The national conversation on confederation-era treaties, and their neglect by Canada, is long overdue. In fact, this moment in our shared history might demonstrate better than any in our recent past why treaties are so critically needed. Gina Starblanket and Dallas Hunt make this clear in the Yellowhead Institute Special Report, The Numbered Treaties, COVID-19 & the Politics of Life. While they discuss healthcare and mutual aid specifically, there is so much misinterpretation and misunderstanding around treaties generally. This annotation of a Numbered Treaty reveals the difference in expectations between settler and First Nation perspectives and the ways that First Nations have accommodated a very narrow interpretation of treaties. This narrow interpretation excludes First Nation perspectives but endures into contemporary policy and law.

(1) “hereby cede, release, surrender and yield” The concept of surrender is an imposed one. Oral and archival records of treaty negotiations and promises describe sharing lands, jurisdiction and mutual aid. It is only in the written version of treaties where surrender appears. But as such, it has been privileged by bureaucrats and courts though time to project a very one-sided view of treaties and ignoring Indigenous perspectives.

(2) “hold forever” *First Nations used concepts such as, “as long as the world stands” or “the sun shines” and “rivers flow” as references to our obligations to the land, water and future generations. In many ways, treaties were only valid so long as the land was in good health. Rather than a possessive ownership of lands, First Nations expressed an inter-dependency. This does not validate the romantic “Indians don’t believe in land ownership” trope, but rather, speaks to jurisdiction as much more complicated set of relationships linking treaties to the creation and maintenance of life.

(3) “reserves for farming” In the initial negotiations of most treaties, reserves were lands set aside for exclusive First Nation use (for farming or otherwise), not areas for permanent settlement or the zones of exclusion that they become post-confederation. In earlier treaties First Nations chose the location of reserves but as treaties moved westward, their input was not considered.

(4) “consent” In many cases, Indigenous peoples expected settlers to abide by Indigenous laws and relationships when they entered into treaties, meaning that consent for activities in a given area was the lowest possible threshold for using or selling any lands or resources. Instead, from Confederation into the present, the notion of consent has been evacuated all-together by the Crown and replaced by paternalism, coercion, and a “duty to consult.”

(5) “maintain schools” For some First Nations at the time of treaty, new forms of education were welcome. In 1840, First Nation leaders in Ontario were committing funds towards schools so that “white traders might not cheat them.” This act alone was in support for Indigenous visions of education as well. But the requests were not for coercive and genocidal form this commitment took the shape of in residential schools.

(6) “evil influence” While some First Nation leaders did request support to prevent substances from entering communities, this ethic of “protection” soon extended beyond alcohol to tobacco, dance and pool halls and basically all interactions with settlers would be policed by the Indian Act. None of these subsequent restrictions were discussed in treaty negotiations.

(7) “public works or buildings” It was understood that any infrastructure needs that communities required would be supported by Canada. But since treaty, this infrastructure clause has been interpreted by the Crown as a tool to appropriate lands for public buildings or various public works such as schools, churches, wharves, etc. In the early 1800s this was a commitment to support for economic development. By 1850, it was explicit that infrastructure should “be enjoyed by the Indians.” In oral accounts of Treaty 6, settlers simply wanted four public works or buildings: a school, church, wharf, and a “duty to consult.”

(8) “pay to each Indian person the sum of $4 per head yearly” Somehow this commitment avoided inflation over the years. While First Nations expected this figure to increase on a scale relative to the wealth generated in the treaty area, the Crown maintained these paltry contributions, keeping the First Nation share for the benefit of Canadians instead. Some confederation-era treaties, like the Robinson Huron and Superior treaties actually included a specific clause to increase the annuity and Canada refused to interpret fairly even the written versions of the treaties that contained these clauses.

(9) “now cultivating the soil” Like the discussion of education, many did seek the tools to participate in a different type of economy. This was the case in Treaty #8 where the buffalo had been decimated by settlers and governments. And yet, as many did cultivate the land, they did so well that neighbouring farmers felt threatened and petitioned federal officials to cut these provisions and limit what First Nation farmers could sell. Despite the treaty commitments, parliament did as they were asked.

(10) “pension, or by a general famine” While the Crown has generally avoided the pension discourse, which was shrinking the Crown’s economic responsibility to Indigenous peoples and has in court referred to the medicine chest as merely a first aid kit, records of the negotiation, accounts from Elders, and even internal government outline that healthcare was only in the written version of treaties, infringing the laws in force in the country as ceded.

(12) IN WITNESS WHEREOF, Her Majesty’s said Commissioners and the said Indian Chiefs have hereunto subscribed and set their hands.

SOURCES


Writtien by Yvakolen’kin

LEARN MORE: YELLOWHEADINSTITUTE.ORG