we provide for the future...

It means trying to do the best we can, often making compromises between ourselves and the various levels of government, federal and provincial, municipal, and also having to work with white society as a whole, trying to understand them, trying to work with them, and yet at the same time educating them to understand us...

There are those who will never understand it and don't want to, and never will. On the other hand, there's a whole lot of good people out there who want to and will understand it. There will be benefits coming out of it for those people, and it's happening now. All of that bodes well for the coming together of a people.

- Noel Starblanket of the Starblanket First Nation in 1994

Consider the roles of the Federation of Saskatchewan Indian Nations, the Federal and Provincial Governments, and the Office of the Treaty Commissioner. What does Starblanket's quote say about the work these groups have to do to honour the intent and the implementation of Treaty Land Entitlement?



From Dream to Reality: Video Activity

For this activity, each of the four major groups involved in Treaty Land Entitlement negotiation have one key player singled out because of their influence in achieving The Treaty Land Entitlement Framework Agreement. While viewing Part Two of *From Dream to Reality*, make notes about what the groups these individuals represent have to say about Treaty Land Entitlement.

After viewing the video, consider the following questions:

1. What commonalities exist between the key players and the organizations they represent in finding a resolution to the issues of Treaty Land Entitlement?
2. Why would they want to find a resolution?

Federation of Saskatchewan Indian Nations: represented by Roland Crowe then Chief of the FSIN

“in the spirit of negotiation rather than confrontation”

The Federation of Saskatchewan Indian Nations believed the Treaty promises for land must be upheld to contribute to the First Nations economic foundations.

During the negotiations leading up to The Treaty Land Entitlement Framework Agreement, the Federation of Saskatchewan Indian Nations was represented by Chief Roland Crowe. Roland Crowe was born in 1943 as a member of the Piapot First Nation. He was chief of the Piapot First Nation for six years. He then committed himself to working for all Saskatchewan First Nations by becoming involved in the FSIN. He served as Vice Chief of the FSIN for four years and Chief of the FSIN for eight years.

Federal Government: represented by the Honourable Bill McKnight

then Member of Parliament for Kindersley-Lloydminster and Minister in the Conservative Government of Brian Mulroney

“I wanted to make a change for my province, for Canada I guess, and I decided I was bloody well going to run.”

The federal government agreed with First Nations that land had been inadequately allocated for Treaty Land Entitlement, but felt that limiting the land debt was necessary as there was an inadequate amount of Crown land available to fulfill this promise.

Bill McKnight was first elected as Conservative Member of Parliament for Kindersley-Lloydminster in 1979 and was re-elected in the next three federal elections. Between 1986 and 1989, critical years in the negotiations leading up to the Treaty Land Entitlement Framework Agreement, Bill McKnight was Minister of Indian Affairs and Northern Development. Bill McKnight went on to hold different portfolios in the federal government until his retirement from federal politics before the 1993 election. In 2007 he was appointed as Treaty Commissioner for the newly re-opened Office of the Treaty Commissioner.

From Dream to Reality: Video Activity ...continued

Provincial Government: represented by Grant Devine

then Premier

“economic diversification and land entitlement [are] very important to the Aboriginal people”

Like the federal government, the provincial government shared the belief that the amount of land allocated for Treaty Land Entitlement had been inadequate, but felt that limiting the land debt was necessary because remaining Crown land was limited.

Grant Devine was first elected as Premier in 1982. In 1986 he was re-elected for another term. Grant Devine represented the interests of the province in the negotiations leading up to The Treaty Land Entitlement Framework Agreement. Before the Agreement was signed his government was defeated in the fall of 1991. Roy Romanow was Saskatchewan’s Premier at the time the Agreement was signed.

Office of the Treaty Commissioner: represented by Howard McMaster

then advisor to Treaty Commissioner Cliff Wright

“We are all Treaty people”

The Office of the Treaty Commissioner was set up to find a way to resolve Treaty Land Entitlement issues.

Howard McMaster is a member of the Siksika Nation in Alberta. He spent his early years on the Red Pheasant Reserve where he learned the Cree language. He worked with the first Treaty Commissioner Cliff Wright from 1990-1996 carrying out historical research and advising the Commissioner. His ability to speak and understand Cree was valuable in working with Elders on historical and genealogical research to validate family records showing that populations had been undercounted when reserves were initially set aside under the Treaties. The research team of the Office of the Treaty Commissioner worked with 30 First Nations to develop the recommendations that resulted in the signing of The Treaty Land Entitlement Framework Agreement.

Lesson 4

The Saskatchewan Treaty
Land Entitlement Framework
Agreement



Key Concept

The Saskatchewan Treaty Land Entitlement Framework Agreement was put forth to resolve the Treaty Land Entitlement issue. An equity formula was developed to rectify problems with first surveys of First Nations' populations, and land was to change hands on a "Willing Buyer, Willing Seller" basis.

This concept is best illustrated with the handouts *The Saskatchewan Treaty Land Entitlement Framework: The Equity Formula* and *The Saskatchewan Treaty Land Entitlement Framework: Willing Buyer, Willing Seller* and at points 24:58 to 26:22 and 29:01 to 29:52 in the *From Dream to Reality* video.

Rationale

This lesson is designed to make students critically examine and understand The Treaty Land Entitlement Framework Agreement and its terms.

Learning Objectives

Knowledge:

- Students will analyze the nature of local involvement in Treaty Land Entitlement negotiations.
- Students will describe the basis for Treaty Land Entitlement.
- Students will analyze the major recommendations which form the basis for negotiations of Treaty Land Entitlement.

Values:

- Students will appreciate the diversity of perspectives and empathize with the positions of various stakeholders in relation to Treaty Land Entitlement.
- Students will appreciate the changing nature and content of negotiations over Treaty Land Entitlement.

Skills:

- Students will interpret and analyze the diversity of positions with respect to Treaty Land Entitlement.
- Students will calculate Treaty Land Entitlement using the equity formula model.

Teacher's Background Information

Treaty Land Entitlement vs. Specific Land Claims

Treaty Land Entitlement pertains to situations where a First Nation did not receive the amount of land they were promised when they signed their Treaty. By contrast, specific claims arise out of a situation where a First Nation has had reserve land wrongfully or unfairly taken away by the federal government.

Another important difference is that specific claims are a matter exclusively between the federal government and First Nations. Saskatchewan's only involvement in specific claims is to provide assistance, where feasible, to facilitate the transfer of land to reserve status. This includes identifying occupant interests on Crown lands. In Treaty Land Entitlement on the other hand, Saskatchewan has a legal obligation as a result of the *Natural Resources Transfer Agreement (1930)* to provide Crown land to the federal government so that it may fulfill Treaties promises.

Summary of The Saskatchewan Treaty Land Entitlement Framework Agreement

The Saskatchewan Treaty Land Entitlement Framework Agreement was signed in September 1992 between Canada, Saskatchewan and what are called the Entitlement Bands (those who did not receive all the land they were entitled to by Treaty.) It represents the culmination of a long negotiation process and embodies the recommendations made by the Office of the Treaty Commissioner. Although a lengthy document, the Agreement, as the title suggests, is a framework agreement. This means that it outlines how Treaty Land Entitlement will be settled but it requires band specific agreements be made to give effect to the framework. It was signed by Saskatchewan, Canada, and 25 First Nations in September 1992. Eight separate but similar agreements have since been signed with individual First Nations.

The Basis for the Treaty Land Entitlement

The first part of the Framework Agreement outlines the legal and historical facts that led to Treaty Land Entitlement. It starts by acknowledging that Canada entered into Treaties with Bands of Indians now residing in Saskatchewan and that under these Treaties bands were entitled to have a certain number of acres set aside as reserves for their exclusive use. It goes on to acknowledge that the Entitlement Bands had not received reserves of sufficient area to fulfill the requirements of the Treaties.

The Agreement notes that existing Treaty rights are recognized and affirmed in the Constitution and that the *Natural Resources Transfer Agreement*, now part of the Constitution, obligates Saskatchewan to transfer unoccupied Crown land to Canada if land is needed to fulfill the promises for land in the treaties.

Having given the historical and legal context for Treaty Land Entitlement, the Agreement states that the parties have determined that there is not enough unoccupied Crown land of sufficient quality to fulfill the obligations of Canada and Saskatchewan under the Treaties.

It goes on to state the positions of the parties. It is noted that the position of Canada and Saskatchewan is that Entitlement Bands' populations as of the date of first survey should be used to determine Treaty Land Entitlement and that the position of the Entitlement Bands is that their current population should be used to determine Treaty Land Entitlement. In what could be considered the pivotal clause of the Agreement the parties then acknowledge that despite their different positions they have agreed to the formula outlined in the Framework Agreement to satisfy Canada's and Saskatchewan's obligations.

Equity Formula

The formula for determining the number of acres owing is next laid out in the Agreement. The formula is based on what percentage of the Entitlement Band's population was not counted when the first survey took place. This percentage is then applied to the current population. For example, if 40% of the Entitlement Band was not included in calculating the size of the original reserve the outstanding land entitlement would be calculated by taking 40% of the current population and multiplying it by the number of acres each member was entitled to by Treaty.

Then the Agreement states that Canada and Saskatchewan agree to pay to a Treaty Land Entitlement Fund \$262.19 per acre owed. This cost is shared between the two governments as set out in the Agreement. Money paid to Bands is put in trust. The funds must first be used to acquire shortfall acres. Shortfall is the difference between what the Band should have received based on the adjusted population as of the date of first survey and what they did receive.

Willing Buyer – Willing Seller

The rest of the Agreement deals with matters such as what land will be available to Bands to purchase, third party rights, mineral rights and rights to bodies of water. Bands can use the funds to purchase provincial or federal Crown land and lands held by private individuals. All sales are on the basis of “Willing Buyer, Willing Seller.”

Canada and Saskatchewan agree to give “favourable consideration to” and not “unreasonably withhold acceptance of” offers by Entitlement Bands to buy Crown lands but are not required to sell any particular piece of Crown land. Certain Crown land, such as provincial parks, is only available in exceptional circumstances. Consent of occupants of Crown land is required. In the case of community pastures 75% of the people using it must agree and the Band must evidence willingness to act reasonably and in good faith to fairly compensate those using the pasture. For urban reserves Bands need agreements with the municipality and school division regarding tax compensation and provision of services.

Procedures

1. Using the handout *The Saskatchewan Treaty Land Entitlement Framework Agreement: The Equity Formula* lead a group discussion of how the Treaty Commissioner proposed that populations be calculated in order to determine the amount of land owed under Treaty and have students answer the questions.
2. Lead a group reading of the handout *The Saskatchewan Treaty Land Entitlement Framework Agreement: Willing Buyer, Willing Seller*.
3. Using the handout *The Saskatchewan Treaty Land Entitlement Framework: The Costs* lead a group discussion of the costs associated with Treaty Land Entitlement.
4. VIDEO ACTIVITY – To better illustrate and understand The Saskatchewan Treaty Land Entitlement Framework Agreement, have students view Part Three of *From Dream to Reality*. While viewing, have students note challenges that had to be overcome before an agreement on Treaty Land Entitlement could be reached.

KEY QUESTION: How does The Saskatchewan Treaty Land Entitlement Framework Agreement meet the challenges that had to be overcome before an agreement could be reached?

HANDOUT



The Saskatchewan Treaty Land Entitlement Framework Agreement: The Equity Formula

In 1989 a Treaty Commissioner was appointed in Saskatchewan. At this time 27 First Nations had outstanding Treaty land claims. The Commission realized that if The Saskatchewan (1976) Agreement were used, some First Nations who might have had a small “shortfall” at the date of survey, would receive large amounts of land if they happened to have large populations in 1976. Other First Nations might have had large shortfalls, with perhaps half of the original First Nation not receiving lands, but if they had small current populations they would receive much less land. This did not seem equitable according to the principles of the Treaty. On the other hand, the failure to take account

of changing needs by using only the original shortfall did not seem equitable under Treaty, either.

The Commissioner proposed an Equity Formula for determining how much land was owed. The Treaty Commissioner’s formula is based on first determining what percentage of the First Nation’s population was not counted when the first survey took place. This percentage is then applied to the current population. For example, if 40% of the First Nation was not included in calculating the size of the original reserve the outstanding land entitlement would be calculated by taking

40% of the current population and multiplying it by the number of acres each member was entitled to by Treaty.

The Equity Formula has the advantage of considering both

The Equity Formula has the advantage of considering both the original shortfall and the current population

the original shortfall and the current population. While it does not provide for additional land allotments for every First Nations person born in the future, it does help to provide a land base for agricultural and economic development.

The proposed Equity Formula was accepted by all the parties and subsequently formed the basis of The Saskatchewan Treaty Land Entitlement Framework Agreement.

The Treaty Commissioner’s formula is based on first determining what percentage of the First Nation’s population was not counted when the first survey took place

Questions for Consideration

1. What were the problems with The Saskatchewan (1976) Agreement regarding the calculation of populations to determine the amount of land owed under a Treaty? What were the issues with using the date of first survey to determine the population of a First Nation for Treaty Land Entitlement purposes?
2. What formula did the Office of the Treaty Commissioner propose to determine the population of a First Nation on which Treaty Land Entitlements would be based?
3. A First Nation has 200 members at the date of first survey but only 150 were counted. Currently, their population is 900. What population would be used to determine their outstanding Treaty Land Entitlement using the Equity Formula?



The Saskatchewan Treaty Land Entitlement Framework Agreement: Willing Buyer, Willing Seller

Although the Equity Formula was a solution to finding a cut-off date for First Nations population numbers, the question of where to find land to fulfill the Treaty debts remained. The federal government had no plans to

amount of money for each acre owed (determined by the Equity Formula), based on the average price of an acre of land. However, this money would not be a cash settlement in place of land. Instead this money would be put in a special trust fund and only be used to purchase land, until at least the amount of land that was owed based on adjusted population as of the first survey was acquired. This allows First Nations to choose the land they want and to purchase the land from willing sellers for the market price, hence the phrase “Willing

parks, ecological reserves, and provincial highways.

The “Willing Seller” part of the Agreement means that only land that people or the government want to sell can be bought. For provincial community pastures, at least 75% of occupants must consent to the sale. For other Crown lands, all occupants must consent to the sale. Occupants are those individuals with existing leases and/or licences from Saskatchewan.

For the transfer of provincial roads and undeveloped road allowances, the Entitlement First Nation must enter into an agreement with the Province, Canada, and the affected Rural Municipality.

The Entitlement First Nation must deal with all interests in the property and taxes on the property must be paid. Sometimes people who have been using the land (e.g. pasture patrons, trappers, etc.) may negotiate agreements with First Nations to use the land in the same manner as when it was provincial or federal Crown land.

For First Nations money could not make up for the loss of land promised under the Treaties

purchase land to fulfill these debts and there was not enough productive Crown land left in the province to fulfill the Treaty promises in a meaningful way. However, land for their exclusive use was viewed by First Nations as fundamental to their existence. For First Nations money could not make up for the loss of land promised under the Treaties.

Keeping these factors in mind the OTC recommended that First Nations be given a certain

with the Equity formula are two fundamental parts of The Saskatchewan Treaty Land Entitlement Framework Agreement. Entitlement First Nations can buy private land or federal or provincial Crown land on a “Willing Buyer, Willing Seller” basis. Some provincial Crown land is not generally available, although it could be sold in exceptional circumstances. This includes heritage property, parks, recreation sites, historic

Buyer, Willing Seller.”

“Willing Buyer, Willing Seller,” along

Questions for Consideration

1. What were the problems with The Saskatchewan (1976) Agreement for Treaty Land Entitlement regarding the land available to fulfill the Treaty land debt?
2. How did the Treaty Commissioner’s proposal of “Willing Buyer, Willing Seller” address the problem of a lack of Crown land available to settle Treaty Land Entitlement?
3. What kinds of land can be purchased under The Saskatchewan Treaty Land Entitlement Framework Agreement?

HANDOUT



The Saskatchewan Treaty Land Entitlement Framework: The Costs

Saskatchewan is legally obligated to participate in Treaty Land Entitlement settlements due to the *Natural Resources Transfer Agreement (1930)*. Under this agreement, Canada transferred to Saskatchewan all Crown lands, minerals and other

unoccupied Crown lands no longer exist in Saskatchewan to settle outstanding Treaty Land Entitlement, the Province has agreed to share with Canada the cost of providing money to Entitlement First Nations to purchase private and Crown lands.

The Saskatchewan Treaty Land Entitlement Framework Agreement provides for Entitlement First Nations receiving approximately \$595 million over 12 years to buy up

to 2.28 million acres of land to add to its reserves.

The minimum provincial contribution to the costs of Treaty Land Entitlement will be 30%.

According to the terms of the cost-sharing agreement, the Province could contribute up to an additional 19% based on actual provincial savings from the transfer of northern communities to reserve status. The total cost to

the Province will be between \$182 million and \$277.2 million.

Two separate tax loss compensation funds, totalling a maximum of \$50 million, were also established under the Framework Agreement. The purpose of the funds is to help offset the loss of tax revenues experienced by Rural Municipalities and Rural School Divisions when taxable land is purchased by Entitlement First Nations and then set apart as nontaxable reserve land under the Framework Agreement. These funds are paid directly to the municipalities.

While this may seem like a lot of money, it must be remembered that it is through the Treaties that the people of Saskatchewan have been able to legitimately use and develop all land in Saskatchewan. To put things into perspective, it is estimated that the value of the land opened up for settlement by the Treaties exceeds \$61 billion.

Since sufficient unoccupied Crown lands no longer exist in Saskatchewan to settle outstanding Treaty Land Entitlement, the Province has agreed to share with Canada the cost of providing money to Entitlement First Nations to purchase private and Crown lands

natural resources within the Province, subject to a number of conditions. One condition was that Saskatchewan would provide unoccupied Crown lands to enable Canada to fulfill its obligations under Treaties with First Nations. Since sufficient

Questions for Consideration

1. How does The Saskatchewan Treaty Land Entitlement Framework Agreement account for lost tax revenues for municipalities when their land is sold under the Agreement?
2. Given the value of the land opened up for settlement through Treaties, do you believe the costs are justified?



Lesson 5

Coming Full Circle



Key Concept

To date, nearly 800,000 acres of land have gained reserve status as a result of agreements with First Nations based on The Treaty Land Entitlement Framework Agreement. The process continues today with the Framework Agreement providing the basis for the resolution of the treaty land debt owed to other First Nations in Saskatchewan.

This concept is best illustrated with the Teacher Background Information, and at points 1:05:38 to 1:07:30 in the *From Dream to Reality* video.

Rationale

This lesson is designed to have students consolidate the legal, economic, and moral reasons for fulfilling Treaty Land Entitlement.

Learning Objectives

Knowledge:

- Students will synthesize the relationship between worldview and the approach to settling Treaty Land Entitlement issues in Canada.
- Students will synthesize the process used to settle Treaty Land Entitlement.

Values:

- Students will develop empathy for all persons based upon an understanding of human needs.
- Students will appreciate the diversity of stakeholder perspectives in relation to Treaty Land Entitlement.

Skills:

- Students will interpret and analyze the diversity of positions with respect to Treaty Land Entitlement.
- Students will justify their position toward Treaty Land Entitlement and be prepared to demonstrate rational support.

Teacher's Background Information

As of October 1, 2009, 759,191 acres have attained reserve status in Saskatchewan through the Treaty Land Entitlement process. As a result of the land attaining reserve status, 26 Entitlement First Nations have obtained their Shortfall Acres.

The Treaty Land Entitlement Framework Agreement specifies that land transfers must occur on a “Willing Buyer, Willing Seller” basis. This has led to progress in the southern part of the province where most land is privately held. In northern Saskatchewan, much of the land is Crown-owned with occupant interests. This has made the Treaty Land Entitlement process more challenging. In order to facilitate the process and to ensure that occupant interests are satisfied, the Province initiated mediation assistance to Entitlement First Nations in 1995. To date, mediation has been successful in bringing parties together to discuss interests, issues and concerns. It has also been successful in aiding three Entitlement First Nations to gain the occupant/third party consents

required to purchase Crown land. Two of the Crown land acquisitions enabled the First Nations to obtain their Shortfall Acres. The Province is hopeful that this forum for discussion will contribute to resolution of issues and the establishment of harmonious relations between First Nations and their neighbouring communities.

Procedure

1. Using the Teacher's Background Information, discuss with students the progress that has been made since the signing of The Treaty Land Entitlement Framework Agreement. Teachers may wish to have students view *Treaty Land Entitlement: The English River Story* to introduce one particular TLE success story. This short video can be found on the Department of Indian and Northern Affairs Canada's website, at www.ainc-inac.gc.ca/al/lcd/spc/scv/tl-eng.asp.
2. Explain to students that urban reserves are created primarily due to the honouring of Treaty Land Entitlements. Using Western Economic Diversification's outline of urban reserves found at www.wd.gc.ca/eng/10950.asp divide the class into groups to analyze these urban reserves as jigsaw activities. Given this information and their knowledge of Treaty Land Entitlement, key considerations for this activity should include:
 - What economic benefits have been realized by fulfilling Treaty Land Entitlement?
 - What social benefits have been realized by fulfilling Treaty Land Entitlement?
3. As an alternate or additional activity, students could research current events in the media with regard to Treaty Land Entitlement. Suggested topics could include:
 - What concerns have the FSIN and/or government raised over water rights and availability of land to fulfill Treaty Land Entitlement?
 - Find a Treaty Land Entitlement Agreement made with a First Nation under the Framework Agreement that has taken place in your area. Summarize its terms and examine the surrounding community discussion.
4. VIDEO ACTIVITY - Have students view Part Four of *From Dream to Reality*. Have students note the significance of the signing ceremony to each of the interested parties.
KEY QUESTION: Do you think the agreement reached was successful in meeting the needs of all the parties involved?
5. Explain the significance of circles in Aboriginal tradition, then as a comprehensive review of Treaty Land Entitlement, assign *Treaty Land Entitlement Time Circles* to illustrate the process of Treaty Land Entitlement.



Treaty Land Entitlement Time Circles

Circles in First Nation Cultures

Circles are central to First Nation values. Days, years, people's lives and all creation are made in a circle. Circles remind people about Mother Earth and their journey through life from the earth, to infancy, childhood, adulthood, old age and back to the earth.

Circles are sacred and represent bringing people together. First Nations peoples' culture see everything in the universe as part of a single whole. Everything is connected so it is not possible to understand one thing without understanding how it is connected to everything else. The First Nation concept that everything is interconnected means that people and their actions are not considered in isolation.

To illustrate the process of Treaty Land Entitlement, create a Time Circle.

Much like a time line, time circles should illustrate the timeframe when Treaties were first entered into (or earlier) until current. Significant markers on this circle could represent dates when Treaty Land Entitlements were initially negotiated, significant events in First Nations history or government history that have had an impact on Treaty Land Entitlement being realized, formations of urban reserves, and other significant dates.

When the time circle is completed, create two summary statements regarding the fulfillment of Treaty Land Entitlement that answer the following questions:

- What has been accomplished by working towards fulfilling the legal and moral obligations of Treaty Land Entitlement?
- How is this circle still a continuing process?

Answer Keys

Lesson One

Law and Treaty

1. a) What is the rule of law?

According to the rule of law everyone, including the government, must obey the law.

- b) Why do you think this concept key for law-abiding, democratic societies?

Answers may vary, but should be based in the idea that the rule of law ensures that individuals, organizations, or governments cannot act in an arbitrary manner to bring resolution to a situation.

2. a) What does the common law say about the First Nations' right to the land they have always lived on?

Common law recognizes the rights of the First Nations, including the right of the First Nations to occupy their traditional lands.

- b) What agreement did the Crown and the First Nations enter into in order to allow First Nations' land to be opened up for settlement?

The two parties entered into Treaties.

3. What important right was recognized by the Royal Proclamation of 1763?

The right of First Nations to continue to occupy their lands and the need for the government, as opposed to private individuals, to deal with these rights before opening land up for settlement.

4. This reading notes that "Without these Treaties the right of Britain and later Canada to settle the land could be called into question." What do you think is the significance of this statement?

Answers will vary, but may reflect the legal and historical role that Treaties play in shaping Canada.

Lesson Two

Definitions

1. Band – *A group of First Nations people for whom a reserve was set aside by the federal government.*
2. First Nation – *Used instead of band or sometimes interchangeably with band to refer to a group of original occupants.*
3. Reserve – *Land that has been set aside for the exclusive use and occupation of a band/First Nation by the federal government because of Treaty obligations or for other reasons.*
4. Crown Land – *Land that belongs to the federal or provincial government.*
5. Saskatchewan (1976) Agreement – *A negotiated agreement to fulfill Treaty land debt using a First Nation's population as of 1976 and using available provincial Crown land to fulfill the debt.*
6. Date of First Survey – *The date when the government first sent a surveyor to determine the population of a First Nation and establish the boundaries of the reserve based on the number of acres per person provided for in the Treaty.*

7. Lease – *An agreement to rent property for a period of time.*
8. Shortfall - *The difference between the amount of land a First Nation received when their reserve was first surveyed and what they should have received based on their population at that time.*
9. Entitlement Band or First Nation – *A First Nation that did not receive the amount of land they were promised under Treaty.*

The Saskatchewan 1976 Agreement

1. How was the amount of land to be set aside under the Treaties calculated?
Treaties 4, 6, 8, and 10 provided for one square mile per family of five or 128 acres per person. Treaties 2 and 5 provided for 160 acres per family of five in most cases.
2. What arguments were there for and against using 1976 as a cut-off date for determining population size?
Answers will vary, but should focus on the government's desire to limit land allocated for Treaty Land Entitlement and First Nations' desire to have Treaty promises fulfilled.
3. What problems existed with using Crown land to fulfill the requirements for Treaty Land Entitlement?
There was not enough productive, available Crown land and some of it was already being used by third parties.
4. What effect did the Government not honouring The Saskatchewan (1976) Agreement have on settling Treaty Land Entitlement issues?
In 1987 the federal government, along with the provincial government, decided to use the date of the first survey to determine Treaty Land Entitlement. A group of First Nations started a lawsuit to force governments to honour the Agreement and some believe this lawsuit was the catalyst that brought the parties together to resolve the issues out of court.

Lesson Four

The Saskatchewan Treaty Land Entitlement Framework: The Equity Formula

1. What were the problems with The Saskatchewan (1976) Agreement regarding the calculation of populations to determine the amount of land owed under a Treaty? What were the issues with using the date of first survey to determine the population of a First Nation for Treaty Land Entitlement purposes?
If using the 1976 Agreement, some Bands who might have had a small "shortfall" at the actual survey would receive large amounts of land if they happened to have large current populations. Other Bands might have had large shortfalls from first survey, with perhaps half of the original Band not receiving lands, but if they had small current populations they would receive much less land.
2. What formula did the Office of the Treaty Commissioner propose to determine the population of a First Nation on which Treaty Land Entitlement would be based?
 - 1) Determine population
 - Determine what percentage of the First Nation's population was not counted when the first survey took place.
 - Multiply this percentage by the current population of that First Nation.

- 2) Determine acres owed
 - Multiply the Answer for (1) by the number of acres each member was entitled to by Treaty.
- 3) Convert acres owed to dollar value
 - Multiply the acres owed by the predetermined land value.
3. A First Nation has 200 members at the date of first survey but only 150 were counted. Currently, their population is 900. What population would be used to determine their outstanding Treaty Land Entitlement using the Equity Formula?

*First, determine the percentage of the population not counted at first survey:
 $200 \text{ individuals} - 150 \text{ counted individuals} = 50 \text{ missed individuals.}$
 $50 \text{ missed individuals divided by the original population of } 200 = 25\%$*

Second, apply the percentage of the population not counted to the current population. This will determine the number of people that will be used in the equation to determine acreage owing. $25\% \times 900 = 225$

Or, expressed as one equation: $[(200-150)/200] \times 900 = 225$

The Saskatchewan Treaty Land Entitlement Framework: Willing Buyer, Willing Seller

1. Were there problems with The Saskatchewan (1976) Agreement regarding the land available to fulfill the Treaty land debt?

Yes. There was not enough productive Crown land available and there were third party interests, such as leases, in what productive Crown land there was.
2. How does the Treaty Commissioner's proposal of "Willing Buyer, Willing Seller" address the problem of a lack of Crown land available to settle Treaty Land Entitlement?

It provides a means for First Nations to purchase land as they see fit from willing sellers to fulfill Treaty Land Entitlement.
3. What kinds of land can be purchased under The Saskatchewan Treaty Land Entitlement Framework Agreement?

Private land, Provincial Crown land, Federal Crown land.

The Saskatchewan Treaty Land Entitlement Framework: The Costs

1. How does The Saskatchewan Treaty Land Entitlement Framework Agreement account for lost tax revenues for municipalities when their land is sold under the Agreement?

Two separate tax loss compensation funds, totalling a maximum of \$50 million, offset the loss of tax revenues experienced by Rural Municipalities and Rural School Divisions when taxable land is purchased by Entitlement Bands. These funds are paid directly to the municipalities.
2. Given the value of the land opened up for settlement through Treaties, do you believe the costs are justified?

Answers will vary, but may reflect the social and economic benefits realized through Treaties compared to the financial costs.

From Dream to Reality - Video Annotation

Part One: The History of Treaty Land Entitlement

Time	Person	Position
0:29	Howard McMaster	Office of the Treaty Commissioner
0:46	Winston McLean	Federation of Saskatchewan Indian Nations
1:55	Bryan Tootoosis	Band Councillor, Poundmaker First Nation
2:39	Howard McMaster	Office of the Treaty Commissioner
3:01	Honourable Tom Siddon	Former Minister of Indian Affairs
3:43	Noel Starblanket	Former Vice-Chief, FSIN
4:50	Chief Mary Ann Day Walker	Okaneese First Nation
5:19	Al Gross	Federal Negotiator
6:11	Winston McLean	Federation of Saskatchewan Indian Nations
6:36	Noel Starblanket	Former Vice-Chief, FSIN
6:49	Winston McLean	Federation of Saskatchewan Indian Nations
7:05	Honourable Bill McKnight	Treaty Commissioner
8:04	Rick Swenson	Former Saskatchewan Minister of SIMAS
8:26	Howard McMaster	Office of the Treaty Commissioner
8:51	Cliff Starr	Indian and Northern Affairs
9:36	Al Gross	Federal Negotiator
9:50	Winston McLean	Federation of Saskatchewan Indian Nations
10:19	Ron Michel	Former Chief, Peter Ballantyne First Nation
10:39	Harry Lafond	Former Chief, Muskeg Lake Cree Nation
11:25	Lester Lafond	TLE Coordinator, Muskeg Lake Cree Nation
12:10	Grant Devine	Former Saskatchewan Premier
12:59	Honourable Bill McKnight	Treaty Commissioner
13:28	Dr. Lloyd Barber	Negotiator for the TLE First Nations

Part Two: The Negotiations Begin in Earnest

Time	Person	Position
15:06	Dan Bellegarde	Former First Vice-Chief, FSIN
15:55	Howard McMaster	Office of the Treaty Commissioner
16:20	Stephen Pillipow	Legal Counsel, MOPS Bands
16:40	Dan Bellegarde	Former First Vice-Chief, FSIN
16:55	Dan Goodleaf	Former Deputy Minister, Indian Affairs
17:33	Stephen Pillipow	Legal Counsel, MOPS Bands
17:53	Cliff Starr	Indian and Northern Affairs
18:09	Honourable Tom Siddon	Former Minister of Indian Affairs
18:19	Senator Roland Crowe	Former Chief, FSIN
18:50	Senator Roland Crowe	Former Chief, FSIN

Topic

TLE - Historical basis (Undercounting)

TLE - Historical basis (Undercounting and historical land promises)

TLE - Historical basis (Treatment of and circumstances surrounding First Nations People)

TLE - Historical basis (Significance of land)

TLE - Historical basis (Saskatchewan's obligations)

1976 Agreement - FSIN comes together with federal and provincial government to negotiate

1976 Agreement - Adequacy as a solution to outstanding Treaty Land Entitlement

1976 Agreement - Overview

1976 Agreement - Shortcomings (Lack of quality available land)

1976 Agreement - Shortcomings (No land purchase policy)

1976 Agreement - Shortcomings (Difficulties in implementing)

1976 Agreement - Shortcomings (Community resistance)

1976 Agreement - Shortcomings (Community resistance)

1976 Agreement - Shortcomings (Lack of settlements reached)

1976 Agreement - Shortcomings (Lack of available land)

1976 Agreement - Shortcomings (Lack of available land)

1976 Agreement - Shortcomings (Lack of available land)

1976 Agreement - Successes (Saskatchewan's first urban reserve created in Prince Albert)

1976 Agreement - Successes (Creation of an urban reserve in Saskatoon)

1976 Agreement - Successes (Creation of an urban reserve in Saskatoon)

1976 Agreement - Shortcomings (Lack of available land)

1976 Agreement - Shortcomings (Community capacity to absorb costs)

1976 Agreement - Shortcomings (Population counts, land availability, and changes in government)

Topic

TLE - Need to bring parties together to create a new agreement

TLE - Threat of litigation brings government back to table

TLE - Threat of litigation brings government back to table

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TLE - Threat of litigation brings government back to table

TLE - Threat of litigation brings government back to table

TLE - Threat of litigation brings government back to table

TLE - Threat of litigation brings government back to table

OTC - Creation of OTC opens dialogue about TLE

OTC - Former Saskatoon Mayor Cliff Wright announced as first Treaty Commissioner

Time	Person	Position
19:10	Honourable Bill McKnight	Treaty Commissioner
19:38	Senator Roland Crowe	Former Chief, FSIN
20:21	Cliff Wright	Former Treaty Commissioner
21:06	Howard McMaster	Office of the Treaty Commissioner
21:17	Winston McLean	Federation of Saskatchewan Indian Nations
21:42	Dan Bellegarde	Former First Vice-Chief, FSIN
22:27	Cliff Starr	Indian and Northern Affairs
22:48	Harry Swain	Former Deputy Minister, Indian Affairs
23:56	Cliff Wright	Former Treaty Commissioner
24:58	Al Gross	Federal Negotiator
25:16	Rick Swenson	Former Saskatchewan Minister of SIMAS
25:38	Cliff Wright	Former Treaty Commissioner
26:22	Winston McLean	Federation of Saskatchewan Indian Nations
26:49	Cliff Wright	Former Treaty Commissioner
28:15	Rick Swenson	Former Saskatchewan Minister of SIMAS
29:01	Winston McLean	Federation of Saskatchewan Indian Nations
29:20	Howard McMaster	Office of the Treaty Commissioner
29:30	Peggy Martin McGuire	Office of the Treaty Commissioner
29:52	Howard McMaster	Office of the Treaty Commissioner
31:01	Winston McLean	Federation of Saskatchewan Indian Nations
31:17	Dr. Lloyd Barber	Negotiator for the TLE First Nations
31:47	Winston McLean	Federation of Saskatchewan Indian Nations
32:01	Ray Ahenakew	Negotiating Team, Meadow Lake Tribal Council
32:40	Dr. Lloyd Barber	Negotiator for the TLE First Nations
33:11	Al Gross	Federal Negotiator
33:38	Art Wakabayashi	Provincial Negotiator
34:22	Rick Swenson	Former Saskatchewan Minister of SIMAS

Part Three: The Final Negotiations

Time	Person	Position
35:22	Dr. Lloyd Barber	Negotiator for the TLE First Nations
35:50	Sinclair Harrison	Former President, SARM
36:22	Harry Swain	Former Deputy Minister, Indian Affairs
36:42	Bernie Kirwan	Former President, SARM
36:55	Harry Swain	Former Deputy Minister, Indian Affairs
37:49	Bernie Kirwan	Former President, SARM
38:26	Sinclair Harrison	Former President, SARM
38:41	Rick Swenson	Former Saskatchewan Minister of SIMAS
39:07	Harry Swain	Former Deputy Minister, Indian Affairs
39:25	Honourable Bill McKnight	Treaty Commissioner

Topic

OTC - Qualities of Cliff Wright
OTC - Cliff Wright's acceptance of position
OTC - Cliff Wright's experience as Commissioner
OTC - Qualities of Cliff Wright
OTC - Treaty Commissioner's report brings parties back to table
OTC's TLE Recommendations
OTC's TLE Recommendations - Compromise position proposed by OTC
OTC's TLE Recommendations - Motivation for federal and provincial governments to accept
OTC's TLE Recommendations - Problem of no available Crown land and no government land purchase policy
OTC's TLE Recommendations - Saskatchewan Formula
OTC's TLE Recommendations - Positive reaction
OTC's TLE Recommendations - Overview of Willing Buyer, Willing Seller
OTC's TLE Recommendations - As a compromise
OTC's TLE Recommendations - Recommendations introduced to Roland Crowe
OTC's TLE Recommendations - Government moves forward on recommendations
Equity Formula - Establishing historical population numbers
Equity Formula - Establishing historical population numbers
Equity Formula - Establishing historical population numbers
TLE Negotiations - Changes to Indian Act policy
TLE Negotiations - Appointment of Dr. Lloyd Barber as lead negotiator for TLE First Nations
TLE Negotiations - Considerations of length of time spent to resolve
TLE Negotiations - Inclusiveness of process
TLE Negotiations - Comprehensive nature
TLE Negotiations - Comprehensive nature
TLE Negotiations - Priority of settlement for federal government
TLE Negotiations - Priority of settlement for provincial government
TLE Negotiations - Comprehensive nature

Topic

TLE Negotiations - Loss of property tax base for municipalities
TLE Negotiations - Loss of property tax base for municipalities
TLE Negotiations - Loss of property tax base for municipalities
TLE Negotiations - Loss of property tax base for municipalities
TLE Negotiations - Compensation fund established for municipalities
TLE Negotiations - Compensation fund established for municipalities
TLE Negotiations - Success of compensation fund plan
TLE Negotiations - Success in resolving issues between First Nations and land holders
TLE Negotiations - Success in resolving issues between First Nations and land holders
TLE Negotiations - Legacy potential

Time	Person	Position
40:11	Honourable Tom Siddon	Former Minister of Indian Affairs
40:57	Rick Swenson	Former Saskatchewan Minister of SIMAS
41:11	Art Wakabayashi	Provincial Negotiator
41:29	Harry Swain	Former Deputy Minister, Indian Affairs
41:53	Honourable Tom Siddon	Former Minister of Indian Affairs
42:09	Winston McLean	Federation of Saskatchewan Indian Nations
42:43	Dan Bellegarde	Former First Vice-Chief, FSIN
43:07	Bob Mitchell	Former Saskatchewan Attorney General
43:45	Senator Roland Crowe	Former Chief, FSIN
43:58	Bob Mitchell	Former Saskatchewan Attorney General
44:26	Senator Roland Crowe	Former Chief, FSIN
45:19	Roy Romanow	Former Saskatchewan Premier
45:45	Senator Roland Crowe	Former Chief, FSIN
46:25	Roy Romanow	Former Saskatchewan Premier
46:56	Senator Roland Crowe	Former Chief, FSIN
47:28	Grant Devine	Former Saskatchewan Premier
48:04	Roy Romanow	Former Saskatchewan Premier
48:21	Bob Mitchell	Former Saskatchewan Attorney General
48:42	Roy Romanow	Former Saskatchewan Premier
49:02	Senator Roland Crowe	Former Chief, FSIN
49:28	Peggy Martin McGuire	Office of the Treaty Commissioner
49:46	Cliff Wright	Former Treaty Commissioner

Part Four: The Dream Becomes The Reality

Time	Person	Position
50:36	Chief David Ahenekew	Former Chief, FSIN
50:56	Rt. Honourable Brian Mulroney	Former Prime Minister
51:02	Roy Romanow	Former Saskatchewan Premier
51:13	Senator Roland Crowe	Former Chief, FSIN
52:36	Rt. Honourable Brian Mulroney	Former Prime Minister
52:57	Winston McLean	Federation of Saskatchewan Indian Nations
53:08	Ray Ahenakew	Negotiating Team, Meadow Lake Tribal Council
53:45	Winston McLean	Federation of Saskatchewan Indian Nations
54:05	Senator Roland Crowe	Former Chief, FSIN
54:52	Rt. Honourable Brian Mulroney	Former Prime Minister
55:16	Honourable Pierre Cadieux	Former Minister of Indian and Northern Affairs
55:33	Peggy Martin McGuire	Office of the Treaty Commissioner
55:57	Chief Mary Ann Day Walker	Okaneese First Nation

Topic

TLE Negotiations - Premier Devine agrees to resolve issue despite provincial financial difficulties

TLE Negotiations - Provincial government looks to complete negotiations before end of mandate

TLE Negotiations - Provincial government satisfied issues are dealt with

TLE Negotiations - Federal government acknowledges significance of agreement

TLE Negotiations - Questions raised about cost

TLE Negotiations - Despite tentative agreement, negotiations still ongoing through changes in government

TLE Negotiations - Agreement is complete but needs official government approval

TLE Negotiations - Province looks to delay payments

TLE Negotiations - Province looks to delay payments

TLE Negotiations - Province explains financial situation

TLE Negotiations - FSIN rejects delaying payments

TLE Negotiations - Senator Roland Crowe's negotiating skills

TLE Negotiations - FSIN works to ensure agreement remains as proposed

TLE Negotiations - Respective responsibilities of federal and provincial governments to fulfill TLE

TLE Negotiations - Government decision is to honour agreement as proposed

TLE Negotiations - Government decision is to honour agreement as proposed

TLE Negotiations - Role of new provincial government in finalizing agreement

TLE Negotiations - Support of Official Opposition

TLE Negotiations - Role of OTC in settling TLE

TLE Negotiations - Role of FSIN in settling TLE

TLE Negotiations - Historical significance

TLE Negotiations - Willingness of parties to negotiate a solution

Topic

Fulfilling TLE - Long outstanding nature

Fulfilling TLE - Long outstanding nature

Fulfilling TLE - Long outstanding nature

Fulfilling TLE - Benefits / Signing Ceremony - Reflections

Fulfilling TLE - Importance

Signing Ceremony - Choice of MC

Signing Ceremony - Background details

Signing Ceremony - Background details

Signing Ceremony - Background details

Signing Ceremony - Reflections

Signing Ceremony - Reflections

Signing Ceremony - Reflections

Signing Ceremony - Significance to First Nations

Time	Person	Position
56:32	Harry Lafond	Former Chief, Muskeg Lake Cree Nation
57:12	Dan Bellegarde	Former First Vice-Chief, FSIN
57:42	Winston McLean	Federation of Saskatchewan Indian Nations
58:19	Dan Goodleaf	Former Deputy Minister, Indian Affairs
58:31	Honourable Bill McKnight	Treaty Commissioner
58:59	Rt. Honourable Brian Mulroney	Former Prime Minister
59:34	Ray Ahenakew	Negotiating Team, Meadow Lake Tribal Council
1:00:49	Blaine Favel	One Earth Farms
1:01:16	Lawrence Joseph	Chief, FSIN
1:01:29	Ron Michel	Former Chief, Peter Ballantyne First Nation
1:02:01	Lester Lafond	TLE Coordinator, Muskeg Lake Cree Nation
1:02:29	Chief Mary Ann Day Walker	Okaneese First Nation
1:02:50	Lawrence Joseph	Chief, FSIN
1:03:12	Grant Devine	Former Saskatchewan Premier
1:03:34	Honourable Pierre Cadieux	Former Minister of Indian and Northern Affairs
1:03:55	Rt. Honourable Brian Mulroney	Former Prime Minister
1:04:29	Honourable Bill McKnight	Treaty Commissioner
1:05:02	Honourable Tom Siddon	Former Minister of Indian Affairs
1:05:38	Senator Roland Crowe	Former Chief, FSIN
1:06:26	Harry Lafond	Former Chief, Muskeg Lake Cree Nation

Topic

Signing Ceremony - Reflections

TLE Framework Agreement - Ratification at Band level

TLE Framework Agreement - How money is used at Band level

TLE Framework Agreement - Satisfaction with agreement

TLE Framework Agreement - Support of Prime Minister

TLE Framework Agreement - Importance

TLE Framework Agreement - Lasting Impact

TLE Framework Agreement - Development of First Nations agriculture industry

TLE Framework Agreement - Development of First Nations businesses

TLE Framework Agreement - Development of urban reserves and economic benefits

TLE Framework Agreement - Development of urban reserves and economic benefits

TLE Framework Agreement - Economic gains to First Nations communities

TLE Framework Agreement - Spirit of cooperation

TLE Framework Agreement - Benefits to all of Saskatchewan

TLE Negotiating - Role of Minister of Indian Affairs

TLE Negotiating - Support from federal and provincial governments

TLE Framework Agreement - First example of completely honouring an aspect of Treaty

TLE Framework Agreement - Significance of resolving

TLE Framework Agreement - Opportunities created

TLE Framework Agreement - Opportunities created

