

# COVID-19, THE NUMBERED TREATIES & THE POLITICS OF LIFE

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A SPECIAL REPORT  
*by* GINA STARBLANKET  
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#### ABSTRACT

In many Crown-First Nation treaties and specifically the Numbered Treaties, there is reference to health care provisions. Referred to as a medicine chest in some cases or aid in others, this provision appears in written and oral versions of treaties. Why then, is it absent in the conversations around the COVID-19 pandemic and First Nations, when it is needed most? This contemporary moment in Canadian time reveals much about the interpretation of treaties and how that interpretation (or mal-interpretation) matters in material ways to First Nations. In this Yellowhead Special Report, Gina Starblanket and Dallas Hunt consider how healthcare is represented in the Numbered Treaty discussions at the time of treaty-making and into the present, illustrating contrasting visions of our collective relationship and the consequences. But in this study there is also guidance for the future of that relationship, one rooted in mutual support and a politics of life.

#### Keywords

Treaties, Medicine Chest Clause, Pandemic, COVID-19, Crown

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**“Now the old people tell us the day will come when the land will be sick again and there will be a fever, you know, a fever in the world, a fever in this land because the ascending problems that are coming up upon it because the land is sick; the economies are falling flat because the land is sick.**

**As [Indigenous] people, we don't think much of money. We still think of using things to help us live, helping one another, and that's the reason why the treaties were a dual road.”**

# INTRODUCTION

**IN RECENT MONTHS**, the coronavirus pandemic has brought conversations surrounding the federal government's obligations towards Indigenous people to the fore, particularly in areas of health, security (including food security), and community capacity.<sup>2</sup>

Broadly speaking, the pandemic has also drawn attention to the dysfunctional relationship between federal, provincial, and Indigenous governments, the latter of which have cited concerns surrounding a lack of transparency, communication, and co-operation from the other levels in pandemic support planning and implementation<sup>3</sup>.

For Indigenous people in Canada, matters of disease, sickness, and famine are not unprecedented and the historical record tells us that we cannot simply sit by and trust that either the feds or provinces will provide adequate levels of support and aid. Indigenous people are particularly vulnerable to communicable diseases due to long-standing and ongoing structural asymmetries that pertain to the administration of health services, environmental racism, and the inaccessibility of healthy food sources. And while all human beings are susceptible to the coronavirus, it has particularly injurious, and sometimes fatal, implications for those with pre-existing medical conditions, which Indigenous people experience at disproportionately high rates.

While much is made of the fact that Canada offers universal health care to all of its citizens, Indigenous people are all too aware that this universality does not equate to efficient and expedient medical services for all. Further, Indigenous people generally hold a broader and more holistic understanding of health than western

conceptions; that is, wellness of the body, mind, emotions, and spirit are understood to be interconnected and related to broader social, political, economic, and environmental factors including the wellness of the land and of other living beings in it.

These issues are particularly glaring given that the federal government has specific obligations to Indigenous communities, who are uniquely situated in a distinct and constitutionally entrenched political relationship with Canada. Indigenous people in regions covered by the Numbered Treaties, in particular, are party to political arrangements where the Crown has committed to assist in ensuring our well-being and our quality of life. (The Numbered Treaties are those eleven agreements negotiated between 1870 and 1921 that captured much of Canada, from northern Ontario, across the Prairies and into the Northwest Territories). Regrettably, since those treaties were negotiated, Canadian federal governments have generally disavowed the fact that Indigenous people hold treaty rights to health.

Given this state of affairs, and in the midst of a pandemic, what are we to make of the provisions in the Numbered Treaties that relate to health, wellness, disease, and moments of crisis? This report provides an overview of the ways in which questions of Indigenous wellness, and the continuity of Indigenous life, broadly understood, figure in

the Numbered Treaties. It does so by exploring the discussions surrounding treaty negotiations, Indigenous oral histories of treaty, and the contexts in which they were negotiated. By re-visiting the original intent of these treaties, we hope to offer a re-consideration of our collective relationship—as it pertains to this specific public health crisis—and beyond.

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## PART ONE

# The Contemporary Terrain of the Numbered Treaties

**FOLLOWING THE 2019** Canadian federal election, Trudeau's Liberals narrowly formed their second government. This, after a first term in office that saw the party's purported commitment to strengthen relations with Indigenous people devolve into a record of failed engagements and shelved legislation.

Nonetheless, in his campaign for re-election, Trudeau promised the establishment of a National Treaty Commissioner's Office, intended to, "ensure that Canada implements the spirit and intent of Treaties, agreements, and other constructive arrangements."<sup>4</sup> Indeed, one of the hallmarks of this federal government's Indigenous policy has been an emphasis not just on the *recognition* of Indigenous rights, but also on their intended *implementation* through the development of legislation and mechanisms intended to enable them in robust ways.

A National Treaty Commissioner's office is not a novel idea, having been recommended in 1996 by the Royal Commission on Aboriginal Peoples (among others). The office may offer promise to some, but it is not a prerequisite to the implementation of treaty relationships. Indigenous people have long called upon the Crown, and the federal and provincial executives that now embody the Crown, to honour their treaty obligations both within and outside of state-sanctioned processes. These calls have, by and

large, not given rise to any significant transformation in the political relationship between treaty First Nations and Canada.

Little detail on the proposed office has been provided, other than government statements claiming it will undertake, "the ongoing review, maintenance and enforcement of Canada's treaty obligations."<sup>5</sup> It remains unclear if this office would provide Indigenous people with a similar or alternative process to the Specific Claims Tribunal for advancing claims relating to Crown breaches of treaty.

If the Trudeau government's recent attempts offer any insight, the office's mandate would likely be carried out within the existing federal structure, unaccompanied by any change in political authority, jurisdiction, or tax and revenue sharing between governments. Relatedly, the federal government's repeated commitment to using a "distinctions-based approach" in the purported fulfillment of its obligations to Indigenous people often translates to a model that differentiates between the needs of First Nations, Inuit, and Métis communities.

This approach does not, however, extend to distinctions in the different political relationships that Indigenous people within each of these categories have with the federal government, such as distinct treaty relationships.

Additionally, the proposed National Treaty Commissioner's Office in no way departs from Canada's long-standing understanding of treaties as fixed-term transactions with discretionary obligations. Its purpose appears to be to fulfill the terms of the transaction rather than altering longstanding asymmetries in the configurations of the Indigenous-state relationship. Yet, treaty relationships are not transactions whereby Canada's outstanding debts can be neatly reconciled. Rather, the implementation of treaties requires a commitment to envisioning a fundamentally alternate form of relationship, one which evidently lies outside of Canada's current political imaginary.

Meanwhile, there is an ongoing pandemic. Despite the lack of commitment and imagination from Canada, many treaty First Nations are grounding their public health





NORTHERN PAWN, SOUTH VIETNAM - NORTH BATTLEFORD, SASKATCHEWAN | HERE ON FUTURE EARTH, 2009 BY JOI T. ARCAND

governance, and their actions and interactions with other levels of government, in the framework of treaty. For instance, the First Nations of Maskwacis, Alexander First Nation, and the James Smith Cree Nation have all recently declared states of emergency and activated the medicine chest and pestilence clauses in Treaty 6.<sup>6</sup>

In addition, the Assembly of First Nations has declared a state of emergency, and many First Nations have taken steps to shore up their own jurisdiction and enact their own pandemic response measures.<sup>7</sup>

First Nations across Ontario, Manitoba, Saskatchewan and Alberta have closed their borders and erected blockades on provincial highways in an attempt to prevent infection and the spread of the virus within their communities, as well as to signal the fraught jurisdictional disputes that can arise between Indigenous communities, provincial governments, and the federal government (or, more precisely, its lack of involvement).<sup>8</sup> These and other Indigenous people have specifically pointed to the Crown's responsibility to provide assistance to its treaty partners in general, and especially so in times of need.<sup>9</sup>

**"...THE IMPLEMENTATION OF TREATIES REQUIRES A COMMITMENT TO ENVISIONING A FUNDAMENTALLY ALTERNATE FORM OF RELATIONSHIP, ONE WHICH EVIDENTLY LIES OUTSIDE OF CANADA'S CURRENT POLITICAL IMAGINARY."**

## PART TWO

# On "The Benevolence of the Queen"

**PRIOR TO CONTACT** with European settlers, Indigenous populations in the region currently called Canada can be characterized as having much stronger physical, mental, and spiritual wellness relative to today. Historical records and contemporary scholarship suggest that diseases, illnesses, cancers, mental disorders, and other significant health conditions were relatively rare occurrences.<sup>10</sup>

Indigenous people have long understood human wellness as interconnected and interconnected and inextricably linked to the environments in which we live and hold responsibilities towards. Pre-contact, Indigenous people had long-standing practices for maintaining a high quality of life that arose from an intimate knowledge of local surroundings, and specifically of the medicinal and healing powers of the living earth.

Contact with Europeans exposed many of our ancestors to infectious diseases that they had no immunity or established remedies for. These included influenza, tuberculosis, measles, polio, diphtheria, and smallpox, among other diseases that were prevalent in Europe at the time. The particular vulnerabilities of Indigenous populations were recognized by settler officials, as evidenced in historical records such as Duncan Campbell Scott's acknowledgment that, "The Indian is even more susceptible than his white neighbour to the deadly menace of this disease [tuberculosis]."<sup>11</sup>

Further, the increase in newcomer populations and their wilful exploitation of the buffalo, among other vital sources of subsistence,

severely impacted the wellness of Indigenous populations, many of whom faced unprecedented levels of starvation in the years leading up to treaty negotiations. As W.J. Christie, the Chief factor for the Saskatchewan Region of the Hudson's Bay Company wrote in an 1871 internal memoranda to Lieutenant Governor Archibald, "The buffalo will soon be exterminated, and when starvation comes, these Plains Indian Tribes will fall back on the Hudson's Bay Forts and settlements for relief and assistance."<sup>12</sup>

Indeed, written and oral historical records indicate that Indigenous peoples' interest in entering into treaty-making was grounded in a dual imperative. First, many Indigenous people saw the rapidly increasing presence of newcomers and wanted to impose limits on settler actions in their territories. These actions included the liquor trade, exploitation of animal populations and the land, surveys and purported sales/purchases of territory, and other actions being undertaken by settler individuals and officials that Indigenous leaders wanted the Crown to prevent.

Second, with increases in settlement, Indigenous people sought to assert their own authority and jurisdiction

relative to newcomers, including: 1) pre-existing rights and responsibilities that they wanted affirmed under the treaties and 2) new alliances and inter-societal commitments that they sought to institute through the establishment of a relationship with the Crown. For Indigenous peoples, the negotiation of treaties followed a long tradition of treaty-making between nations and among other living beings. These practices pre-dated the arrival of Europeans, helping to mediate the relationships between individuals, communities, and the land and water in shared spaces.

Such diplomatic practices follow from the recognition that living beings do not exist in isolation but are interdependent on one another and the environments that surround us. In order to sustain these networks of interconnection, we may learn from and contribute to the life of other living beings but are not to interfere with their inner workings. This relationality is evident in the kinship terms and metaphors that were often used in treaty negotiations to symbolize notions of sharing, care, and nurturance.<sup>13</sup>



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Treaties were not straightforward endeavors, as Indigenous representatives sought to create arrangements for co-existence that would forever alter their worlds, precisely on the basis that the agreements they were negotiating should ensure, not intentionally constrain, the elements that they saw as necessary to secure a high quality of life for future generations.<sup>14</sup> As Menno Boldt writes, "[The chiefs who negotiated the treaties] strained to peer over the horizon of their time to see what their future needs for survival and well-being as Indians would be in the emerging world."<sup>15</sup>

Throughout the course of treaty negotiations, when pressed on the Crown's intentions, Crown representatives assured Indigenous populations to trust "the benevolence of the Queen," responding to Indigenous peoples' concerns surrounding ongoing famine and disease with assurances that, "the Queen will take care of all her children," or that "she in her goodness would give such help as she thought the Indians needed."<sup>16</sup> While the question of Indigenous peoples' future quality of life, and the provision of aid and assistance in times of need was discussed during the negotiation of many of the Numbered Treaties (with many Indigenous people maintaining that these discussions were reflected in oral commitments), Crown

commissioners generally set it aside from the list of commitments recorded in the text of treaties.

For instance, in negotiating Treaty 8, commissioners Laird, Ross, and McKenna indicated to Indigenous people that "the Government was always ready to give relief in cases of actual destitution, and that in seasons of distress they would without any special stipulation in the treaty receive such assistance as it was usual to give in order to prevent starvation." They continued: "We assured them, however, that the Government would always be ready to avail itself of any opportunity of affording medical service just as it provided that the physician attached to the Commission should give free attendance to all Indians whom he might find in need of treatment."<sup>17</sup>

Indigenous people have long argued that the provision of medical care is a right that was negotiated under the Numbered Treaties, and have demanded that the Crown honour this right from the period immediately following the negotiation of Treaty 1 onward. In 1873, in response to concerns advanced by signatories to Treaty 1 surrounding outstanding treaty promises that had not materialized, Canada appointed a Board of Indian Commissioners. They ultimately recommended that, "without recognizing the alleged promises in their entirety, the Privy Council should announce to the Indians, that [...] the Governor General in council had resolved, out of the benevolence of Her Majesty, to give the Indians, parties thereto, as a supplement to their existing annuities and other benefits under the Treaty, a number of articles including 'a supply of simple medicines to be provided for each Reserve, and place in the custody of some suitable person.'"<sup>18</sup> Of significance here is the framing of these concerns as ones the Queen would attend to out of benevolence or goodwill rather than as part of legally and politically binding treaty agreements.

Canada has long refused to formally acknowledge that Indigenous people have Aboriginal or Treaty rights to health, remaining unclear about whether the provision of health services to Indigenous people flows from policy, statute, or treaty.<sup>19</sup> This situates Crown treaty commitments as discretionary and contingent on social and political will.

Yet, such conditional "benevolence" betrays the nature of treaties, which Indigenous leaders have always understood to be living, enduring agreements. The intended continuity of treaties is apparent in many references that Indigenous signatories made to their permanence, i.e. as long as the sun shines, waters/rivers flow, and the grass grows. By invoking the sun, water, rivers, grass, and even in some contexts, the rocks and mountains, Indigenous peoples emphasized an understanding of human relations as ever-lasting, growing, and flourishing. Importantly, the notion of continuity also speaks to the ways in which treaties were not static, one-time transactions, but rather were intended to provide a framework that future generations could draw on to govern the relationship.

Treaties were negotiated precisely because our ancestors wanted to ensure that future generations would be able to turn to them in their efforts to maintain a high quality of life. State neglect of this very important dimension of treaties is even more glaring in moments when Indigenous people find the conditions necessary for our lives or livelihoods to be under threat. In many ways, this pandemic lays bare the ongoing issues in the treaty relationship, in that efforts to maintain the health and well-being of Indigenous communities have been, and continue to be, hamstrung by a narrow and compartmentalized conception of treaties and what treaty relations and the obligations that flow from them could and should entail or look like.

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## PART 3

# Treaty and the Politics of Life

**BEYOND THE PROBLEM** of temporary, discretionary, and conditional Crown interpretation of treaties, lie a plethora of ongoing issues arising from the compartmentalization of treaties and treaty rights. One of the most common approaches to the analysis of treaties within government is to divide treaties into disparate policy categories, such as education, justice, health, annuities, hunting and fishing, and so on.<sup>20</sup>

This follows the Crown's initial approach in recording the text of treaties, which compartmentalized dimensions of the treaty relationship into a list of distinct, fixed terms. Yet, there were a number of principles and commitments articulated in the oral discussions surrounding treaties that, as John Borrows has argued with respect to the Treaty of Niagara, speaks more broadly to the nature of the intended relationship.<sup>21</sup> This has been true in relation to the Numbered Treaties as well, with Indigenous people pointing to the "spirit" of the treaty or a number of "outside promises" that were discussed but not recorded in the written text.

Indeed, the courts have recognized the importance of looking to Indigenous oral histories when interpreting treaties<sup>22</sup> and have articulated a number of principles in a theoretical departure from "plain-text" readings.<sup>23</sup> However, these principles are not always implemented in practice, and even in some instances when they have been affirmed, these principles have not been reflected in the court's judgments.<sup>24</sup> Thus, many issues in the

Indigenous-Crown relationship that arise from one-sided, Eurocentric interpretations of treaties, including Crown assumption of land cession, issues in the federal/provincial relationship, the question of resources, jurisdictional disputes and, of particular relevance to the current discussion, questions of wellness and quality of life, remain outstanding.

Broadly speaking, the goal of treaty interpretation, as described by the courts, is not to dwell on difference but to arrive at an interpretation of common intention that "best reconciles the interests of both parties at the time the treaty was signed."<sup>25</sup> The court's approach fails to transform the treaty relationship; the relationship remains configured, as it has always been, by the imperatives of settler nation-building and Indigenous oppression, and the horizons of treaty implementation are constrained by the project of arguing for the broadest possible understanding of specific treaty clauses on a case-by-case basis. Instead of facilitating a move away from a transactional understanding of treaties, the principles of treaty

interpretation provide little more than legal recognition of the importance of accounting for Indigenous understandings of the terms of the "treaty transaction."<sup>26</sup>

The compartmentalization of the treaty relationship, and the associated assumption that the Numbered Treaties constitute transactions wherein land was exchanged for a distinct list of treaty terms, continues to limit Crown obligations but also serves to contain the horizons of Indigenous political mobilization. What we mean by this is that rather than revisiting the nature of the current political relationship between Indigenous people and the Crown in accordance with Indigenous understandings of treaty, institutional efforts towards treaty implementation have largely focused on the political project of working towards garnering a common understanding of specific treaty obligations, discussing how these translate to particular policy areas, and undertaking a range of educational initiatives.

## **“THE MUTUAL, LIFE-GIVING CHARACTER OF TREATIES EXTENDS TO MULTIPLE REALMS OF THE RELATIONSHIP AND EXCEEDS THE NOTION OF BASIC SURVIVAL...**

## **WE ARE OF THE VIEW THAT THESE DISCUSSIONS CANNOT BE ADEQUATELY CAPTURED BY LITERAL INTERPRETATIONS OF SPECIFIC TERMS OF TREATY, OR BY ARGUING FOR A CROWN COMMITMENT TO THE PROVISION OF MEDICAL AID, BUT THAT THEY REPRESENT A “POLITIC OF LIFE” THAT WAS CONCEPTUALIZED MUCH MORE BROADLY BY INDIGENOUS NEGOTIATORS.**

For instance, a 2010 impact evaluation of Treaty Commissions in Canada, including Saskatchewan’s Office of the Treaty Commissioner and the Treaty Relations Commission of Manitoba, indicated that while both offices have found success in increasing public awareness of treaties, in advancing partnerships with public and private sector organizations, and in creating more respectful inter-societal relations, there have been “impediments to the commissions’ work in improving relations or resolving treaty issues between Canada and First Nations,” particularly with respect to the advancement of Indigenous self-government.<sup>27</sup>

The impacts of these issues extend broadly to all realms of the treaty relationship, including the question of Indigenous health and wellness. Within compartmentalized approaches to treaty interpretation/implementation, healthcare is often dismissed by the federal government as outside of the treaty relationship, despite ample evidence indicating otherwise. While Treaty 6 is the only treaty with any written reference to the provision of medical care and aid in times of famine and pestilence,<sup>28</sup> oral histories and the surrounding

records and communications from Crown representatives indicate that the imperative of survival, wellness, and protection, both of human beings and the environments they inhabit, are central dimensions of every treaty relationship. These discussions include, but also exceed, the Crown commitment to provide basic medical care and assistance in times of need to Indigenous people.

Discussions surrounding the well-being and the quality of life of future generations, in particular, represent recurring themes that were raised during the negotiation of each treaty. When negotiating treaties, many Indigenous leaders recognized that increased settler presence and the accompanying decline of animal populations, spread of disease, trade of liquor, and other changes necessitated the development of new political agreements to govern the relationship with newcomers in ways that would stand to benefit both parties. Ultimately, Indigenous people would agree to share the lands with settler populations, entering into what Indigenous Elders describe as a “mutual life-giving relationship.”<sup>29</sup> The mutual, life-giving character of treaties extends to multiple realms

of the relationship and exceeds the notion of basic survival. It involves a commitment from the Crown to ensure the well-being of Indigenous populations, many of whom were experiencing rapid declines in physical health and high rates of death within their communities in the period leading up to negotiation of treaties. We are of the view that these discussions cannot be adequately captured by literal interpretations of specific terms of treaty, or by arguing for a Crown commitment to the provision of medical aid, but that they represent a “politic of life” that was conceptualized much more broadly by Indigenous negotiators.

The disjuncture between the Crown’s literal interpretation of provisions relating to medical aid, and Indigenous understandings of the many, interconnected, elements necessary to maintain a healthy and robust life are evident in the words of the late Elder Jimmy Myo:

[...]when the white man came we started having a lot of different diseases. People were dying because these diseases were new to us, and when the Queen’s representative came and made treaties with us, the old man that was talking there

[...] told them [...] "I have everything right now. See the buffalo. I have medicine. I have an old lady that will help cure my disease. I have a medicine man, a doctor, that will cure my disease. Are you going to replace them? These things that I have were given to me by God, such as the law that was given to me by God. Do you think you will be able to replace them?"<sup>30</sup>

Wellness, then, flowed from an interconnected understanding of life and was conceptualized in a robust way, where Indigenous communities would be able to sustain a high quality of life and an adequate livelihood relative to newcomer populations. Importantly, in seeking commitments surrounding well-being and survival from the Crown, Indigenous people wanted to learn about the medical knowledge and practices that newcomers might bring, without sacrificing their own pre-existing ones.

Indeed, Saskatchewan's Office of the Treaty Commissioner wrote that, "Cree Elders described Treaty First Nations expectations of the Crown as analogous to their understanding of *me wut*. *Me wut* was a medicine bag which required the services of a specialist with the knowledge to properly administer the medicines [...] For our Elders, the Crown undertaking meant a Crown commitment to provide and share with our Nations, all of the health resources and knowledge available in Her realm."<sup>31</sup> Importantly, Western medical practices and knowledge were intended to contribute to, *not supplant*, Indigenous peoples' traditional medical practices which, as Elder Myo's insight illustrates, were interconnected with and indeed contingent upon the continuity of an entire way of life.

In many ways, while the focus of some Indigenous leaders was on survival, especially in the face of disease and starvation, Indigenous peoples conceptualized treaty as more than simply "surviving" — that is, they wanted their people to flourish, or have a high quality of life, in the

face of changing circumstances as well. Unfortunately, the Crown infrequently recorded these parts of the conversation, assuring Indigenous people that medical assistance and care would be provided as a matter of course and did not need to be incorporated into the treaty. Indeed, Alexander Morris' records of treaty negotiations indicate that the Crown committed to providing additional aid in times of need even if these commitments were not included in the written text of the treaty that was recorded by the Crown: "Last winter when some of the Indians wanted food because the crops had been destroyed by grasshoppers, although it was not promised in the treaty, nevertheless the Government sent money to buy them food, and in the spring when many of them were sick a man was sent to try and help them. We cannot foresee [sic] these things, and all I can promise is that you will be treated kindly, and that in extraordinary circumstances you must trust the generosity of the Queen."<sup>32</sup>

In Treaties 1 and 2, Indigenous knowledge-holders have long argued that medical aid was one of the "outside promises" discussed during treaty negotiations, but that did not get included in the initial text recorded by the Crown.<sup>33</sup> Like in all treaties, concerns surrounding the well-being of current and future generations were shared by Indigenous leaders, and in fact this concern was the cause of an impasse on the fifth day of negotiating Treaty 1, when some Indigenous negotiators threatened to leave due to the belief that "the treaty terms proposed by [Treaty commissioner Wemyss] Simpson would not benefit them and would be insufficient to sustain future generations of their people."<sup>34</sup> On their part, Crown representatives indicated to Indigenous negotiators that one of the Queen's intentions was to keep the Indians safe from "famine and distress,"<sup>35</sup> and that the Queen "was willing to help the Indians in every way."<sup>36</sup>

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**WE CANNOT FORSEE [SIC] THESE THINGS, AND ALL I CAN PROMISE IS THAT YOU WILL BE TREATED KINDLY, AND THAT IN EXTRAORDINARY CIRCUMSTANCES YOU MUST TRUST THE GENEROSITY OF THE QUEEN."<sup>32</sup>**





SWEETGRASS STORE - SWEETGRASS FIRST NATION | HERE ON FUTURE EARTH, 2009 BY JOI T. ARCAND

In Treaty 4, Treaty commissioner Alexander Morris, told the Indigenous peoples of the Qu'Appelle region about the “red men living in Quebec and Ontario” who “are happy; instead of getting fever in number by sickness they are growing in number” and the Queen wanted Indigenous people in Treaty 4 territory, “to have the same blessings.” Indigenous oral histories also indicate that the provision of medicine and aid formed part of Treaty 4. For instance, the late Elder Gordon Oakes of the Nekaneet First Nation, a record keeper for the Indian version of Treaty 4, indicated:

I was educated by Sewepiton, who was present at the signing of Treaty No. 4 in Fort Qu'Appelle, for the first thirteen years of my life. I did not attend a school during that period and received my education in the traditional Indian way. Sewepiton was already a young man in 1874 when he attended the treaty assemblies between

the Indian peoples and the Queen's representatives. Sewepiton spoke four languages, Cree, Saulteaux, Assiniboine and Blackfoot. He understood and related to me the different tribes' comprehension of the meaning and terms of the treaty. At the treaty assemblies, the Queen's representative's interpreter spoke Cree. Sewepiton understood that it was two nations bargaining. It was one nation asking for the approval and right to enter the land and the other nation agreed but only in exchange for certain rights which promises include education, tax exemption, medicine, and land. [...] *The Queen's representative told them that the future generations will continue to use the treaties and enjoy the treaty rights such as education, and provisions in cases of famines, and pestilence.*<sup>37</sup>

Yvonne Boyer's extensive research on treaties in the realm of health has indicated that discussions surrounding medical aid were raised during other

treaty negotiations as well, and that the association between treaty-making and the provision of care was reinforced by the presence of physicians at many treaty negotiations, an association which could be understood as implying that medical assistance would accompany the treaty relationship into the future.<sup>38</sup> Additionally, Boyer further notes that the federal government has recognized in internal documents that similar verbal commitments were made in Treaties 7, 8, 10, and 11.<sup>39</sup>

Treaty 7 was negotiated less than a year after Treaty 6, and Indigenous parties were facing similar contexts of disease and starvation. In a report compiled by Rev. C. Scollen, which commissioner Laird included in the records preceding the 1876 negotiation of Treaty 7, Scollen estimates that from 1870 onward, the “disease so fatal to Indians, the small-pox” resulted in a loss of between 600 to 800 lives.<sup>40</sup>



When outlining reasons why he felt that a treaty should be negotiated, Scollen wrote that the Blackfoot “have an awful dread of the future.”<sup>41</sup> Richard Price explains that Indigenous people of Treaty 6 and 7 generally approached treaty-making with the view that “the Queen had made a treaty to protect and care for her Indian subjects,” noting that “The Treaty 7 people have an even stronger belief [than the Treaty 6 people] in this purpose of the treaty.”<sup>42</sup> Further, in negotiating Treaty 7, Laird told the Indians that, “The Queen wishes to offer you the same as was accepted by the [Treaty 6] Crees.”<sup>43</sup> As previously mentioned, Treaty 6 is well-known for its inclusion of written clauses surrounding the provision of medical care and aid in times of famine and pestilence.

In Treaty 8, the commissioners’ report indicates that Indigenous parties also asked for “assistance in seasons of distress;” in response, the commissioners indicated that, “the Government would always be ready to avail itself of any opportunity of affording medical service just as it provided that the physician attached to the Commission should give free attendance to all Indians whom he might find in need of treatment.”<sup>44</sup> Indeed, with respect to Treaty 8, Price notes that an “earnest appeal was made for the services of a medical man” and that the commissioners’ report indicates that “they made significant verbal commitments in these areas” including but not limited to the promise “that supplies of medicine would be put in charge of persons selected by the Government at different points, and would be distributed free to those of the Indians who might require them.”<sup>45</sup> Treaty 10 and 11 also involved verbal discussions surrounding the provision of medical care and assistance.<sup>46</sup>

**“LET US RECALL THAT TREATIES ARE NOT DESCRIBED AT LENGTH BY ELDERS AS “SURVIVING AGREEMENTS,” THEY ARE DESCRIBED AS “LIVING, BREATHING AGREEMENTS” THAT ENTAIL A VISION NOT JUST OF BASIC SURVIVAL, BUT OF A GOOD LIFE FOR THEIR MEMBERS AND FOR GENERATIONS.”**

In short, while “plain-text” readings of treaty may suggest that the commitment to provide medical services and aid was only part of Treaty 6, there is a significant body of oral history and records of communications that indicate that the Crown commitment to provide care and assistance, particularly in times of exceptional need, were significant aspects of other treaties despite not being detailed in the written text. Further, there are innumerable references that both Indigenous people and Crown commissioners made during negotiation of the Numbered Treaties which affirm the Crown commitment to ensure that Indigenous people would not just continue to physically survive, but to live well into the future.

The constant references that Indigenous people made to “life” in the negotiation of treaties, whether referring to their expectation that treaties would ensure good lives for future generations or whether referring to treaties as “living” agreements, warrant further consideration within the study and practice of treaty implementation. To date, scholars have interpreted this emphasis on the continuity of life through either: 1) an economic lens, which suggests that Indigenous people negotiated treaties to obtain a new livelihood or to secure the necessary financial resources to ensure good life in the face of changing economic circumstances<sup>47</sup>,

or 2) a biological lens, which suggests that Indigenous people negotiated treaties in order to physically survive in the face of famine, disease, and death.<sup>48</sup> Of course, both frames reflect the context leading up to treaty negotiations and are thus central to their interpretation today, but it is also important to bear in mind that Indigenous peoples’ expectations in entering into treaty relationships extended well beyond the desire to oppose immediate death, or to ensure basic physical survival for a limited period in time. There are thus limits both to strictly economic and biological interpretations, as treaty relations extend beyond the moments of crisis and transition in which they were negotiated.

Let us recall that treaties are not described at length by Elders as “surviving agreements,” they are described as “living, breathing agreements” that entail a vision not just of basic survival, but of a good life for their members and for generations. Importantly, for Indigenous people, “a good life” does not occur in a vacuum, but is intimately linked to the health and quality of relationships. This is reflected in the Cree term *miyo-wicêhtowin*, described by Treaty Elders of Saskatchewan as reflecting the imperative to maintain good or positive relations with all our relatives, now and into the future.<sup>49</sup>

Our ancestors persisted in the face of devastating circumstances to envision that better future. It is a vision that we maintain today, reflecting what Linda Tuhiwai Smith calls a, "language of possibility."

**At such an important time in our shared history, treaty can help us re-imagine new and healthy forms of relationships, new possibilities.**

## **PART FOUR**

# Treaty and the Expansion of Political Horizons

**THROUGHOUT THIS REPORT,** we have drawn attention to the limits of treaty interpretation when narrowly construed. That is, we have argued that literal, and often compartmentalized, understandings of the Numbered Treaties can function to reinforce the suffering of Indigenous people by delimiting and in some cases, entirely obscuring, Crown obligations that flow from Indigenous understandings of the treaty relationship.

The politics of treaty interpretation are always important, but especially so in the current pandemic as they can serve to justify state neglect of its treaty commitments to Indigenous people who remain particularly vulnerable to disease.<sup>50</sup>

Yet, we are also of the view that political projects which depart from a transactional, compartmentalized understanding, and that engage more robust and relational conceptions of treaties, can contribute to a broadening of political horizons. That is, we are interested in what possibilities arise when both Indigenous and non-Indigenous people move beyond the view of the Numbered Treaties as land transactions, and towards an understanding of treaties as representing a “politics of life” advanced by Indigenous people.<sup>51</sup>

This approach to treaty implementation situates Indigenous communities’ desire for aid and assistance under treaties as flowing from a distinct political relationship with the Crown, one which gives rise to obligations for the Crown to provide not the level of care and assistance

needed to ensure Indigenous peoples’ basic survival, but to maintain an adequate quality of life during and beyond periods of crisis. The approach marks a break from treaty as a mechanism for Canadian governments to extend and deepen their authority within Indigenous communities, and towards an understanding of treaties as representing a mechanism to hold Canadian governments accountable for living in a relation of care with Indigenous people, without infringing upon our political authority and jurisdiction.

The Numbered Treaties entail a series of commitments from the Crown to ensure the ongoing well-being and quality of life of treaty partners; recognition of this obligation allows all treaty partners to think more broadly about our own rights and responsibilities as parties to treaty, as well as the current expectations that we have of the federal government. Understanding the Numbered Treaties as enduring, but also socially and politically situated life-giving relationships, may prompt us to ask: what are the federal government’s responsibilities in light

of the specific and current vulnerabilities of Indigenous populations relative to the spread of disease, and in light of the current capacity and state of infrastructure in many Indigenous communities?

**“WHAT ARE THE FEDERAL GOVERNMENT’S RESPONSIBILITIES IN LIGHT OF THE SPECIFIC AND CURRENT VULNERABILITIES OF INDIGENOUS POPULATIONS ...AND THE CURRENT CAPACITY AND STATE OF INFRASTRUCTURE IN MANY INDIGENOUS COMMUNITIES?”**

Crucially, drawing a distinction between “basic survival” and “a good life” illustrates the limitations of interpretations of treaty that situate them as a means of “basic survival,” whereby Indigenous people are, at best, provided with the resources to barely “get by.” This is just as true historically as it is during this pandemic. With respect to the current crisis, we certainly recognize that immediate financial supports are necessary to meet the needs of Indigenous people and communities, and acknowledge that the federal government’s delayed provision of support and funding to Indigenous communities already dealing with limited capacity, severe infrastructure issues, and barriers to accessing healthcare services, is an inadequate response.

Yet, we also call for more than a “distinctions-based approach” from the federal government. Uniform formulas cannot be applied to First Nations, Métis, and Inuit peoples, as even within these categories Indigenous people are differently situated vis-à-vis federal and provincial governments and occupy distinct

political relationships with them. To work towards implementing treaty relationships between Indigenous and non-Indigenous peoples in contexts of ongoing settler colonialism, in particular, Indigenous people must continue to advance a treaty politic grounded in notions of accountability and responsibility that flow from our own understanding of the treaty relationships we inhabit. We must continually refuse the notion that state responses to the current pandemic and other crises are “benevolent gestures” from the federal government while it continues to disregard its treaty commitments and exploit treaty territories for development and resource extraction.

If we follow a conception of wellness and quality of life broadly defined, then advancing the question of health in a treaty context requires both comprehensive actions to meet the immediate needs of Indigenous communities but also longer-term forms of change in the political relationships between treaty partners. Far from the “certainty” that governments and industry so

desperately seek in their relations with Indigenous people, change means revisiting and unsettling the Eurocentric assumptions and narrow conceptions of treaty that have for too long configured the ways in which treaty relationships, and their potential implementation, are understood.

Benevolence, by and large, has been and continues to be framed as ensuring Indigenous people have “the means to get by” while Canadians prosper. But it in no way resembles what a shared relationship would actually look like: the flourishing of life in sustainable ways for all. Instead of simply surviving, Indigenous populations should be thriving in our own lands. Our ancestors persisted in the face of devastating circumstances to envision that better future. It is a vision that we maintain today, reflecting what Linda Tuhiwai Smith calls a “language of possibility.”<sup>52</sup> At such an important time in our shared history, treaty can help us re-imagine new and healthy forms of relationships, new possibilities.



TOWN HALL- MARCELIN, SASKATCHEWAN | HERE ON FUTURE EARTH, 2009 BY JOI T. ARCAND

# ENDNOTES

- 1 Office of the Treaty Commissioner, *Treaty Table Meeting on Health*, trans. from Saulteaux (Saskatoon: September 1997), 359-362. Edited for brevity.
- 2 The Canadian Press Staff, "Indigenous people in big cities feel excluded from federal aid for COVID-19 relief," *Montreal CTV News*, April 21, 2020, <https://montreal.ctvnews.ca/indigenous-people-in-big-cities-feel-excluded-from-federal-aid-for-covid-19-relief-1.4906289>; see also John Borrows and Constance Macintosh, "Indigenous communities are vulnerable in times of pandemic. We must not ignore them," *The Globe and Mail*, March 17, 2020, <https://www.theglobeandmail.com/opinion/article-indigenous-communities-are-vulnerable-in-times-of-pandemic-we-must/>; see also Isadore Day, Grand Chief Wilton Littlechild et al., "Urgent resources for COVID-19 in Indigenous communities," petition, 2020, <https://www.change.org/p/prime-minister-trudeau-more-resources-for-covid-19-for-indigenous-communities-urgently-needed?signed=true>
- 3 File Hills Qu'Appelle Tribal Council, *FHQC Leadership COVID-19 Live Update* (Fort Qu'Appelle, SK: Facebook, March 20, 2020), Facebook live video, <https://www.facebook.com/FHQC/videos/684501122351349/>
- 4 Liberal Party of Canada, *Forward: A real plan for the middle class* (Ottawa: Federal Liberal Agency of Canada, 2019), 61, <https://2019.liberal.ca/wp-content/uploads/sites/292/2019/09/Forward-A-real-plan-for-the-middle-class.pdf>
- 5 *Ibid.*, 61.
- 6 Stephanie Dubois, "Maskwacis activates 'medicine chest' treaty clause declaring state of emergency," *CBC News*, March 24, 2020, <https://ermeskin.ca/maskwacis-activates-medicine-chest-treaty-clause-declaring-state-of-emergency-cbc-news/>
- 7 Jennifer Henderson, "Alexander First Nation declares state of emergency," *St. Albert Today*, March 25, 2020, <https://www.stalberttoday.ca/local-news/alexander-first-nation-declares-state-of-emergency-2198734>;
- 8 <https://www.cbc.ca/news/canada/saskatchewan/covid-19-first-nation-peter-ballantyne-pelican-narrows-1.5506285>; <https://www.ctvnews.ca/health/coronavirus/indigenous-communities-close-their-borders-in-hopes-of-preventing-covid-19-spread-1.4863166>; <https://www.cbc.ca/news/canada/sudbury/first-nations-borders-checkpoints-law-1.5557691>
- 9 Perry Bellegarde, "The COVID-19 crisis on First Nations: a reminder of our inequality and an opportunity for change," *The Globe and Mail*, April 6, 2020, <https://www.theglobeandmail.com/opinion/article-the-covid-19-crisis-on-first-nations-a-reminder-of-our-inequality-and/>
- 10 Canada. Royal Commission on Aboriginal Peoples. *Report of the Commission on Aboriginal Peoples* (Ottawa: The Commission, 1996), 3: 103.
- 11 Duncan Campbell Scott, "The Canadian Indians and the Great World War," cited in Keith Smith, ed. *Strange Visitors: Documents in Indigenous-Settler Relations in Canada from 1876* (Toronto: University of Toronto Press, 2014), 206.
- 12 Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories: Including the Negotiations on which they are Based, and Other Information Relating Thereto* (Toronto: Belfords, Clarke & Co., 8 1880), 32. Hereafter abbreviated Morris
- 13 James Rodger Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto: University of Toronto Press, 2009); Sarah Carter, "Your Great Mother across the Salt Sea: Prairie First Nations, the British Monarchy and the Vice Regal Connection to 1900," in *Manitoba History* (Manitoba: Manitoba Historical Society, 2005), Autumn/Winter: no 48.
- 14 We resist the framing of Indigenous treaty negotiators as having been deceived, misled, or unable to comprehend the complexity of European legal and political concepts as we are of the view that Indigenous negotiators understood the nature of the agreements they were entering into in accordance with their own legal and political traditions.
- 15 Menno Boldt, *Surviving as Indians: The Challenge of Self-Government* (Toronto: University of Toronto Press, 1993), 40.
- 16 Morris, 216.
- 17 Morris quoted in René Fumoleau, *As long as this land shall last: A history of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004), 6: 87.
- 18 Indian Claims Commission, *Indian Claims Commission Proceedings* (Ottawa: Minister of Public Works and Government Services Canada, 2001), 14: 51. [http://publications.gc.ca/collections/collection\\_2012/gtrpc-rscts/RC12-1-2001-14-eng.pdf](http://publications.gc.ca/collections/collection_2012/gtrpc-rscts/RC12-1-2001-14-eng.pdf)
- 19 Office of the Treaty Commissioner, *Statement of Treaty Issues: Treaties as a Bridge to the Future* (Saskatoon: Office of the Treaty Commissioner, 1998), 36.
- 20 See note 18 above.
- 21 For instance, Borrows argues that the *Royal Proclamation* represents only part of a treaty between Indigenous peoples and the Crown, and the rest of the treaty is contained in the 1764 Treaty of Niagara, which include conditions that "underpin the Proclamation and that lie outside the bare language of the document's words," which assert a more comprehensive view of Indigenous self-government. John Borrows, "Wampum at Niagara: The Royal Proclamation, Canadian Legal History, and Self-Government," in *Aboriginal and Treaty Rights in Canada: Essays on Law, Equality, and Respect for Difference*, ed. M. Asch (Vancouver: University of British Columbia Press, 1997), 155.
- 22 In interpreting the terms of a treaty, the court has recognized that "...verbal promises made on behalf of the federal government at the times the treaties were concluded are of great significance in their interpretation." *R. v. Badger* [1996] 1 S.C.R. 771 at para. 55, 1996 SCC 236. <https://www.canlii.org/en/ca/scc/doc/1996/1996canlii236/1996canlii236.html>
- 23 The courts have indicated that treaties are to be given large, liberal and generous interpretations with any ambiguities to be resolved in favour of Indigenous people. Furthermore, treaties are said to represent, "an exchange of solemn promises between the Crown and Aboriginal Peoples," no "sharp dealings" are to be sanctioned, and any ambiguities "must be resolved in favour of [Indigenous parties to treaty]" (*R. v. Badger*, 1996). Finally, treaties must be understood in light of historical and cultural context, and with adequate regard for extrinsic evidence such as oral accounts, and must be interpreted in a way that is consistent with the interests of the parties to the treaty at the time of negotiation (*R. v. Marshall*, 1999).
- 24 Leonard I. Rotman, "Taking Aim at the Canons of Treaty Interpretation in Canadian Aboriginal Rights Jurisprudence," in *UNB LJ* (1997), 46: 11.
- 25 *R. v. Marshall* [1999] 3 S.C.R. 456 at para. 78, 1999 SCC 665. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1739/index.do>
- 26 For instance, in *Grassy Narrows* the court considered whether Indigenous understandings of the "taking up clause" was originally intended to include federal approval when the provincial government "took up" Indigenous lands. *Grassy Narrows First Nation v. Ontario* (Natural Resources), [2014] 2 S.C.R. 447 at para. 3, 2014 SCC 48. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14274/index.do>
- 27 Canada. Indian and Northern Affairs Canada. *Impact Evaluation of Treaty Commissions*. [Ottawa], February 24, 2010, 24. [https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/aev\\_pubs\\_ev\\_trc\\_1307369160774\\_eng.pdf](https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/aev_pubs_ev_trc_1307369160774_eng.pdf)
- 28 The written terms recorded by the Crown include both a "medicine chest" clause and a lesser-known clause called "the famine and pestilence" clause. Treaty 6 reads: "In the event hereafter the Indians... being overtaken by any pestilence, or by a general famine, the Queen... will grant to the Indians assistance... sufficient to relieve them from the calamity that shall have befallen them. A medicine chest shall be kept at the house of each Indian agent for the use and benefit of the Indians at the direction of such agent." The famine and pestilence clause declares that steps shall be taken to relieve the Indians "from the calamity that shall have befallen them in the event of pestilence or general famine." Morris, 354-355.
- 29 Elder Norman Sunchild quoted in *Treaty Elders Forum on Thunderchild First Nation, Treaty 6, Jackfish Lake Lodge* (Cochin, SK: November 12, 1997), 3.
- 30 Office of the Treaty Commissioner, *Treaty Table Meeting on Health* (Saskatoon: Office of the Treaty Commissioner, September 1997), 354.
- 31 Office of the Treaty Commissioner, *Statement of Treaty Issues: Treaties as a Bridge to the Future* (Saskatoon: Office of the Treaty Commissioner, 1998), 51.
- 32 Morris, 211.
- 33 For instance, in their claim to the Indian Claims Commission, Elder Oliver Nelson reported that when his Misomis (*grandfather*) Assiniwinin was a young boy, he was selected to be a "promise keeper" for Treaty 1. Assiniwinin indicated that one of the oral commitments was the promise of medical aid, and that that some of the medicine men were upset about this because, "they said that the Indian's medicines were better than [sic] the whiteman's." (Canada. Indian Claims Commission. *Roseau River Anishinabe First Nation Inquiry Report* (2001), 19). Other relevant sources relating to the Crown commitment to Indigenous wellness in Treaties 1 and 2 include the "Prince affidavit" signed by Indigenous parties who were present at Treaty 1 shortly after it was concluded. This affidavit lists the verbal promises Crown treaty commissioners made but did not write down in the text of the treaty. (Affidavit of David Prince, James Setter Sr, Henry Chief, Thomas Flett, William Bear, and Thomas Spence, (December 30, 1872), Canada. Parliament. *Sessional Papers*, (Ottawa: 1873), No.23, "Annual



Report of the Department of Indian Affairs for the year ended 30 June 1872," p. 9 (Indian Claims Commission Proceedings, 2001: 92). Other evidence includes Deputy Superintendent Spragge's 1873 direction to Provencher to "provide medicines for the sick" in response to Indigenous concerns over outstanding treaty promises that had not been fulfilled. William Spragge, Deputy Superintendent General of Indian Affairs, to J.A.N. Provencher, Indian Commissioner, July 18, 1873, NA, RG 10, vol. 747, reel C7408 (Indian Claims Commission Proceedings, 2001: 123-25). See also Elder Peter Atkinson's observation that the three main things that Indigenous people entered into Treaty 1 for "were health, education, and shelter." (cited in Aimée Craft. *Breathing Life into the Stone Fort Treaty: An Anishnabe Understanding of Treaty One* (Vancouver: UBC Press, 2013), 107).

<sup>34</sup> Indian Claims Commission Proceedings, 2001: 24.

<sup>35</sup> Ibid, 21.

<sup>36</sup> Canada. Province of Manitoba. "Adams G. Archibald, Lieutenant Governor of Manitoba" in *Manitoban* (Manitoba: August 2, 1871).

<sup>37</sup> Delia Opekokew, "The Nature and Status of the Oral Promises in Relation to the Written Terms of the Treaties" in Royal Commission on Aboriginal Peoples (Ottawa, 1993), 23. <http://data2.archives.ca/rcap/pdf/rcap-143.pdf>

<sup>39</sup> Yvonne Marie Boyer and National Aboriginal Health Organization, *Aboriginal health: A constitutional rights analysis* (Saskatoon: 2003), 21. See also Dr. T. Kue Young's 1984 article which indicates that there was probably discussion of health services during the signing of Treaties 8, 10 and 11, even though no references to health care were included in the written treaties. Dr. T. Kue Young, "Indian health services in Canada: A sociohistorical perspective," in *Social Science & Medicine* 18, (1984) 3: 257-264. See also John Long's research

on Treaty 9, which makes a similar argument regarding the presence of medical doctors at treaty negotiations. John S. Long *Treaty No. 9: Making the agreement to share the land in far northern Ontario in 1905* (McGill-Queen's Press-MQUP, 2010).

<sup>39</sup> Canada. *Report of an Interdepartmental Working Group to the Committee of Deputy Ministers on Justice and Legal Affairs*, as cited in Boyer, (2003) 20.

<sup>40</sup> Morris, 248.

<sup>41</sup> Ibid.

<sup>42</sup> Richard Price, ed. *The spirit of the Alberta Indian treaties* (Edmonton: University of Alberta, 1999), 98.

<sup>43</sup> Morris, 268.

<sup>44</sup> René Fumoleau, *As long as this land shall last: A history of Treaty 8 and Treaty 11, 1870-1939* (Calgary: University of Calgary Press, 2004), 6: 87.

<sup>45</sup> Price, 81, 98.

<sup>46</sup> The negotiation of Treaty 10 took place in stages, and when Borthwick, the local Indian agent who was appointed to conclude negotiations that began the previous year, visited some of the Treaty 10 communities who had already signed the treaty, he was asked by Chief Apisis, "that the government honour its pledge to provide medical assistance." Kenneth Coates and William R. Morrison. *Treaty Research Report: Treaty No. 10 (1906)*. Canada. Treaties and Historical Research Centre, Indian and Northern Affairs Canada, [Ottawa] 1986), 26. In Treaty 11, Crown negotiators indicated that, "it was impossible for the Government to furnish regular medical attention, when they were occupying such a vast tract of territory" but that "supplies were left at each point for the sick and destitute." <https://www.tlicho.ca/sites/default/files/documents/government/Treaty%2011.pdf>

<sup>47</sup> Frank Tough, *As their Natural Resources Fail: Native Peoples and the Economic History of Northern Manitoba, 1870-1930* (University of British Columbia Press, 2011). See also: Kerry Abel and Jean Friesen, eds. *Aboriginal resource use in Canada: Historical and legal aspects* (Winnipeg: University of Manitoba Press, 1991), volume 6.

<sup>48</sup> James William Daschuk, *Clearing the plains: Disease, politics of starvation, and the loss of Aboriginal life* (Regina: University of Regina Press, 2013), volume 65. See also James Rodger Miller, *Compact, contract, covenant: Aboriginal treaty-making in Canada* (Toronto: University of Toronto Press, 2009); among many others.

<sup>49</sup> Harold Cardinal and Walter Hildebrandt, *Treaty elders of Saskatchewan: Our dream is that our peoples will one day be clearly recognized as nations* (Calgary: University of Calgary Press, 2000), 14.

<sup>50</sup> Further, many Indigenous communities have low capacity, are located at a distance from health care services and essential supplies, and also have a number of barriers such as overcrowded housing and a lack of access to clean water, which can make preventative and mitigating measures challenging to implement.

<sup>51</sup> Mariana Mora, *Kuxlejal Politics: Indigenous Autonomy, Race, and Decolonizing Research in Zapatista Communities* (Texas: University of Texas Press, 2017). This framing is inspired by Mariana Mora's book *Kuxlejal Politics: Indigenous Autonomy, Race, and Decolonizing Research in Zapatista Communities* (Texas: University of Texas Press, 2017). *Kuxlejal* is a Mayan Tzeltal word that translates roughly to "life" or "life-existence."

<sup>52</sup> Linda Tuhiwai Smith, *Decolonizing methodologies: Research and Indigenous peoples* (New York: Zed Books Ltd., 1999), 194.





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