

Perspectives on Governance and Indigenous Rights

**Treaty 5 Rights & The Indian Act:
Alternative Governance Structures**

Narrated and Compiled by:

Louis Harper, BA, LLB



Figure 1. The boundary of the Unceded Treaty No.5 Territory Map is to be considered work in progress in order to address the disputed boundaries.

Contents

Map: Unceded Treaty No. 5 Territory 2

Acknowledgements 4

Introduction 5

Perspectives on Governance & Indigenous Rights

People’s Dialogue

Day 1 - First Nation Governance & Building First Nations Institutions 6

Day 2 - Socio-Economic Disparity & Own Source Revenue 23

Day 3 - Sovereignty, Nation-to-Nation & Reconciliation 42

Workshop Presentations by

Rarihokwats, Historian & Lecturer 59

Paul Chartrand, I.P.C., BA, LLB (Hons), LLM 75

Niibin Makwa (Derek Nepinak), BA, (Hons), LLB 87

Rarihokwats, Historian & Lecturer 100

Dr. Pam Palmater, BA, LLB, LLM, JSD 117

Wapastim Harper, Grade 11, Escowpayis 139

Resource Materials

Story about Treaty 5, 1875, “The Winnipeg Treaty” 142

Glossary 147

Copyright © 2019 TFAO Inc.

Acknowledgements

First of all, we would like to acknowledge the people of Treaty 5 for their participation at the Treaty 5 Rights & The Indian Act: Alternative Governance Structures Workshop and their contribution to this book.

A special acknowledgement goes to the TFAO Elders and Technician's Committee, Elder Frank Abraham, Black River First Nation, Robert Wavey, Fox Lake First Nation, Elder D'Arcy Linklater, Nisichawayasihk Cree Nation. Karen Richards, Swampy Cree Tribal Council, Elder Moses Okimaw, BA, LLB, God's River First Nation, Elder Jack Wood, St. Theresa Point First Nation, Walter Wastesecoot, Keewatin Tribal Council. Charles Whitecap, Shoal Lake First Nation, Saskatchewan, Ovide Mercredi, BA, LLB, Misipawistik Cree Nation, Goyce Kakegamic, Sandy Lake First Nation, Ontario, Elder Bill Traverse, Kinonjeoshtegon First Nation and Ted Bland, York Factory First Nation for their invaluable advice in the Treaty 5 process.

As well, we would like to acknowledge the Assembly of Manitoba Chiefs as represented by Dennis White Bird and Manitoba Keewatinowi Okimakanak as represented by Clyde Flett for their technical advice and support.

A special appreciation goes to the following people who made the workshop a success: Chairperson: Dennis White Bird, Facilitators: Dr. Jennie Wastestacoot, B.A., M.A., Ph.D. and Sharon Mason-Linklater, B.A., LLB, and Presenters: Rarihokwats, Historian & Lecturer, Dr. Pam Palmater, BA, LLB, LLM, JSD, Paul Chartrand, I.P.C., BA, LLB (Hons), LLM, Derek Nepinak, BA (Hons), LLB and Wapastim Harper, Grade 11, Escowpaysi.

Our gratitude and recognition extends to the TFAO staff who provide the technical support and hard work to make the Treaty 5 process a success.

Ekosi

Board of Directors

Chief Clarence Easter, Chemawawin Cree Nation
Chief Sheldon Kent, Black River First Nation
Chief Rene Chaboyer, Cumberland House Cree Nation
Don Lathlin, Opaskawayak Cree Nation

Introduction

The following material are verbatim notes from the workshop on *Treaty 5 Rights & the Indian Act: Alternative Governance Structures* which was held on December 17, 18 & 19, 2018. Chief Sheldon Kent, at the outset of the workshop reminded the participants, “*We are recording what is said here because it is important to us and we want to capture everybody’s comments*”. The designated workshop presentations are also in verbatim. Please note parts of the participant’s comments that were inaudible are omitted in the report.

TFAO Inc., a secretariat of the Summit of Treaty Five Sovereign Nations (Treaty 5) brought together a spectrum of participants and presenters consisting of traditional knowledge keepers, historians, academics, youth and women. The workshop was held in Winnipeg, Manitoba, Treaty No. 1 Territory to create awareness on First Nation Inherent and Treaty rights and for the 310 participants who attended each day to share their perspectives. The focus topics included, but was not limited to, exploring new governance systems and structures, restoring jurisdiction, rebuilding First Nation institutions, addressing socio-economic disparities, generating own source revenue, Natural Resources Transfer Agreement of 1929 and 1930, addressing the management and protection of water, land and other natural resources and defining the Nation-to-Nation relationship and reconciliation.

Each of the participant’s comments in this report are significant and their voices not only adds to the Indigenous worldview on Inherent and Treaty rights but also captures the “Indigenous thought” on the broader issues facing Indigenous peoples.

Background

The forum is part of the Summit of Treaty Five Sovereign Nations and Canada’s *Recognition of Indigenous Rights and Self-Determination* (RIRSD) process to discuss social, economic and political ideologies and aspirations of First Nations including discussion on First Nations sovereignty, governance and jurisdiction.

The RIRSD process was formally introduced at the Assembly of Manitoba Chiefs Annual Assembly in 2017 and later endorsed by the Summit of Treaty Five Sovereign Nations in 2018. The intent of the process is to create awareness but also to solicit Treaty 5 views on how Treaty 5 First Nations may want to implement and achieve self-determination and self-government, or how to reach agreements on other matters relating to their rights. It is also an opportunity to explore Canada’s views. A *Memorandum of Agreement* (MOA) has been circulated with the intent to have further detailed discussions with Canada as per the 2019 work plan. This process does not commit to any formal negotiations or

an agreement on self-government or consultation nor will the MOA abrogate, diminish or terminate the Inherent and Treaty rights of Treaty 5 citizens.

The work plan for the Treaty 5 process started in 2017 which involved initial meetings with Canada and holding an inaugural Treaty 5 Summit in February 2018. At the beginning of the new fiscal year in April 2018, TFAO's work plan consisted of a regional engagement workshop which was held in December, 2108; the basis of this report. The work plan also included continued meetings with Canada; drafting of a *Memorandum of Agreement* that will generate specific discussions for the fiscal year 2019/20; to hold a Treaty 5 Summit in July, 2019; and, to do archival research which did not materialize and an alternative work plan on Treaty research and a Treaty 5 statement was put in its place.

A new work plan commencing April 2019 has started that includes continued work under the RIRSD process and contingent on funding being approved under the Nation Rebuilding Program to involve community engagement meetings. These abovementioned work plans are being distributed at the Annual Summit of Treaty Five Sovereign Nations, July, 2019 in Black River First Nation.

+++++

Day 1 - First Nation Governance & Building First Nations Institutions

Sub-Topics: Asserting Inherent & Treaty Rights; Treaty as the Foundation to Crown Relations; Treaty Relationship as a Framework to Negotiate Indigenous Rights; Indian Act - Positives and Negatives; Going beyond the Indian Act; and Rebuilding First Nation Institutions.

Co-Chair Chief Sheldon Kent provided his opening remarks at the start of the workshop reminding the participants that, at the inaugural Treaty 5 Summit in 2018, Treaty 5 First Nations committed via an official motion to work together to address the many issues. The issues related to the following: First Nation governance and the abolishment of the Indian Act that includes restoring jurisdiction; rebuilding First Nation institutions; addressing socio-economic disparities; generating own source revenue; and addressing the management of water, land and other natural resources including discussion on the Natural Resources Transfer Agreement, 1929/30; and defining the Nation-to-Nation relationship and reconciliation. He said that our intent today is to come together and hear from the people and to provide input into the Treaty 5 process and hopefully at the end of the day we will have a common vision.

Chief Sheldon Kent, Treaty 5 Co-Chair, Black River First Nation

I would like to welcome everyone to our Treaty 5 gathering to this open discussion on our rights and how we may want to stand together. I want to acknowledge the Creator for bringing us here together. The western society has distracted us and oppressed us far too long. When we signed Treaties the provincial boundaries weren't there to impact us as nations and we continued with our family and economic ties. It was part of colonization that eventually divided us as nations. Our Treaty 5 is a collective Treaty and our area is very broad that consists of 91 million acres of land and where the governments for the last 150 years have been dictating how we live our lives. They have dictated and controlled our resources. In January, 2018 at our inaugural Treaty 5 Summit we determined we would work together to address the many issues that face us.

Our intent today is to come together and hear from the people and to provide input into the Treaty 5 process. We are recording what is said here because it is important to us and we want to capture everybody's comments. With regard to our population we have surpassed 100 thousand people in the Treaty 5 territory. We are a big territory and have an abundance of natural resources in our area while governments continue to extract minerals without proper consultation. In my area we have lithium and other mineral deposits. We don't really know what goes on in our vast territories but if we work together and establish a process we can make the companies come to us instead of them going to the provincial governments to get licences for mineral exploration.

The companies should come to us as a collective and we would be much more powerful but there is a lot of work to be done. We have to remember who we are working for, that we are representing the unborn. We will become their ancestors some day. Even though the Treaties are not being honoured today, it is our obligation to work to implement them. It is so nice to see so many people that have come together. We want feedback and hopefully at the end of the day we will have a common vision where we want to go. We got to refocus our strategies and work together. Thank you.

++++++

Co-Chair Clarence Easter said in his opening remarks that it was time to reflect on Treaty 5 and the true intent of the Treaty and to make sure they are honoured. He said the reason for coming together relates a table between Treaty 5 and Canada to dialogue on Indigenous rights and to chart a new path and how we can rebuild our institutions, how we can truly govern ourselves and to talk about, among other things, the Indian Act and Natural Resources Transfer Agreement.

Chief Clarence Easter, Treaty 5 Co-Chair, Chemawawin Cree Nation

Good morning to Treaty 5 Nations. [Speaks Cree] I want to acknowledge the Elder who conducted the opening ceremonies this morning. As we are aware, in 1763

the King proclaimed and recognized us as nations and eventually Treaties were signed with us. This is how Treaties came to be which I call peace Treaties.

We have a total of 38 Treaty 5 Nations in our territories from Saskatchewan, Manitoba and Ontario with the original Treaty signed in Berens River in 1875 and the Adhesion Treaties that was signed after that. These Treaties are nation-to-nation agreements which are the foundation of our relationship with the Crown. Through the Treaty arrangement, Canada thought they had authority to make decisions over our lands and they continue to maintain that thinking. Our position on the purpose of the Treaty is to maintain our own responsibility over our lands and people but they wanted to take care of our lives and governed us through the Indian Act. This thinking continued and monopolized our lands and resources through the Natural Resources Transfer Agreement (NRTA). Therefore, that was their way of saying they have authority over us but that's not the premise we want to start with in this process.

We want to say we are nations who are self-governing and that we have authority over our lands and people. We need to promote and exercise our inherent rights as they were before the Treaties and rebuild our systems, and not to forget to include our natural resources as part of this process. We have to fully take over our Operation and Management (O & M), our own water systems, our housing and fire equipment. We need to look after our own education system, our own economies and resource development. These discussions today should be our guide as the next steps when we go into your communities for further discussions because we need to discuss the format and the questions so we have the same questions, goals and the same message.

We need to implement our Treaties and we need support from your communities. I want to come to your community to understand how we may start rebuilding our institutions. The terms such as closing the socio-economic gap, NRTA, institutional rebuilding are government terms and we don't need to be subjected to them. My message is that this Treaty 5 process is going to take time and I know the youth and people are impatient. I want to talk briefly about a butterfly. They are in a cocoon and they don't realize what lies ahead. I see us as being in a cocoon. The butterfly then undergoes a transformation and flies freely away. We need to be patient and a new life, new hope will come as a result of our efforts. Hopefully you'll have good discussions for the next three days.

++++++

Grand Chief of the Southern Chiefs Organization represents several of the Treaty 5 First Nations in the southeast region of Manitoba. Grand Chief Daniels acknowledges the work by Treaty 5 and said we have the complete support of his office. He provides his insight on what needs addressing with respect to governance and identifies the potential legal wrangling and other obstacles that may surface with the federal and provincial governments. He cites the Treaty

Land Entitlement as an example of the legal wrangling that has taken over 20 years.

Grand Chief Jerry Daniels, Southern Chiefs Organization

My relatives, I greet you as an elected leader of the Southern Chiefs Organization and I am here to congratulate the good work that is happening and the unity that is happening in the Treaty 5 area. I know you have a lot of work to do and a lot of discussion to be held.

I hear that Treaty 5 is the largest geographical Treaty area in the country which will take a lot of coordination, unity building, understanding how each individual community comes together at a larger table. I have no doubt what is aimed to be achieved will be accomplished. With the great work of our previous leaders and knowledge keepers, I want to let you know you have the complete support of my office and the Southern Chiefs Organization in making governance happen from the Treaty lens and authority.

I have been observing for a long time in moving towards sovereignty and moving towards jurisdiction over our lands. I have a lot of questions about land, how we should proceed and how do we shift our thinking from where we are to what nation-to-nation truly means. It means in my mind we need to be in control over the administration of our governing institutions but it will take political will and agreements with the provinces, the federal government and the municipalities to achieve this. It may become a legal challenge like we have experienced in the Treaty Land Entitlement (TLE). TLE is a long drawn out process and has taken over 20 years. That's what being caught up in a legal system does.

As elected leaders, progress guides and governs our thinking. We have to do it for the long term good for everyone and it will take sacrifice. With the help of our Elders it will be successful because they understand the challenges we face as leaders. I want to congratulate the work Treaty 5 is doing. What I am attempting to do is find a way in which Treaty tables can shift the administration; for instance, our child and family services (CFS), health care or justice reform so they are governed by our Treaty regions. I actually had this discussion with Minister Bennett about this. We need our own money and resources to help where we want to go as Treaty nations. Our strength is in our collective and working together politically. We have rights entrenched in law in the Constitution but we may have provincial leaders who will bring the notwithstanding clause and slow us down.

We have a window of opportunity and we have a federal government, I would like to think, is looking after our best interests. I don't think everyone is against us. We have people who want us to have a better quality of life and more control over our own affairs. So, we need to establish our own institutions that will be accountable to us. Jurisdiction needs to be transferred under our control and we can set up our own governments with our own systems. Right now we have

Southern Authority on Child and Family Services and I have talked to Treaty 1 and Treaty 2 how to create Treaty authority on Treaty governance over our institutions. Do we let the communities deal with these authorities and let it naturally grow? That may be a better scenario where regional bodies within the communities work together.

My hope is that these things happen quickly because the crisis is getting bigger and I'm sure you are experiencing that in your communities. So, I'm constantly trying to find solutions and I have very frank conversations with the Chiefs. We also hear individual communities are doing their own thing at the community level but we need to be mindful of the governments who play referee and who make final decisions. I also think we need to get to a tax base for all those people who operate on our lands. In Long Plain First Nation the farmers in that region for many years paid us tax by giving us part of their harvest but between the late 19th and early 20th century we had an influx of 300 hundred thousand to 600 hundred thousand new immigrants in our region and this all stopped because they had military security. I think we also need to establish more urban reserves. I know we have many of our communities here today mainly from along the south east side. I encourage you to work together in Treaty alliance and be mindful of where we are and where we want to be. Thank you.

+++++

A member of the Bloodvein First Nation tells the forum the first requirement in the Treaty 5 process is to have more awareness and training on Indigenous issues at the community and Tribal Council levels.

Louis Young, Bloodvein First Nation

With respect to asserting inherent and Treaty rights, I know there are a lot of people who know a little about this and a little about that and in order to make a big and effective impact in asserting our rights we will need a lot more training about the history that was given before to us. Some of us who have gone to university have learned some of this history but in order to have a real grass roots movement we need to spend a lot of time at our communities, at our Tribal Councils and in our regions to educate and create this awareness so we can stand together. When we make a move to better our future there will be people who will lag behind and who might oppose because they don't have the right information so in order to make this impressive impact we need more training so they can backup this effort we are making. Meegwetch.

+++++

A member of Norway House Cree Nation talks about the matriarchal society and the importance of women in the leadership. She tells the forum the need to do research on the role of women especially during the negotiations of Treaty 5. **Her**

comment comes at the time when Treaty 5 grapples with new governance systems and the restoration of traditions, customs and protocol on governance. [Emphasis mine]

Lorretta Bayer, Norway House Cree Nation

I just like to say thank you the organizers of this forum. It's been brought to my attention about the role of women in the Treaty process and the relationship we have as subjects of the Treaty relationship with the Crown. We have to remember that our communities are matriarchal societies which provided a tremendous amount of advice to our negotiators who lead the community into the Treaty arrangement. It would be exciting and beneficial if we can bring this history forward to our membership at large because the role of women in our communities has been warped to a large extent and we need to use this history at the forefront of our vision as we move forward setting the relationship right. So, more history on the role of women and I believe it was mentioned the seven women who were present to witness the Treaty 5 Adhesion signing and to acknowledge those women and their families in a good way. Ekosi.

++++++

At the start of the forum a Chief reminds the participants that Treaty does not make us who we are, that we are first and foremost sovereign peoples who possess inherent rights. He reiterates the belief that Treaty did not take away ownership and control of our ancestral lands.

Chief David McDougall, St. Theresa Point First Nation

I just want to remind people that the Treaty does not make us who we are although it is a very crucial piece in our history. We were sovereign nations first prior to contact and we had inherent rights as we do today. We entered into Treaty because of our inherent rights and because we are sovereign. We must not forget we maintain our title to our lands today as back then and they made Treaty so they can obtain our consent from us for what they wanted and in order to respect the international notions and integrity. What makes us Nations? Treaty is a critical pieces in defining a nation including our languages, our customs as passed on to us by our Elders and our predecessors. [Speaks the Oji-Cree dialect] Thank you.

++++++

An Elder from Pimicikamak Cree Nation tells the participants that the Doctrine of Discovery has no bearing on First Nation rights; that, First Nations have a right to self-determination. She said the fact you have inherent rights and sovereignty means you have jurisdiction. She said when Elders talked about self-determination, they said that our constitution is the universe, the earth, the water and what we live on. **The Doctrine of Discovery is used as justification for the**

assumption and control over another people, their sovereignty, lands and resources and other dispossessions. [Emphasis mine]

Elder Rita Monias, Pimicikamak Cree Nation

When I go to conferences I hear about the Doctrine of Discovery – I don't believe in it [inaudible...] it is not true. First of all, no one discovered us, we were already here with inherent rights. We discovered the people who came here near death when they landed in this country. I don't know why Doctrine of Discovery should have any bearing on our rights. We are self-governing. All our nations should go by way of self-determination. We also cannot and should never negotiate our rights away, we can't. Our inherent and sovereign rights supersedes what governments tries give us. A year after the Treaties were made, the Indian Act was enacted and controls us to this day but gives blessing to the provincial governments to do whatever they want on our lands and they shouldn't.

There is a vast area of land that is not being used. If we are sovereign we should go beyond the reserves boundaries because the land is ours and is not used anyway and when we talk about the Canadian constitution, it is not ours, it's the federal governments and we shouldn't try to change it. When Elders taught us about self-determination, they also taught us that our constitution is the universe, the earth, the water and what we live on. No government has the right to make a constitution for us to go by.

Pimicikamak is self-determining and we do our own thing. We don't follow the Indian Act, we go with what is right for us. For example, someone from the federal office once came to us and asked us to sign an settlement agreement. My husband took the document, read it over, didn't agree with it so he crossed out the items he didn't agree with and told them to take it back to their officials. We didn't agree with what they were wanting to push on us and we did what was right for us. Half an hour later we received word and got the money on that agreement.

With regard to jurisdiction, we have jurisdiction if we go by our inherent rights and sovereignty. Identity is very important, no government should come and say who we are or that you are an Indian. Columbus made a big mistake by calling us Indians. I never identify myself as an Indian or other names. That's government language. We also do not follow Canada's policies in Pimicikamak and we don't do what governments tell us what to do. We don't ask them to recognize us as a people. We recognize ourselves by our language, by our land and culture. That is what we call Indigenous self-determination and inherent sovereignty. Thank you.

+++++

An Elder from Nisichawayasihk Cree Nation talks about asserting inherent and Treaty rights. He believes that his people never gave up their governing powers

or their sacred connection to the land. He said, in order to assert your rights you have to make your own laws and how you may want to relate with other governments. He related the Doctrine of Discovery and Terra Nullius **that denotes Indigenous people of not being worthy to own the land must be abolished.** [Emphasis mine]

Elder Darcy Linklater, Nisichawayasihk Cree Nation

[Speaks Cree dialect] On July 30, 1908 they came to our land to talk to us about Treaty 5 Adhesion. Treaty 5 Adhesion is different from Treaty 5. They didn't consult with our people, there was no meaningful consultation in the Adhesion Treaties. Water and specifics to land wasn't on the agenda during the Treaty 5 Adhesion process. We never relinquished our right to self-government, our autonomy and to disconnect from our land. In order to assert ourselves, we as Treaty Nations should make our own constitution and laws regarding natural resources, our land law, our own water law and how we want to be consulted. Water ownership was not discussed during Treaty. We also have to denounce the Papal Bull, the Doctrine of Discovery and Terra Nullius and we have to abolish the Indian Act, Natural Resources Transfer Act and decolonize ourselves. We have to challenge colonialism. Thank you.

+++++

An Elder reminded the forum women played a very important role in our societies in the past and were leaders. When the Europeans imposed their culture the women's role became devalued. She encourages teaching our traditions, our cultural values and to revive the role women as leaders as part of the new vision. She also expressed her concern about the environment and the social impacts. She's concerned about the land and water that are being destroyed by hydro dams and mining. She stated that we are all born from Mother Earth and that should be a subject of discussion .

Elder Martha Spence, Tataskweyak Cree Nation

What I don't hear is the suffering of women. There is so many murdered and missing women. We used to be looked at as leaders and we were respected. We should teach our young people this but starting at the leadership level. In the past we were well respected and when Europeans came we weren't even recognized as human beings. We are human beings, we women bring people into this world. Creator brought us into this world to give life. Many of our women and children are being abused and it's time to put this forward as part of self-determination agenda and that women be recognized.

I know there are some women in the leadership role but there should be more. The Elders should teach our young people our traditions. I am one of the reverends and even Jesus respected women, healed them and didn't turn them away because

he recognized he was born from a woman. We are born as a family from mother earth and I think that should be discussed, I don't hear about the land, water and things that we need that are being destroyed and the things we use for our livelihood are affected by hydro dams and mining, and the workers raping our women and is still happening today. When policies are made we need to respect the role of women. It is time that women play a role in our communities as they did in the past. When we have a child we look after them 24/7 until they are grown up. We do a lot of work. We also need to preserve our language, learn Cree syllabics and teach Cree to our young people. Thank you.

++++++

An Elder talks about the Adhesion Treaty in Island Lake which he claims was not done probably. The people in the Island Lake area are still waiting to complete the negotiations and the Elder wonders if there was ever a valid Treaty.

Elder Jack Wood, St. Theresa Point First Nation

I would like to highlight Treaty 5 Adhesion. At the time when the commissioner came to Island Lake, the Elders said, they came and chose the time when food was scarce. They also didn't go to the leadership but went to somebody else that the commission could persuade to accept the Treaty. The Hudson's Bay Company (HBC) had a role in the Treaty and started feeding the people to those who thought would accept the Treaty. The real leadership did not accept the Treaty. At some point, the commissioner said if that is the case then they would come back to settle the Treaty but to this day they have not been there since. We are still waiting for them to come back. This is something we need to take a serious look at. I don't know if this can be classified as a Treaty or an unfinished Treaty but we need to get some answers. Thank you.

++++++

A member from Bloodvein First Nation tells the forum that their inherent rights is the foundation **of their rights. [Emphasis mine]** He related that governments must obtain consent from First Nations before they start extracting resources.

Louis Young, Bloodvein First Nation

On the Treaty as a foundation for Crown relations, a number of years ago when I was a Chief of Bloodvein, I was dealing with the Pine Fall Paper Co. and they were proposing to create many jobs for seventeen communities but I was opposed to that. A lawyer from BC got a hold of me and ended up in Bloodvein and said what you have here on the east side (of Lake Winnipeg) is bigger than the Treaties. They want something that you have and they have to consult with you. They may need to have your consent before they can harvest anything. He was a lead lawyer in the Delgamuukw case, a Supreme Court case. What he told me was [inaudible...] the Treaties, the British North America Act and the Royal

Proclamation [recognized] our inherent rights and which is our foundation. Inherent right is your foundation because when you are born you have a right to those trees, water, the air etc. – these are the foundation of our inherent rights. I try to tell people not buy Nestle products because the CEO is privatizing water. They already privatized land a long time ago and other resources. When they start privatizing water and air then they have gone beyond where they should be. So the foundation should be with our inherent rights. Just a thought. Thank you.

+++++

A lawyer from Berens River First Nation talks about unity and tells the participants to start nation rebuilding because no one is going to help, that we need to do this ourselves. She said we have to remove those “division lines” and to start using the resource people and skills we already have in our communities.

Myra Tait, Berens River First Nation

I am a member of Berens River, I’m also a lawyer and I hold a second degree in Masters in Treaty 5 specifically looking at our taxation provisions of the Indian Act. It’s nice to hear the overview this afternoon, this morning as well about the constitution, about the history of Treaty 5, the negotiations but I want to add my thoughts here on what I see is two very discrete questions one is, first, what is the government’s role in getting out of way really for us to advance in terms of asserting our rights, in terms of economic development and those issues about constitutional amendments, about treaty education of settlers. I think it is important to understand that is the work of settler society. That’s their job, their job to figure out how they going to honour our Treaty. We need to keep pushing on it bring these things to court we need to continue to advocate and to lobby with our politicians but that is the work of settlers. We have our work to do and that was also touched on about language reclamation and learning to honour our land, learning to honour our women, involving our youth in our communities and bring them up and teaching them a good way of living but part of our job too as I see bringing unity to accomplish those goals. There is so much division that I see between urban and on-reserve, between the real Indians and C 31 now C 3 Indians between male leadership and women leadership between Christian and tradition people and frankly we don’t have the luxury of fighting with one another.

We need to unify; begin to do the work ourselves of nation rebuilding because no body is going to do it for us. So that means learning how to operate and organize our community and learning how to reach out to those who are educated. I am happy to say that Berens River is a community that has the highest high school and post graduation rates and we see it makes a difference in peoples’ lives and my guess is that every community represented here can think of people who have gone to school and become educated and have skills to bring back to our communities and something to contribute and as soon as we stop making division lines, that you are not welcome here, your are not this or you’re too much that

when we remove those divisions then we have potential to go to work that we need to do because again no one is going to do it for us. So I just want to put that out there as a challenge because this is something we can do. This is something that the settlers have been trying to do to get rid of us for hundreds of years but we are still here. So we can do this.

++++++

Elder Traverse talks about infringement of Treaty rights. He said his main concern is water because the fish are getting sick due to the contamination of the lakes. **The contamination of water may be an infringement of a Treaty right.** [Emphasis mine]

Elder Henry Traverse, Kinonjeoshtegon First Nation

[Speaks in Ojibway] I am here to greet everybody in a good way. The things that went on this morning right from the pipe ceremony, I respect. I respect all the old people, the women, I respect all of you. I was saying in my language, I'm a fisherman where I come from. We live on Lake Winnipeg and the issue I have is water. Our water is contaminated. It's getting hard to fish for a living because the fish are getting sick. This is a concern. I am advocating for my community. I was born on the shores of Lake Winnipeg, not in a hospital, I was brought up that way to fish. I am thankful to be here today.

Another thing I wanted to mention is the map doesn't cover Kinonjeoshtegon as part of Treaty 5 Territory. Even though, we are Treaty 5 Anishinaabe, I have a concern about that. Seems to be that they are trying to put us aside, shuffle us aside like we're not humans. My grandfather was apprehended in the early 1900's in Stony Mountain and they hung him because he refused to accept the Settler's laws. We never talked about this, his name was George Traverse. We are the biggest Treaty in Manitoba. My other concern is the trespassing by other Treaty Nations on our territory that should not be like that. We never consented in anyway to be able [inaudible...] living in somebody's territory. Yes our own people are walking around [inaudible...] born in some of the bays and lakes and have taken upon themselves to declare that's their territory. I am honoured to be here. Miigwetch.

++++++

Councillor speaks about the lack of funding in his community with regard to the Treaty right to education. **It seems the disparity in funding continues to be an issue and the quality of education is being compromised on reserves where residents are increasingly expressing frustration as population increases.**[Emphasis mine]

Councillor Zachary Whitecap, Red Earth Cree Nation

[Speaks in Cree] It's a pleasure to be here and to speak on behalf of my First Nation. Our Elders used to say that in the future it's going to get harder for our children, our grandchildren and our great grandchildren and he was right. I have seen that already. We are getting to the point where the government is saying that they are going to give us more money but when you look at the funding they are giving us, we can't use that. I have seen some of those [inaudible..] in education for example, that's one of them and our community said stand up and don't go into those agreements that others communities are going into. We can't use that. I've seen the budget we're getting. So that's where we are coming from as a community. We try to speak for our community on education but also on our Treaties. Language is very important to our community, we speak Cree, our kids speak Cree and we use the language for our children back home and use it to understand our Inherent and Treaty rights. Thank you for allowing me to speak.

+++++

A member of the Red Earth Cree Nation advises the Treaty agenda should include, among other things, the Royal Proclamation and First Nation governance. He recommends the government include inherent rights as part of the Canadian Constitution to make our rights stronger.

Phillip Head, Red Earth Cree Nation

[Speaks in Cree] To ensure our inherent rights that were passed down from generation to generation, the Constitution of 1982, Section 35 should reflect the inherent rights to make our rights stronger. I commend Treaty 5 for concentrating 80 percent on the Treaty political agenda. In Cumberland House and Opaskwayak Cree Nation we speak our language; our dialect which is an inherent right. We also need to talk about the five political agendas: 1. Inherent Rights 2. Treaty rights, 3. Royal Proclamation of 1763 and the Canadian Constitution of 1982 4. Indian Government, Nationhood and Title, and 5. Federal agenda.

+++++

A member from Nisichawaysihk Cree Nation speaks about the importance of land use planning and reconnecting with the land. **It would seem the management of ancestral lands becomes important because a larger land base will be required to support self-government; that a reserve land base will not suffice. [Emphasis mine.]**

Ed Vystrcil, Nisichawaysihk Cree Nation

I want to share a little of what we're doing in our community. I also sit on our Resource Management Board. We adopted a land code through the First Nation Land Management system last August, 2017. Shortly after that we also ratified our own constitution. We are one of the communities impacted by hydro flooding in the 1970's from the Churchill Diversion, that resulted in a settlement

agreement. A lot of these agreements were not honoured over the last 50 plus years. One of the things we are tasked with as a board under our flood settlement agreement is planning. Doing our land resource and resource management planning and even that we signed our agreement in 1996 and still don't have it in place.

I want to stress the importance of doing land use planning, a part of it is reclaiming the names of lakes, streams and rivers in our language. The names have always existed and we need to dust off the names and apply the proper names again. That is an important component in doing land use planning and if we don't do it they will do it for us. We are building our own [inaudible...] and part of our plan is talk to our own people and built our own plan. Land use planning is a good tool. I don't like the term land use plan. It's more like a relationship plan by connecting the people back to the land, claiming who we are, revitalizing our language and involving youth in our planning. Part of land use planning is documenting traditional land use and occupancy, hunting and fishing areas, trail systems, sacred sites and documenting these in maps. There's expertise out there and we are implementing our plans with the help of the Land Guardians Program and we've been fortunate to access funding to do this.

We carry out [inaudible...] and implement our plans such as monitoring activities on the land, taking youth on the land, ensuring intergenerational knowledge transfer between our Elders and youth. I want to emphasize that we need institutions that focus on planning. Unless you have a masters, there's no program available to do this planning. Our own people in our communities lead the planning but we need training. We need to start thinking about creating our own land guardianship such as having conservation officers with territorial plans. Thank you.

++++++

A member from Deer Lake First Nation shares a story of the Adhesion Treaty 5 signing.

Moses Mamakeesick, Deer Lake First Nation

If you look at the Treaty 5 map, it goes into Ontario to include five First Nations in Ontario but what I want to say also is right now we are being serviced under Treaty 9 as part of Nishnawbe Aski Nation (NAN) out of Thunder Bay. All these communities are serviced by NAN.

I have gone to classrooms a couple of times to talk to the kids about our Treaty. The children want to know where they come from so they can take pride in who they are and find out where they want to go. During the Treaty negotiations in the early 1900's, our Chiefs and Councillors use to travel to Little Grand Rapids, Pauingassi and Berens River who had already signed Treaties to find out what's

going on. Most of our people used to travel by paddle to Island Lake. They knew there was a Treaty party going there and they went there to listen.

At one time the Treaty party told them, we are going to give you Treaty to sign but they didn't want to sign over there because they wanted to go back to Deer Lake to sign their own Treaty. They didn't make reservations in Deer Lake instead one was made in Sandy Lake and became a reserve in 1938. At the time the government had said you don't have the numbers, you don't have the population to give you a reserve. So our ancestors at that time had other people in the big Sandy Lake area and they got together and that's how Sandy Lake became a reserve. Most of the people from Deer Lake moved to Sandy Lake but not every one moved. My grandfather stayed behind in Deer Lake and now has a population of 1300.

Another thing, I want to mention is most of our people come from elsewhere. My grandfather came from Bloodvein in 1900's. Our people were nomadic. There were four families and they settled down in Deer Lake, then moved to Sandy Lake. In 1960's I moved to Deer Lake. We must tell our children where they come from so they can take pride in themselves, I go to schools and talk about this. I talk about the lakes and rivers and where names come from. Most of them have a meaning and legend, they didn't just pop up one day and call it that. We're Treaty 5 but are serviced by NAN's service agencies who are Treaty 9.

+++++

A member from Red Earth Cree Nation wants to see Treaty Commissions in each of the Treaty areas so they are accountable to Treaty 5.

Roy Head, Red Earth Cree Nation

It has been on my mind for a long time about the Treaty Commissioners. I don't want to say anything negative about the position. I'm not talking about their work but why don't we have Treaty commissioners for each Treaty area, like Treaty 5, 6 and 7. When we talk about the foundation of Treaties and all the other laws that have been developed like the Royal Proclamation, I think we are putting the cart before the horse. We need bodies, we need people to implement the true meaning of Treaties and to work on these. So we need to go a little more detailed deeper than just talk about Treaties. We are walking the fence and trying to work with the governments and the federal and provincial governments are giving us a hard time.

We are talking about Treaties but not implementing Treaties to their true effect that should be. The presentation that was given this morning, when they [Europeans] came here staked the land and put up their flags and crosses, where's our Treaty flag across our nations and how come we don't mark our Treaty lands. We're shortchanging ourselves in certain ways. The Treaty Commissioners that

we have today are funded and controlled by the government. If we have our own Treaty Commissioners, if we elect them from Treaty 5, we would have true representation by our commissioners. Ekosi.

++++++

Elder from O-Pipon-Na-Piwin states the only way to survive is to make our own laws and take control of lands and waters. He said he lived through and seen the destruction of the earth through flooding and residential schools, and to make regulations and rules to make governments follow not the other way around.

Elder Tom Spence from O-Pipon-Na-Piwin Cree Nation

I am here representing my Chief but I can't comment on her behalf. I'm here to gather information. I want to comment as a community health representative. I am the president of the Manitoba CHR Association and have been with CHR for 32 years. I've lived through and seen the destruction of the earth through flooding and residential schools, we've been reporting to our leaders for 55 years now on infrastructure in our community and we are still throwing slop pails out today [inaudible...] the rip rap, roads and water sewer for our communities. I did a presentation 3 years ago and the government stated again they would come but that was 3 years ago.

There's a lot of good comments here from the leadership. We need to work together and support each other in planning for our future. The government usually brings us their plans with no time for negotiations or for consultation in our communities. It's not good practice, things are done too fast. They just come and say this is what we're going to do. Whether we say yes or no they go ahead and do it anyway.

Hydro settlements in the north need to be re-visited. We had a fishing industry that produced 1,000,000 lbs of fish every year, and now we can't even produce 200,000 lbs because it's been destroyed by hydro. They also destroyed our culture and language. We need to take back our culture. We have to make regulations and rules to make governments follow, not the other way around. That's the only way we are going to survive. It's time we take control of our land and waters. Thank you.

++++++

A youth leader speaks of the importance of Treaties in the school curriculum. He said the youth will have the continued task of implementing the Treaty. He said youth must be involved in institution and nation rebuilding..

Mervin Thomas Jr., Junior Chief of the Youth Council, Chemawawin Cree Nation

Tansi, I am the Junior Chief and I want to refer to rebuilding of our First Nation institutions. I am talking about our school systems. It should be mandatory to learn about Treaties in our schools and it should be mandatory as part of our curriculum. These Treaties are a part of our history and learning about them will help prevent further problems. I want to read a quote, "*those who cannot remember the past are condemned to repeat it*". Our youth don't know the truths about our history, our traditions and they need to know. We need to involve our youth in self-government and to take the daunting task of the torch bearers. The youth are the next leaders and storytellers.

+++++

A member of Nisichawaysihk Cree Nation talks about disenfranchisement. He said the children are losing status through disenfranchisement under 6(1) and 6(2) of the Indian Act. He said this relates to the concept of citizenship law.

Lou Moody, Nisichawaysihk Cree Nation

One way or another in this room there's an individual in your community that has lost, or has been stripped of their status as an Indigenous person. On that note, I want to share a story with you. Our people are losing their status through disenfranchisement under 6(1) and 6(2) scenario.

I am serious when I said do you know someone in your community who lost their status. If there is, are the Treaties going to facilitate this in the future? That's a question. In 50 or 60 years from now it's going to be a problem if we do not do anything. Canada has violated a human right and that is basically this, you cannot have children with a non-status person if you want to retain your status. That is a violation of a human right, that is wrong. We talk about assimilation, well, that's assimilation and they came up with the 6(1) 6(2) scenario. They are trying to do away with our people.

It saddens me that one 19 year old child who got out of high school and looking at us and asking us "what do I do now?" She is of native ancestry, she lost her status. We have a problem here Huston. In the distant future we are going to have a problem if we don't deal with this because there are people out there that have lost their status. We have a 19 year old who wants to go school but where is she going get the funding? She graduate from our First Nation. Let's look at the big picture here, let's look at that child. This is a child's agenda. Let's classify it as such. We need to do something about that child who don't have a status card. This is where the concept of citizenship law is crucial. We have to bring back and bring back the status to our citizens that have lost their status. If anything Canada should return the status to the Metis because it was taken away from them wrongly.

This is crucial times we are talking about. This is about your great grandchildren that are going to be dictated upon and if they are dictated upon they will lose that

right. Yes we ought to stand and work together to make sure those rights are intact as long as the rivers flow, grass grows and as long as the sun shines – that’s our responsibility, our duty.

++++++

A Councillor reflects on the resistance his community got from outsiders when they pushed for self-determination. He recounts people saying Pimicikamak was selling out Treaty rights. He said his community prevailed and made laws that they follow to this day.

Councillor Marvin Garrioch, Pimicikamak Cree Nation

We have a task [speaks in Cree], I had a Treaty card and today I have a status card. If we need to go back and start talking about our Treaty rights we need to get back our cards [speaks in Cree]. It’s going to take a long time, you and I may not see it but our children may. We need to give them ammunition to keep on fighting for their [our children] rights. If we die without addressing these rights then our children are going to suffer and eventually we will all lose the rights we talked about today called Treaty and Inherent rights. Pimicikamak took on its own self-determination process back in 1989. We had a conference at the convention centre with invitations to First Nations across the country. There was a lot of them and we had a lot of good speakers. There were Indian agents and what happened at the conference the department of Indian Affairs, the regional office called an emergency Chiefs meeting here at the Victoria Inn with honorarium to all Chiefs. The Manitoba Chiefs disappeared from that conference, they derailed our process and that time the target and the topic was self-determination. We had a lot of speakers with credentials to speak to us on our identity and rights. In Saskatchewan, Treaties 1 to 11 (movement) had started a process with Treaty conferences they have every month and they are well ahead in regaining their jurisdiction. [speaks in Cree] A lot cried out “you’re selling us out on your Treaties”, they wanted to maintain the hold on to the Indian Act. That’s how brainwashed we are. From that process, we continued to develop our own government system – elected leadership are elected under the Election Law, we have a Citizen Law, Education Law, Justice Law, Resource Management Law and Child Care Law. We did not wait for the government to help us out, we made our own laws. We have a long ways to go and I don’t think a one day conference will accomplish much.

++++++

Chief Jim Tobacco reflects on his experience as Chief. He said he feels the hurt because of the peoples’ struggle but believes we are resilient. The Indian Act, he said caused many atrocities and he hopes to find a better future. He stated the Indian Act belongs in the garbage can.

Chief Jim Tobacco, Mosakahiken Cree Nation

I'm glad to be here today but regrettably to listen to struggles of our people. I still feel the hurt today and I still remember the lies told by provincial and federal governments. But, we are resilient people. We have come to a time where things are starting to change and things are opening up. We have to thank the people who came before us, who fought a good fight. They haven't see the rewards because we still have a long ways to go.

I want to talk about the Indian Act – my perspective: positives and negatives. To tell you the truth, I don't have any positive things to say about it. The Indian Act is a document that was created by British Parliament to suppress our people and to stay on the reserve. We had to conform to their ways, their policies on education, their government processes [Indian Act], their elections regulations to mention a few. It's been a way of life for me for the last 69 years, I still feel it. But, as I mentioned we are very resilient and we can overcome many things.

When I went to Indian Residential School, as a young boy, I saw what was happening and it wasn't good either. That is my perspective here. There's a lot of things happening and I would say a lot of atrocities, colonization and genocide—that's what the Indian Act did to me but I still moved on. I hope to find a better way. The Indian Act should be thrown in the garbage can. It has really suppressed our people, yet others still think the Indian Act is a good piece of legislation but I don't think so but that is my perspective. I thank the young people for being here and hearing and seeing for themselves what has happened over the last 100 years. Thank you.

+++++

Day 2 - Socio-Economic Disparity & Own Source Revenue

Sub-Topics: Achieving Socio-Economic Equality, Own Source Revenue & Self-Sufficiency, Access to Ancestral Lands, Resource Equity & Natural Resources Transfer Agreement.

Grand Chief Garrison Settee, a Treaty 5 member pledges his support to the Treaty 5 movement. He said that Treaty 5 signatories from Saskatchewan, Manitoba and Ontario must contemplate and strategize, and to put our minds together to move forward in making change.

Grand Chief Garrison Settee, Manitoba Keewatinowi Okimakanak

Tansi my relatives. [Speaks in Cree] First and foremost, I want to acknowledge the traditional territory of Treaty 1, an important Treaty that positioned us with as a people with power and sovereignty and exercising that right and power. I want

to acknowledge the Elder for the invocation that was made this morning. I'm thankful to be here with the facilitators, Dennis White Bird and Louis Harper, legal counsel for allowing to convene for a very important conversation. I believe it is very timely and very necessary. As I look at this map, it includes all of us the signatories to Treaty 5 and to see all of us in one room I feel very empowered and I feel real encouraged because we can move forward and begin to what is right when it comes to talking about Treaties. It's a conversation that has been on going for 150 years and a conversation we need to have but with that conversation must have action. I commend Senator Sol Sanderson for his bold presentation. I really like your ideas because you remind us we are in the position of power in implementing our Treaty and that has been long forgotten but we must recognize where we are and who we are and the power we do have as signatories to Treaty 5.

It is necessary we sit down as Treaty 5 signatories from Saskatchewan, Manitoba and Ontario to contemplate and to strategize and to put our minds together how to move forward in making changes. When we go past the rhetoric and actually see real action taking place, a real movement when it comes to our Treaties. I'm very interested when it comes to Treaties. I am a former educator and these are the discussions I used to have with the students. It is necessary for our students to learn about Treaties because it's these Treaties that are the primary source and legitimacy with our relationship with the Crown.

For a long time it seems that there has been a lack of movement and a lack of activity when it comes to the implementation of the Treaties. I look at the issues and challenges of First Nations, such as challenges in health, in the health system. Treaty 6 people know what I'm talking about, that is, the medicine chest. A Treaty right to education, very important as a Treaty right for our people to educate themselves and to be provided with a quality of education that is afforded to every Canadian. The chronic underfunding that has been taking place capped on post secondary funding is a prime example of the government's lack in implementing their fiduciary duty, the Treaty right to education. Today we must change that.

Today going forward there has to be transformation and that time is now. Housing is a Treaty right and if the government is serious about the relationship they must engage with us and first, honour the Treaties they signed with us. When we are talking about reconciliation they must honour the Treaties before they talk about reconciliation because there will be no reconciliation unless Treaties are implemented. If the Treaty rights are implemented in the spirit and intent we would not have a housing crisis in our First Nation. Education issue wouldn't be a problem. Our health system wouldn't be in the shambles that they are in today. I am thankful we are having this discussion. This discourse is very important to us.

The great minds are here today that I totally respect. It was unfortunate that I wasn't here yesterday to hear the presentations but today I am happy to be a part

of this important conversation that is taking place here that will allow us where we need to go as Treaty 5 people. We don't want to go in circles and you don't want to come back next year and talk about the same issues; instead, we want to come back next year and say we have seen changes in Treaty 5 territory.

Our nations are waiting for transformation and our people are tired of just talk. They want real bona fide action. I think we can do it in this room because I believe in your gifts and talents. What legal and political capacity do we have as Treaty 5 to move forward and to change the status quo. We need our brothers and sisters from Saskatchewan and Ontario with their ideas. Let's plan a better future for Treaty 5 and let's tell Canada they have an outstanding bill. Ekosi.

++++++

Chief of St. Theresa Point First Nation encourages opting out of the Indian Act. He talks about the struggles ahead in working and getting agreements with the government because of government red tape.

Chief David McDougall, St. Theresa Point First Nation

I would like acknowledge the two youth and two Elders and my community members that are in attendance today. We find this very important. I would like to encourage everyone not be afraid to sanction the phasing out and the withdrawal from the Indian Act. We're going to need a lot of support and the will to do this. Just a case in point, I sit on the Chiefs National Committee on Education and last week, in Ottawa, we were negotiating the new monies, a little top up, being flowed from Trudeau's promises. Of course there was a lot of beautiful words spoken of about nation-to-nation and of being Treaty allies but this process has taken a number of years.

A couple years ago in Saskatoon, I recommended as a goodwill gesture to co-present a Memorandum to Cabinet that Assembly of First Nations (AFN) was co-authoring with government people. On our side we wanted to co-present it to the Privy Council or to the Cabinet. It shows to action those words of nation-to-nation and Treaty alliance but the response from the government stated that it violates their protocols, that it's against their rules. So, it was just rhetoric, just beautiful words from Prime Minister Trudeau but we keep going back.

Last week again, we had a recommendation on the increase of funding. Our people from Manitoba First Nation Education Resource Centre (MFNERC) got together with the technicians and came up with a prescribed solution. Manitoba has over 20% of Canada's native student population and we wanted to get our fair share. It is very challenging with 22 isolated First Nations with the high cost of living. What we had prescribed was flatly refused. The excuse from the government was the upcoming federal election in 2019 and they didn't want to pre-empt any decisions and also that there are no guarantees they will get in.

I just wanted to capture and demonstrate that we have a rough road ahead trying to establish a Treaty financial arrangement table. I want to thank Eric Tootoosis for encouraging us not go by provincial territories but by Treaty areas. We need to educate our children the best way we can, that's what we should do. I am glad I am able to say this to you today. At the national table I am drawing from my own experience and able to meet and share experiences with other Chiefs and technicians. I've done a presentation at the Assembly of Manitoba Chiefs. Now, I can tell them what the grassroots and Chiefs are saying. With that, thank you.

+++++

A member of Berens River First Nation tells the participants Treaties are also oral agreements. She talks about inherent freedoms of the people by virtue of belonging to the land and to move forward with the thinking that we don't need to ask permission.

Myra Tait, Berens River First Nation

One thing I wanted to share as I listened to the presentations over the last couple of days is this concept of Treaty. Treaties are not just written documents, we know that they are also oral agreements, we know they come from our understanding that is honourable, open and wanting to share. We understand that is our cultural understanding of Treaties so when I hear the definition of a treaty is a written document is only partly true. The bigger part is what we understood what we were agreeing to. The main point I want to make what I learned as a legal scholar over the last couple of years studying Treaty 5 in particular is that when we talk about our Treaty rights, we really have that upside down. We don't have treaty rights we don't need treaty rights, we exist as people of the land. And when we signed Treaty 5 and when my great great grandfather probably your great great great grand father Jacob Berens when we signed that treaty we said we would extend to you, Canadian state, treaty rights.

We agree to share our land, our resources and our way of doing things with you and we won't molest you, that's the term that was used, we won't interfere with your law and you agree not to interfere with our law that was what we actually agreed to with the Treaty and we extended to the settler to come and share our land so when we think about advocating and fighting for our treaty rights what we are trying to do is to re-establish that nation to nation relationship so whether we are talking about clean water or education or housing or jobs, what we are trying to establish is a right relationship with the Canadian settler that, hey buddy, you're the visitor here not us. You thought treaties meant that we were going to give you this vast territory and we were going to get the scraps of land that were left over, Osginigan. But that's the wrong way of thinking about it. So as we plan to move forward and even this room we have more than one nation, we have at least two nations in treaty 5 represented here.

When we rebuild our nations we need to think in that way, we have an inherent right to be here and inherent right to enjoy clean water, raise our children, to practise our ceremony or our beliefs. We have those freedoms because we belong here and we have to remember a treaty right is what we allow the settler to have and not to get that upside down. So move forward with that thinking that we don't need to ask permission, we don't need to re-educate the settler. That's their job. We need to move forward as people who belong to this land.

++++++

A Councillor encourages community engagement. He said the information at this forum is important and should be brought to the community level.

Nathan Neckoway, Councillor of Tataskweyak Cree Nation

I'd like to provide my input and views on what was shared the last two days from my perspective. Right now as indicated, we're one of the 38 Treaty 5 First Nations that have been living under this Indian Act since 1908. The challenges stressed today by the 6 presenters provided a lot of information, experience and knowledge of how we as First Nations are impacted including the impacts on the overall system of the Indian Act. I participated in Treaty 5 Adhesion meeting a few months ago and heard more comments yesterday that was shared at our last summit.

Manitoba has 63 First Nations and my community is one of the northern communities in Manitoba. Each First Nation is impacted and has its own unique situation because we live in different areas and even it has been stressed how our climate has become a factor as Derek Nepinak indicated. The threats about the climate are real and our people in our community, the children, youth, adults are unaware of this. That's another thing, I want this information to come to the community level and should be in the school curriculum.

All of the different education systems like Frontier School Division and Manitoba curriculum, under the curriculum, I was given information about the French people, to me that information is not beneficial to me. I reside in northern Manitoba and have no association with that culture. With the changes in society we need to look at today's reality. I like what the 6 speakers shared. I invite the organizers here to come to my community to talk to our children, adults and myself as a councillor. The ones who talk such as those today have the wisdom. This is the message I wanted to say today and I'm happy to be here to build unity.

++++++

An Elder provides stern advice telling the forum, "You have to wake up and take yourself out of the box called INAC. Stand up for your sovereignty and take control of your jurisdiction and your Treaties."

Elder George Munroe, First Nation not identified

I've been sitting here for two days listening to people talk about Treaties and sovereignty. In order to go forward, first and foremost, you have to know who you are. I'm not a Canadian citizen. I am a citizen of my own nation. It is a conflict of interest if you are a Canadian citizen and a citizen of your nation. Your Treaties are international instruments and you are a sovereign citizen in a sovereign arena. You talk about how do we move forward? First and foremost, you have know who you are because right now 633 bands in Canada are prisoners of war in that state. You have to wake up and take yourself out of the box called INAC (Indian and Northern Affairs Canada).

The government tricks you. You vote for the government at election time and give your consent. You talk about consent every time you vote, you give your consent to which government takes office to do whatever they want with you and your Treaties. You are dealing with a corporation, not a government, not the Crown. In this province, the Treaties are trumped by the province because you're domesticating your own Treaties which are international instruments. You belong in the international arena, if you want to deal with the province deal with the Lieutenant Governor. You talk about the Cabinet, that's the janitors of Parliament Hill. Trudeau is a de facto government. It's the Crown of England who your nations should deal with. You have to know who you are. You belong in the international arena. You can't walk in there as a prisoner of war. You have to be sovereign. I know who I am as a sovereign. I am a sovereign citizen and everyone sitting around this table was born a sovereign citizen with inherent rights but as soon as you get that birth certificate they drag you into a slave system for the rest of your life where the banks control and governments control. You have to take yourself out of there.

You hear about Canada's 10 year financial agreements, that's not a policy for funding, it's a genocide policy. If you're going to stand up to your Treaties better wake up now because you ain't got much time left. You'll soon be controlled by one world order controlled by the banking system. So you have to wake up and tell your people get out of INAC box, it's just one genocidal policy. If you don't do this, our children don't have a *licken* hell of a chance.

Stand up for your sovereignty and take control of your jurisdiction and your Treaties. Under Treaty 5 with over 100,000 sq km, that's a lot of territory, 38 First Nations under one government, you have humongous power, larger than you think. Wake up and smell the coffee and ask yourself, am I a prisoner of war, am I a Canadian citizen or am I a sovereign citizen? Thank you.

++++++

A youth from Chemawawin Cree Nation gives a description of being displaced from his own community as it relates to reconciliation.

Mervin Jr. Thomas, Chemawawin Cree Nation

I'm using this forum as a member of the youth and to remind people that Cedar Lake was flooded by the Grand Rapids hydro dam in 1964. We couldn't overrule or opposed the dam and a lawyer was not readily available and any opposition was useless. The provincial government said it's happening with our best interest in mind. This wasn't true. At the time we spoke little English like of the Treaties of the past, we were forced to accept and it displaced us. We were promised a fully modernized town, running water and electricity among other things and because these promises were not on paper they were not real. We believed this new home will be like the other towns surrounding us, we were wrong. When we arrived we found rock not like the vegetation back home at the old post.

With the relocation from Cedar Lake went our way of life also and came the drugs, alcohol and violence. Back at our original home, we could see the sunrise in all its glory, the sunrise is a powerful part of our culture, it signifies the cycle of life. Where my people are now we see only the setting sun and our way of life has died with the move. When I die I hope that my ashes will be spread back on our original home land so that I may return home to my ancestors and feel the breeze and start again with the sunrise, return me to the old post. In saying that we must work together to make sure this never happens again. Those who don't remember the past are doomed to repeat it. Ekosi.

+++++

A member from Red Earth Cree Nation reflects on his adolescent years. He advises not to forget the basics of life, hard work and to avoid highly processed foods by planting our own gardens.

Philip Head, Red Earth Cree Nation

[Speaks in Cree dialect] First, I would like to refer to Derek Nepinak's presentation about the value of carbon. I think we need to act on that. He also mentioned highly processed foods, I want to make a comment on that. It is about going back to the basics. I was born in 1956 and when I was 10 years old my dad had cattle and horses and my brother and I were the ones who would feed them. We used to use a team of horses. At that time there was no running water or electricity. It was a hard life. Our late father trapped in the winter and we were in charge of feeding the cattle and horses after school. That was a good life. We need to go back to the basics of hard work. Not too long ago, about 7 years ago, on a piece of land in my front lawn, I harvested potatoes. It was hard work growing those potatoes but I was surprised of my success and told my neighbours. [Speaks Cree] We used to have log houses. [speaks in Cree] [inaudible...] culture is a way of life and I taught my family and they maintained it. I'm glad to hear about Pontiac today how he drove settlers back to their country, "you got it Pontiac" but

what came after that is the Royal Proclamation that protected our rights of hunting and trapping. Ekosi.

++++++

Elder Monias talks about a hydro agreement that misled the communities to think they were going to be employed. She cautions that these types of agreements are vague and the interpretation of these agreements usually go in favour of the settlers.

Rita Monias, Pimicikamak Cree Nation

When we talk about addressing the socio-economic gap, there is a lot of gaps. I've been involved with Manitoba hydro and governments with the northern flood agreement for sometime. What I have learned is we have to watch every word in the agreements we sign. One article in the northern flood agreement that says employment for Manitobans and Pimicikamak people misunderstood that to mean employment for Pimicikamak and for other communities that were involved.

When we talk about disparity, the government will make agreements what they want and they don't consider the people. There was only a few employed. If you go into an agreement you have to look at every word and punctuation. If we want to look at socio-economic disparity you have to look at every word in the agreement and read the small print. And about our own source revenue, all the Treaties are bias to the government's advantage. Isn't there two signatories to benefit? We should take upon ourselves to take steps to implement the Treaties. We didn't say there will be an Indian Act or polices to control our lives. Under the reserve system – you don't have to stay on the reserves to make your own source revenue. With the support of our council, I want to step out of the reserve and go beyond the reserve boundary so I can build my own house. Treaties are not supposed to be biased, there are two entities and both should implement to avoid genocide.

++++++

A member of the Misipawistik Cree Nation recommends teaching the youth about Treaties and other issues such as the Natural Resources Transfer Agreement which very few understand. He raises the issue of overlapping territories between First Nations that should be resolved internally. He also recommends there be a sign on Treaty territories that says, Welcome to Treaty 5 Territory.

Ken Cook, Misipawistik Cree Nation

I want to acknowledge our Chief and Council who freed up some funding so we could attend this workshop. I've always been interested in Treaties and what I heard here today gives me new vision where I need to be and affirmed what I believed. I'd like to thank the educators who spoke and brought insight on Treaties

and how the Treaties happened and where the people are coming from. Our neighbour here to my right who talked about Treaty rights and I can understand his plight with the power dam and our history of the power dam. I have sitting on my right hand side a woman whose mother and father were at the Treaty negotiations when this happened and to give you a brief history the Indian Agent, Alexander Morris who came to our community brought whiskey to the meeting, got the some people drunk and that's how the Treaty was signed.

But going to the school curriculum at Frontier School Division, I am not really aware if Treaties are taught in our schools but it should be in the curriculum in every Frontier school to start the process of educating our young people about Treaties because I believe that's where we need to go. For me, if I go back to my community we have issues with trapping, mining, forestry and when I raise Treaty rights people question me because they don't understand. I can understand why because the way we have been assimilated by our European brothers and sisters. We have to enlighten everyone to understand Treaties.

Another issue is Natural Resources Transfer Agreement (NRTA); for example, our communities do not recognize the NRTA in regards to trapping. We have a vast majority of our traditional area that overlaps with other communities but there has not been discussion on how we are going to share that land. And, I think we need to start talking that way. This can be brought up at the Assembly of Manitoba Chiefs (AMC) and they can deal with the land and how we're going to continue, and not to run to our oppressor saying hey, he is trapping on our trapline. Can you go and arrest him and pull his traps. That has happened to our people. We have gone outside the boundary and people have taken our traps but we are trapping on Treaty 5 territory which was traditionally where we always been.

Those who are living north of Grand Rapids when you are going home when you look at the vast logging that's going on in the Devil's Lake area we kind of support that logging area because of the bud worms that are destroying the trees that is why it's a savage operation. The province is trying eliminate that before it spreads but we can see it has gone north and it's spreading everywhere. The area hasn't burned for 100 or more years but may be time it burns. I forgot to mention I work for the province as a Resource Management Assistant. In regards to our Treaty 5 territory we should have a sign that says, Welcome to Treaty 5 Territory. I want to say thank you for listening to me.

++++++

A member of Berens River First Nation talks about self-sufficiency and economic development but, more importantly, about taxation in terms of redistributing wealth in our communities.

Myra Tait, Berens River First Nation

I want to address these ideas of economic developments, socio-economic development with two challenges. The first one is on the matter of taxation – I know we kind of recoil whenever we hear about taxes and most of us are allergic to paying taxes. The taxation I want you to consider though and for those of you who are elected to think about taxation as a form of wealth distribution, we have always done that. We always had our ways of doing that so we need to think about how we might accomplish that at a local level. As Nathan said earlier each of communities are unique so we need to find unique solutions that will address the needs for redistributing wealth and meeting the needs of people that can't do on social assistance and welfare. So we need to come together as communities, so taxation on a national level in terms of the nations in Treaty 5 is a bigger question and an extension of that but I want you to be thinking of how that might look in terms of taxing non-member and taxing our own members but, moreover, in terms of how we redistribute the wealth within our own communities because sharing has always been a part of our ways.

The second question I want to put out in terms of economic development. It really bugs me when I hear people say there are no jobs in the north, there is no employment that we have to all move to the south to get jobs but I beg to differ, like hydro has gotten rich, this province has gotten rich over the wealth and the jobs that are taken out off our territory, the mining companies construction of roads construction of infrastructure. Those are jobs that have gone to predominately white people, the settler society. The second challenge I want to put out for the elected officials is with the increase of urban reserves, for example, with the increase of business on reserve, with the increase needs to bring outsiders in to build infrastructure or bring in specialty, why are we not hiring our own people. Why are we so willing to hand over money to a white lawyer or a white business or white engineer? We need to be using the expertise that we have in our own community and our own graduates, our youth and to invest in our own communities. I just wanted to point out those two challenges out to the elected official here to think about. This is one way we can bring about economic development in our own communities is investing in ourselves and to take care of each other

++++++

This participant from Nisichawaysihk Cree Nation talks about addressing socio-economic disparity by creating jobs and training for the members of his community. He tells the forum he personally secured a contract with Manitoba Hydro to ensure the trainees got certification on safety.

Bill Yetman, Nisichawaysihk Cree Nation

Homage to D'Arcy Linklater, I learned a lot from him and one of the lessons I learned was creating jobs for the community. All you need is a budget and a contract with a company and then you can create jobs. I worked for hydro

generating station and signed a 60 month contract on safety and cleanup which I fulfilled. When I worked for hydro there wasn't safety oriented training. I learned about it when our people were going to work but leaving. I didn't know they didn't have safety training. I went back home with a contract to safety orientate our members. We just recently signed a management program with Manitoba Hydro which I created 6 zones that need to be cleaned, that's about 6.3 million hectares of waterways that need to be cleaned.

D'Arcy is my dad and he showed me what lakes that needed cleaning. Safety was a big concern at the time with 20 men working. No one was knowledgeable about the lakes, but we took them out to work and made sure they made money. We made 19% off these workers, that's considered a profit and re-invested in the company. We worked to get these men trained so when they decide to leave the community they have the training for other jobs. We been operating for 6 years. Actually other companies have hired our people because of their impeccable record with zero incidents. We also participated in land use and adaptation study and the province is curious to know what we have learned and done. Where we work we created our own policy on missing work; an absentee policy because we hope, to instill responsibility in our workers. We also take 25 Elders in the spring, summer and fall to advise us and tells us what they want to see. Cleaning and working with the debris in the river, creeks have great significance to the community.

+++++

Chief of Mosakhiken Cree Nation tells the participants that there is lack of employment opportunities in his community despite all the commercial development in his territory. His comments relate to the socio-economic disparity that exists among the First Nations. He said, his people also have lost **“their mode of life” as promised in the Treaties [Emphasis mine]** due to hydro development.

Chief Jim Tobacco, Mosahiken Cree Nation

I want to say these past couple of days particularly the presentations have been an inspiration and what I heard is good but it's something that we need to take upon ourselves to make things happen. We have been talking about many things, our lives, territories, people and how to make things better. I want to talk about the 1964 - *Letter of Intent* regarding a hydro dam. They gave us compensation but it wasn't enough. Manitoba Hydro constructed a dam at Misipawistik.

It was supposed to give us employment opportunities but never happened. Instead, what it did to my people was decimating the land by flooding it. It destroyed the habitat of the animals, the fur bearing animals, the quality of water and forever changed the way of life for my people. Prior to that our culture was vibrant and the people sustained their way of life by fishing, hunting and trapping. Once the dam was constructed, within two years the people felt the devastation and there

was no longer the social fabric we had. Our men didn't go to their traplines, they were displaced by high levels of water and from their hunting grounds. As a result there was inactivity which led to things that weren't good for their health and for the community at large. But during that time there were discussions with MB Hydro and the province but Indian Affairs never attended, instead they watched from outside and had meetings with Manitoba in Ottawa to discuss our issues.

When you talk about own source revenue (OSR) in our territories, the kind of development and process that exist excludes us, the treatment of the people was and is not good. We are never given a chance to work at whatever jobs are created on our territories and there is no real development on my reserve. We continue to exist. We had a vibrant life and culture before the lands were flooded but we are also resilient people. We are still waiting for Canada to fulfill its fiduciary obligations to make sure that our First Nation is properly compensated for the loss of culture and land but the governments have never taken real ownership to it. They haven't exercised their fiduciary responsibility. When I was a young boy maybe about 12 years old and now I am 70 and I am still waiting for justice. Thank you. Thank you.

+++++

A resident of Black River First Nation speaking on own source revenue gets it straight. He said NRTA prevents our own source revenue and restricts access to our own resources and should be revoked.

Charlie Black, Black River First Nation

I represent the middle age from my reserve. My Elders are sitting to my right. With regard to generating our own source revenue, it is the Natural Resources Transfer Agreement (NRTA) where we get stuck at because of restrictions and boundaries. I think our Chiefs and Councillors should address this [by revoking]NRTA and taking back our lands from the province. We have a lot of resources, minerals, timber, water and all of that is ours. That's what I would recommend that the Chiefs take back [and revoke] the NRTA. Meegwetch.

+++++

Speaking of socio-economic disparity, a Councillor of Pimicikamak Cree Nation describes how they have protested against hydro development to address their lack of employment and Treaty rights and were referred to as economic terrorists. He related the exercise of Treaty rights have been infringed upon and this is ignored by governments.

Mervin Garrioch, Councillor Pimicikamak Cree Nation

I listened to the speakers here and we seem to be having a common problem. We are affected by the northern dams along the Nelson River and it's supposed to

have created employment for our people but a lot of the people that are employed are from British Columbia and Quebec. For our people to work there, Hydro needed a letter from Chief & Council to identify who they are and to show their Treaty number but the other people from elsewhere didn't have to go through that and it's a shame for us to be treated that way.

Northern Flood Agreement when it was signed we were promised a lot of jobs to eradicate chronic unemployment. Yet we're in poverty today, back log of two thousand homes, people are not working, our trappers and fishermen just hang out and party because their livelihood was destroyed. The agreement affected our budget. Indian Affairs took a sharp cut on our social assistant budgets because they thought Hydro would provide employment and training but it never turned out that way. For many years we were under budget and it wasn't until 1985 this matter got straightened out. Even today the relationship is still the same way, the company is very racist. A lot of our women who work there can tell you stories how our young men face racism in the workplace. It's sad what's happened to our people and the lack of opportunities that continue to exist.

Hydro and the province calls us economic terrorists because one time in order to address our issues we prevented their transformer equipment from being transported through our territory for the inland people that needed it for electricity. Basically we took hostage of their equipment and it woke them up. That's why the winter road goes through Norway House and not Cross Lake. They still did not honour the agreement that they made in the Northern Flood Agreement. The next step we took was we took over Jenpeg hydro station. They told us we were traumatizing their people yet they don't realize they had traumatized us for many years with hydro developments.

It cost a lot to our fishermen when they lifted their nets and got nothing but debris in their nets and a lot of them couldn't reach their traplines when the water levels fluctuated. Our fishermen and trappers were trying to get their own source revenue from their resource areas. The earnings the trappers make goes to their gas, skidoos, and their dog teams they used to use. All this costs money. It's like you spend \$5 to make \$1 – it wasn't profitable for them.

Another matter that was brought to our attention was the Natural Resource Transfer Agreement (NRTA), our Elders at the time were promised that NRTA would protect them and [inaudible...] but they weren't properly consulted. To me, I think NRTA is an illegal document. The whole community should have been consulted and our people should have given their consent in order for that to happen. I think a lot of discussion needs to happen and there should be a court challenge on NRTA. It annoys people and it's a burden for our bush people who want to exercise their trapping on the land and because of NRTA the areas where they trap are clear cut already, so it hampers their way of life. Under Treaty, our people never ceded our lands and territories.

++++++

A member of the Opaskwayak Cree Nations talks about socio-economic opportunities by working together and organizing business alliances to take control on trade, marketing and managing the resources on First Nation ancestral lands.

Don Lathlin, Opaskwayak Cree Nation

When we talk about own source revenue and self-sufficiency, I think of how many of our First Nations have businesses in our territories. I think we should start our own free trade agreement among ourselves, a trade alliance agreement of some sort to increase our business opportunities and for access to our ancestral lands and achieve resource equity under Treaty. First Nations already have our own Regional Management Areas (RMA). It was mentioned yesterday we have our resource councils and a First Nation Land Management Act which is only in effect on reserve but should apply on our Treaty and traditional territories. The RMA we have with the provinces, in my mind are useless and we should start creating our own Northern Regional Resource Council comprised of each First Nations and command our own territories. Ekosi

++++++

A member of Rolling River First Nation talks about the relationship with the Crown. He stated. *“they cannot be making any kind of war on us because that is not what the Queen or the Queen’s family wants...”* With respect to own source revenue, he said, *“when we talk about own source revenue, we never gave up anything underground, it was all stolen in the 1930’s through the Natural Resource Transfer Agreement.”*

Morris Swan, Shannacappo, Rolling River First Nation, Treaty No. 4

I’ve gone to several Treaty meetings and work along with traditional Elders out west and I believe Creator sent me here today. I want to give thanks to him and to the good people here for allowing me to speak as well. I want to say there has been a lot of good presenters and presentations, one of the ladies here talked about international law when she said we are not Treaty and I totally agree with her. When I sat with an international lawyer a month ago she said we are not Treaty, you people own this lands, you never ceded anything, you allowed these people to come onto your lands to live side-by-side. She said, even your leaders at the time of Treaty if they knew what they wanted, they supposed have gotten all of that.

I know in our territory our first spokesperson said he wanted 40 townships and so I let her [lawyer] know that and she said that’s what he should have received. Some of the things that go on in our area we have nice meetings and we use a lot of nice words but we open it to anybody and allow them to our rooms. I’ll ask

anyone here to go into a room where government is talking, they call them war rooms when they're talking about us because they are making war on us. But, they cannot be making any kind of war on us because that is not what the Queen or the Queen's family wants and anytime they want to make war on us we are supposed to get a hold of the Governor General and give her a letter to send it over to the Queen and it's her job to get that letter to the Queen and not even read it but hand it over to her Highness and to let her know what we are dealing with here.

Her Highness cannot come out here and change things but there are people in the Royal family that can like Prince Phillip and Prince Charles the next heir to the throne. [inaudible...] you have to remember all these governments who are fighting us [inaudible...] like they have the Privy Council and all those warriors that have beaten us and fought us are still sitting in that same room and talk about the Indian problem, which is us. We don't have an Indian problem we have a governmental problem that is designed through corporations. The real state who we should be talking to is the British Crown and we should be doing that via the Governor General. She downplays her role quite a bit and says I have no power but when the government prorogues who shuts the government down, it's the Governor General. If anyone wants to talk to the British Crown it's the Governor General who gives that allowance through letter writing and contact. We too as a people, we have every right to gather and every right to create a room such as this, call it a war room but we got to watch who we bring in and watch who comes in to listen because they always try to be one step against us.

When we talk about own source revenue, we never gave up anything underground, it was all stolen in the 1930's through the Natural Resource Transfer Agreement. This group I sit with of traditional leaders and spiritual people we have ceremonies all the time, we use ceremony to talk to the Creator for guidance on what we should do next. I know we are kind of contentious because of the Indian Residential School (IRS) and the teachings that was brought by them. I didn't come here to argue about religion but what I came here to say is please let's use the gifts the Creator gave to us, we have a lot of people who are preachers today but are gifted in a way they can speak to the Creator. We need to respect that and what the Creator gave to us. Thank you very much.

++++++

A member of Shoal Lake Cree Nation tells the forum about taxation as part of own source revenue and self-sufficiency.

Charles Whitecap, Shoal Lake Cree Nation

I want to make some comments on own source revenue as part of the four pillars I call them, one being self-government, self-sufficiency, self-determination and self-adjudication. I want to concentrate on self-sufficiency for the time being. A while back someone asked me what I've done for my Chief and Council and

thought about it, nothing really I said. Then, I thought what have I done for the federal and provincial government? Well I make a daily payment [through taxation] to the two governments and, in turn, I pay them to regulate my Chief and Council on how to provide services to us.

I know I've heard many times that we are immune from taxation but that's just on-reserve only. Once you step outside those boundaries you're subject to every tax there is. Thinking Provincial Sales Tax (PST) and Goods and Services Tax (GST) is what I pay on a daily basis. Even here the people who are here for the three days I bet we will have contributed \$12,000 to \$15,000 to the governments. Every time I check out of a hotel and when I pay for my meals there's always these taxes that go to the provincial and federal governments. What if we were to introduce a third tax, call it Indigenous Sales Tax. We would pay as Treaty people and let the general public pay for their taxes but using the numbers, in Saskatchewan there are numerous Treaty Indians and what if 100,000 of our people spend \$1 in one day, that's \$100,000 and that's how much we would generate in one day in Saskatchewan alone. That money would go into a trust fund and multiply that by 365 days, that's millions in one year but if it was 10 dollars that would be 360 million.

You know one way of looking at it is, we are the ones who are funding the bureaucracy. It's you and I that contribute to the bureaucracy [of Indian and Northern Affairs Canada], the custodial bureaucracy. Let's think about it, why can't we come up with a third tax system, an Indigenous Sales Tax and the money generated go into a trust fund and imagine how much revenue that would be. A country doesn't rely on resources alone, but people contribute to the existence of their nations. Thank you.

++++++

Chemawawin Cree Nation member talks about the loss of culture and the struggle people face especially in Winnipeg where people live on the street. He reminds the leadership not to forget their people who live in urban areas. He said, "we talk about governing ourselves but if you lose sight of compassion you have nothing." **His comments relates to off reserve citizens of Treaty 5 and their involvement and inclusion in new First Nation governments.**
[Emphasis mine]

Thomas Mink, Chemawawin Cree Nation

I heard about what is being talked about here a long time ago when my dad was a Chief. He used to tell me everything's going to start to change. All this stuff I see now what he told me about while growing up. I think about it now and leaders are trying to do something but in my heart it really hurts to see all this that is going on with our people. A lot have lost who they are. Even me, I don't know anything about Indian culture because I didn't grow up like that. I grew up Anglican, a

born again Christian. I didn't know about culture. I can speak my language and I am starting to know who I am and where I come from. Because I go to school, I came to Winnipeg and ended up living on the streets. There's a lot of native people living on the streets of Winnipeg. Who's looking after them. I see them every day how they live, it hurts me, I was one of them too.

I grew up in a home where no one drank, my parents were sober and my dad was Chief for 10 years, the late Percy Mink. We used to talk about looking after our people, what about the people in the streets and everywhere else. Take the time to go out there and see what's happening. I'm not disrespecting anyone but just stating how I feel. I'm happy to see all you people here in one place, but there's got to be a change. Money is good but what about the compassion, we talk about governing ourselves but if you lose sight of compassion you have nothing. You'll go nowhere. Don't ever lose sight of compassion that you're supposed to carry as a leader. I'm not arguing or disrespecting. This is how I feel in my spirit. I'm happy you're trying to do something and as a Nation you need to be together and look after our people. I'm really happy to have the chance to speak, I'm not afraid of what I said because I have the freedom of speech. I come here today to have good words. Message is compassion.

+++++

A member of the Norway House Cree Nation talks about socio-economic disparity in the context that the First Nations are hiring outside people. **She recommends local labour. [Emphasis mine]** She said, "*We are knowledgeable and have valuable experience and we would like to do the work.*" She further points out water contamination and also reminds the forum that women must be part of the leadership.

Loretta Bayer, Norway House Cree Nation

I am fortunate to be here to participate, listen and to speak and take back information. The information today was tremendously valuable. I want to speak about the work I've done in my life in the area of health and in the area of crown consultations with the federal government and also with Manitoba Keewatinowi Okimakanak (MKO) in health. My experience brings me to a point in my life where I have an opportunity to work at a national level with a group of lobbyists to ask for money to support the development of a National Guardians Program for Turtle Island. In Australia they are celebrating 20 years of ranger [inaudible...] experience and is legislated in the Australian government.

This is an opportunity to work on our land and teach our young people the language and harvesting our medicine, Western medicine has not done us any good. We need to use our own medicine and to research that to re-connect the people with valuable resources that are within in our territories and we also need to use those natural resources of the animals and the fish, our forestry, the trees,

air, and water. We had meetings with the people at the end of the lake of Winnipeg over two years ago and we talked about erosion in Lake Winnipeg and the garbage that's flowing from Winnipeg and up the river into our territories. We are all a part of that area and we will eventually get that debris in our territory, our water is dirty and the efforts to work together, I mean we need to unify quickly on an urgent basis to recognize the gifts we have within our land, the waters and air. The communities need to support each other.

I worked for many years and many times our businesses have failed, our resources, our exercises have failed because we don't work together. We put our hands out to the people outside our community and pay white lawyers who come and create wedges between us as neighbours and relatives. So we need to work in unity. Unity is an important part of this process today and we need to walk away today feeling good about each other and supporting each other. We need to focus on a dialogue of unity.

The work I'm doing at the national level with National Guardians Program, the government has tried to tear us by unilaterally dividing our money that we lobbied for between the Metis, the First Nations and the Inuit and then they unilaterally decide to spend the money that is not theirs to distribute rather [inaudible..] supposedly a joint distribution and joint effort. We have to be able to do this together as nations and work together.

We need to work on implementing our Treaties at our community level to call upon our members to come and define what our laws need to be and re-teach our people how to live within those valued based laws. Many people are interested to work in our communities but we have to go outside to find employment. We are knowledgeable and have valuable experience and we would like to do the work. Also too, the women, you know people talked about the old boys club all these years, women are becoming leaders in our communities. What I had mentioned yesterday about the matriarchal society it was the women that pushed the leaders to go ahead and speak to the Indian agents because on the other side the Queen told those Indian agents to meet those leaders and sign those Treaties. We the women in our territory were behind it all. You have to start recognizing us and putting us up there on the podium to speak to the people. We have value, we have knowledge and we have respect for one another. So with that, thank you.

++++++

A member from Tataskweyak Cree Nation said commercial development from outsiders are imposing on traditional way of life and benefitting from our resources. He said the permitting process for commercial development lacks meaningful consultation and amounts to bullying. He wants to see water rental regimes imposed for the use of our water.

Councillor Nathan Neckoway, Tataskweyak Cree Nation

I forgot to mention earlier that in regards to economic development in our territory in northern Manitoba a lot of industries are moving up north and impacting our land areas. For our First Nation of Tataskweyak, we have been heavily hit by Manitoba Hydro development. With the availability of work, our people do have opportunities to work but we are also impacted from those outside people who impose their lifestyles on us. They are coming into our territory accessing our resources from our backyard and impacting on our traditional practices of hunting, trapping and fishing.

Right now a lot of First Nations across Canada are being hit as well by these corporations. What upsets me is how the governments work together to impose and bully First Nations and permit these corporations to make structures on our lands to benefit themselves without any benefits going to the First Nations. Like in British Columbia there is a case in which a First Nation affected by the proposed hydro development were fought and bullied by the provincial government and the corporations to get what they wanted. In Manitoba we continue to stand against the government on how commercial development are affecting water and lands. Maybe we should impose a rental regime for the use of our water to the governments and industry. We need resources for our communities. Thank you.

+++++

With respect to own source revenue and self-sufficiency, a Councillor states we need to take control of our lands and not to accept Canadian policies but instead create our own authorities.

Councillor Dion Clark Norway House Cree Nation

I would like to share for the record a statement shared earlier that the settlers would be worried if we treat them how they treated us when we claim our land back. The statement stuck out for me because we could take control of our lands and as for our territory we can do that on our own but cannot speak for other First Nations. If we did take those steps, we would cause a stir with the provinces because they rely on our land and our resources for their income.

I remember hearing our Grand Chief Garrison Settee speaking at his inauguration and said, there's power in the north. We have a voice as a people, we have a rich history, we have strong Elders, and the young people are starting to attend our meetings and if we stood together we could begin to move forward in the right direction. I'm 39 years old and heard this kind of dialogue when I was a teenager. There are a lot of documents and agreements we can use now to challenge the government. But, we have to remember some of our worst enemies isn't the government but ourselves. We take down each other. When we try to assert our authority, for example, to address the drugs in our communities the drug dealers run to the government and complain we are kicking them out.

The governments have set up rules and policies to benefit themselves but we need to get out of this mindset of accepting these policies and start practicing our own authorities and doing it. Looking at the map, I know it's a draft, but in 1999 Nunavut was created. I don't know what our lands would be called if we separated too. I know the province would be very concerned if we took away their source of income which is hydro.

++++++

Day 3 - Sovereignty, Nation-to-Nation & Reconciliation

Sub-Topics: Sovereignty & First Nation Jurisdiction affirmed by Treaty; United Nations Declaration on the Rights of Indigenous Peoples; Nation Rebuilding & Centralized Governments and Truth and Reconciliation Calls to Action

Elder Stan Wilson suggests a statement by way of a motion to determine how to move forward.

Elder Stan Wilson, Opaskwayak Cree Nation

I think this is a tremendous seminar and workshop. This forum needs to make a statement or a motion to encourage our leadership to take the next step to formally organize something along the lines of what we are talking about such as a Treaty 5 constitution, I suggest we do that.

++++++

Chief of St Theresa Point First Nation encourages a special committee to promote "Indigenous thought" and institution building. He emphasizes that our educated people need to organize for the Treaty movement.

Chief David McDougall, St Theresa Point First Nation

These presentations are truly enlightening, the modern native thought expressed here are not readily available in the academic circles in the universities. When people spoke back then a lot of them were branded as extremists, radicals or even militant when they asserted who we are. Also people up there at the podium how many letters are behind those people's names? How do we promote our own academics who have our unique perspectives? What's even more critical is that we need to build our own institutions across the country or across our treaty territories. We need to move on this movement by building our own institutions in order to move forward on this, a concerted effort by our accredited people can defend who we are.

++++++

A member of Red Earth First Nation stated we need to establish our governments and institutions grounded on Treaty. He said he heard about building institutions, and asks how do we do this, even though we have Assembly of First Nation and Federation of Sovereign Indigenous Nations, he said, we need to go outside these corporate entities and systems, we need to go outside that scope and more from a Treaty perspective. He also said Treaty 5 needs a Treaty 5 flag.

Roy Head, Red Earth First Nation

It's been a learning experience for me. I want to go back to what I mentioned the first day for having Treaty commissioners across Canada for each of the Treaties 1-11. This is the route to take in order to push these Treaties to work. Throughout the presentations the last few days, I heard about building institutions, how do we do this? Even though we have Assembly of First Nation and Federation of Sovereign Indigenous Nations, we need to go outside these corporate entities and systems. We need to go outside that scope more from treaty perspective.

I talked to the Treaty Commissioner from Manitoba how to proceed into the future. We are compromising ourselves for using the Whiteman's system. We are not using our forefathers' ways of doing their business like sitting to talk about Treaties. I agree we are the richest people in Canada, in the world if we do it right with all the natural resources we have. Think outside and beyond the box to deal with the land, the water, the air and space and how we can find a way to get all that money out. We will be the richest people in the world, but we need a different approach, a different route, a different road from what we are operating now.

I agree the Indian Act has to be taken out. Some people agree with it and some don't. I don't agree with it. Yesterday I mentioned we need a Treaty 5 flag that we need landmarks right across our territories and Canada. We need to establish and make our land marks like the Europeans. They put their crosses and flags to put claim on the land. I want to also say I got an email from Cumberland College that says, Treaties 4, 5 & 6 and the homeland of the Metis. Now what does that tell you?

+++++

A member asks one of the workshop presenters whether the First Nation can take Canada to the world court for breach of Treaty and for human violations.

Roy Bear [First Nations not identified]

I have a question regarding treaty sovereignty. We have a lot of learned people across this land. Can we form a class action lawsuit to take this corporation called Canada to the world court for breach of Treaty and for human right violations? I think we should start a class action lawsuit to do that so this country can understand that we as sovereign people have been abused with human right violations. We live in third world housing conditions, poor drinking water and yet

the immigrants they get new housing, education and health and get everything else while we continue to live in poverty. We need to take this corporation called Canada, the federal government including the Crown to the world court for breach of Treaty lawsuit and get this settled once and for all because our remedies have run out in Canada. They are changing laws everyday to suppress our people. It's time we stand up as sovereign nations and work together to take the humanity violations and genocide crimes to court.

+++++

Dr. Palmater responds to the question whether Canada can be taken to the world court for breach of Treaty and human violation.

Dr. Pamela Palmater, Professor & Lecture, Ryerson University, Toronto

Suing Canada for breach of Treaty and in terms of monetary compensation or orders to force implementation, you wouldn't get any of that from the international forums instead you would get recommendations from the international forums to say that we recommend Canada implement Treaties or we recommend Canada to stop discriminating.

We have participated at the international level for decades and we gotten lots from every UN Treaty body and Inter-American Commission and there are literally tons of reports that directs Canada to implement their Treaties. They have even issued statements that there should be a moratorium on land development until they resolve land claims.

It depends what you want to do but I do think bringing a claim of genocide against Canada is something that is different and it something that people are already working and considering doing because genocide encapsulates as you know all of the harms that have been done not just Treaty breaches but specifically the theft of kids, the murdered and missing and over incarceration and all of these things.

But here in Canada we should think strategically what lawsuits we do and which we don't, find arguments that we want to advance to both limit the damage to our side of the fence and also to maximize the potential decision that could possibly come but that is the kind of stuff that needs war room strategizing not necessarily in public forums where provincial and federal governments can hear but I would say that's a conversation that Treaty nations need to be having about which forums and for what purposes and what our strategy would be and to make sure federal officials and provincial official aren't sitting in the room which they usually are at our big assemblies. We need war room strategies at this point.

++++

A member of York Factory First Nation talks about the concept of holding Days of Action to create awareness to the rest of Canada about Indigenous rights. He

suggests that Treaty 5 start planning at the grassroots level and make the Days of Action work.

Ted Bland, York Factory First Nation

First of all I want to say it's been a great three days and it's good for the presenters to share their knowledge so people have an understanding what is happening and how urgent these matters have become. I had a question about civil action if there are any plans. I have talked at different tables about this, it's not my concept but this concept has been brought forward across Canada before and it's about a national day of action. This was tried years ago and it wasn't as successful as we wanted to be and it fizzled away but with social media and everything we have at our disposal today we can create something so strong to remind Canada of our territory and our sovereignty so to have civil disobedience by blocking off railways and highways and let Canada see and feel this is still our territory that this is still our homelands.

These are the things I think that we need to do to go forward. We can go to court and they will delay it as long as they can and I think the only real way to get real action is to set a national day of action or a Treaty 5 day of action but I think it's time we start planning and like I said I brought this to the Chiefs' attention and nothing has happened. It has to come from the grassroots people. I am a former Chief but I am at the grassroots table now and I want people to think seriously about organizing, to have our people ready and our scholars, our educated people ready to work together. I want people to think about that and let's start preparing and shut down our territories for a day and let Canada feel that in their pocket book and let them count their money they are losing. Ekosi.

++++++

An Elder talks about asserting inherent and Treaty rights. He said our Treaties are based on sharing the wealth and that we should identify and define what we should be sharing. He reminds the people that we had trade and we should be talking about this as part of the discussion on economic development.

Elder Jack Wood, St. Theresa Point First Nation

I have been listening the last three days in terms of direction and what we need to do based on our Treaty understanding. Treaties are based on sharing of wealth. If the expectation was to share with the Settlers that came to our shores maybe we should identify what and how much that sharing should be. What is it we want to share? This should be identified as part of the Treaty discussion so we can address our economic base on resource equity.

What I haven't heard is the export of our resources from our territories. I think we need to take a look at that because we used to trade even before the Whiteman came to our shores. Our communities had trade and we should talk about that. We

need to talk about economic development and economic sustenance. I would like to quote Tecumseh, an old Chief who repudiated the fraudulent purchase of hunting grounds. He said to Governor Harrison, *It is true I am a Shawnee. My forefathers were warriors. Their son is a warrior. From them I take only my existence; from my tribe I take nothing. I am the maker of my own fortune; and oh! that I could make that of my red people, and of my country, as great as the conceptions of my mind, when I think of the Spirit that rules the universe. I would not then come to Governor Harrison to ask him to tear the treaty and to obliterate the landmark; but I would say to him: "Sir, you have liberty to return to your own country."* Thank you.

+++++

A resident of Black River First Nation talks about sovereignty in the context of practising his traditions without interference. Sovereignty is also knowing your identity, knowing who you are and where you came from. He said when he thinks of Treaty, he thinks of the pipe because the pipe signifies honesty, faith and balance.

Lance Bibeau, Black River First Nations

I thank the youth for coming to listen to the messages people have and for helping and serving our Elders in a kind way. I'm glad to take the time to come here because this is important to me. What our Elders shared on sovereignty to mean to "rule over" got me thinking. In our original way of being sovereign, I take the students to sweat lodges, I take them fishing, go to the water and listen to the trees. We pick wekay, we dry these medicines, we work on hides, hunters drop off their hides for us, we clean them and we make drums. I teach them our songs and what those songs mean and to me, that is sovereignty. Sovereignty is knowing who we are and where we come from, my Kokum told me. My Kokum comes for Fisher River and that where I come from. My dad come from Roseau River Ojibway Nation. I will share and talk about what was shared here today with my students and they will ask me infinite questions which is good because I heard everyone is coming to Black River in July. It will be an honour to host.

A second part I wanted to share is when we look at Treaty 5 what does it mean to you? For me, I think of the pipe. Billy Bird here is a pipe carrier and has a PhD in being Indian. He is from Black River and he has attended ceremonies his entire life. I don't think he spent a day in school. He has lived in bush all his life learning about our people's way, who they are and where they come from, and has gained those teachings. I'm glad and honoured to come here to help him with the pipe. Along with the pipe, when I think of Treaty 5, I think of the 4 sacred laws that come with the pipe like honesty as represented by the stem of the pipe and faith as represented by the bowl on that pipe and to have faith as hard as that rock, the bowl. We have balance and harmony when we smoke that pipe. We pray with the pipe for everybody, we don't just pray for the people in this room, we pray for

families, for your communities, we pray for all of creation, the wind, the waters and then we pray everything in the universe and any being that may be out there. So when I think of Treaty 5, I want people to walk in unity.

++++++

A member of Tatakweyak Cree Nation related the people have to learn about the principles and teachings passed on by our ancestors on sovereignty. She said leaders need to consult with their members and to remember our strength, our sovereignty, our history and to work collectively.

Lisa Berens, Tatakweyak Cree Nation

Tansi, I want to acknowledge all the presenters for sharing their knowledge and information. I am studying Indigenous history and Indigenous governance including environmental science. I am in my second year at the University of Winnipeg. I'm very honoured to be present and grateful to learn about the Treaties and sovereignty. I want to acknowledge our ancestors and Elders who set a path for us and journeyed before us.

I want to remind all leaders in order for us to learn about our sovereignty we need to remember our teachings and principles that were passed down from our Elders and those before them. And when we talk about the duty to consult, the leaders also have an obligation to consult with the grassroots and our community members with any negotiations or meetings that are held outside or inside our community. I also want to remind the current Chief and Council of Treaty 5 not to re-invent the wheel but to remember our sovereignty, our strength and our history, and to work collectively. Thank you

++++++

O-Pipon-Na-Opwin Cree Nation Elder tells the forum he's learned from the discussions and understands the next meeting in Black River First Nation is in July, 2019. He wants contact information for his community in the event there are questions.

Elder Tom Spence, O-Pipon-Na-Opwin Cree Nation

It's been an interesting three days, I have learned a lot and I have heard these topics for the past 30 years. I would like to know who the contacts are when we go home. Do we have a committee to implement what we have shared for the past few days? Also, when is the next meeting? It says in one of the documents Black River First Nation in mid-July. There needs to be preparation for the next meeting. We need contacts for our communities as to who we talk to. I like to take a list back who our Chief can get a hold of. I bet you there will be a lot of discussion about this meeting when I get back to the community where this is going and how this got started and need documents.

An Elder from Pimickamak Cree Nation tells the participants about sovereignty. She said sovereignty is God given that encompasses his laws. Sovereignty is our customary and traditional laws that supersedes other laws, she added. Elder Monias also expresses her views on Treaties, nationhood and reconciliation.

Elder Rita Monias, Pimicikamak Cree Nation

This morning we heard from a young man. His name is Wapastim Harper. I commend him highly. I also commend my councillor for bringing our youth here. I think we need to bring our youth to these kind of conferences because they are the future leaders.

Regarding the question what does sovereignty mean? Sovereignty is God given and is Creator's law that protects such things like the sacredness of our languages and land. We depend on these laws and have to keep them and embrace them. Sovereignty to me are customary and traditional laws that supersedes other laws. We have to have faith in Creator's laws.

Treaties are agreements, they are not ours we didn't write them, they are written by others so we have to depend and believe in ourselves to interpret these Treaties. Like my husband would say I no longer want to be a suckling of the benevolent bossoms of Queen Victoria. I don't believe in that either. We can't depend on their laws they were made by foreign people we had our own laws plus we had our governance. They were always there and we have to take them again and bring them to life.

A nation is a collective and we have to unite and assert our power over our lives and over our lands. We did not gave our lands and our rights according to our oral history. When the Treaties were made, it didn't say there will be policies developed to control us as a people, our lands, our language and so forth.

About reconciliation, we have to reconcile ourselves first before there is reconciliation with anyone. Do not let any federal policy tell us how to reconcile. They say they will reconcile. Nothing has been done by the governments and the only thing they talk about is a framework legislation. Again, that's not ours that's theirs. It's their policy to control us, what we can and cannot do.

Our Elders tell us there is no Crown ownership on land and we should go past the boundary of the reserve to the vast area lands that are not used by anybody and make use of it. Yesterday I said we should use the logs. Some of us are homeless like me. I don't have a decent house so we should go outside the reserve boundary and build log houses and I said again just do it and assert power over our land because it is a god given right and that's what we call sovereignty. Thank you very much.

++++++

A member of Nisichawayasihk Cree Nation talks about a land claim as a leverage for future self-government negotiations. He tells the forum about the disparity that continues to exist on land provisions of the Treaty. He states the Treaty Land Entitlement Agreement is only a fraction of what Treaty 5 First Nations are entitled to. He wants to leave this thought to the participants that the potential claim is astronomical.

Ed Vistryl, Nisichawayasihk Cree Nation

I like to leave a thought here today but first I would like to acknowledge the youth, makes me happy to see them participate in these meetings, we need to bring more youth. So I sit as a technician at the national level and at the local level in my community. I have spent 10 years of my life implementing the Treaty Land Entitlement Agreement (TLE) in Manitoba and is a very frustrating process but TLE was really a shortfall of land they promised us under land provisions of Treaty.

For example, my community had 800 acre shortfall to what they promised us in the Treaty. But what I want to mention is that there is a bigger land claim in Treaty 5 what is termed as land disparity claims. You have to ask yourself why did all 38 nations get only 25% of the land to what other Treaties got? For example my community got a 15,000 acre reserve and if we had the same formula that all other numbered Treaties had in Canada our reserve would have 60,000 thousand acres. So there is a big disparity there. That's a big claim and we had a lawyer approach us to pursue a claim. When you look at it, it's astronomical.

TLE was only a fraction of what this claim could be and I know my friend Dennis, the god father of TLE and same as my Elder D'Arcy Linklater, they were the early negotiators of the TLE Framework Agreement and in learning from them, I understand there were doorways left open, that TLE was specific to the land provision of the Treaty and that the shortfall they didn't give us is something bigger than TLE.

It's a disparity between Treaty 5 and other Treaties and we need to consider doing research on or working together to revisit that. I think it gives us good leverage in our governance negotiations with self-government and all these things. So I want to just leave this with the forum the question, why did Treaty 5 only get 25% of the land from what all other numbered Treaties got? It's something we should consider visiting and moving forward on. That's it. Thank you.

++++++

Chief of Mosakahiken Cree Nation said going in a new direction to assert sovereignty must be done collectively as Treaty 5 and he is glad to see an official resolution for moving forward.

Chief Jim Tobacco, Mosakahiken Cree Nation

I like to acknowledge the Creator and the Elders who participated in this gathering. I want to share a few things that I think are important. As an individual, I'm a First Nation person and I attended residential school. I came home as a young man to the reserve and have lived there all my life. As I was growing up I was impacted by the White peoples' ways especially how they suppress us with their legislation and agreements. All my life I was subjected to and prevented from exercising my rights as an individual.

When I was in residential school I was impacted by rules that weren't right and even how I got there was not right. It really impacted me in negative way and I still feel it today. If we are going into this new direction, I think we have to collectively move forward. If we are going to assert sovereignty, it's time we come to this crossroad in our lives collectively for the benefit of our future generations so they don't have to be subjected to what we went through when we were young. However, it seems we're still in a predicament and we have a lot of work to do. I am encouraged to see all people here and to find a resolution from the floor for moving forward. It's really an inspiration to have these kinds of discussions in the spirit that we want to be moving forward and I think someday we'll find a place where we want to be. Thank you.

++++++

Facilitator Dr. Jenny Wastesecoot reads a motion that reads:

MAMAWI-ONENITAMAWIN (First Nation language for Motion)

The Treaty 5 members attending the December 17, 18 & 19, 2018 Treaty 5 governance structure workshop [participants] make a Mamawi-onenitamawin directing the Treaty 5 leadership to build upon "what was said" at this gathering and, more importantly, from the First Nations people in our communities to formally organize the Treaty 5 movement to protect and implement our Treaty and Inherent Sovereignty and, for greater certainty, to put into effect our distinct Indigenous political thought, strategies and actions.

Moved by: Elder Stan Wilson, Opaskwayak Cree Nation

Moved by: Walter Wastesicoot, York Factory First Nation

++++++

An Elder from Opaskwayak Cree Nation speaks to a motion to delegate the leadership to deal with the Treaties.

Elder Stan Wilson, Opaskwayak Cree Nation

I speak to the motion because we've heard the last three days how we have a relationship with Crown. I think it is necessary to take action. We all know as a collective in Treaty 5 area we have more power if we designate our leadership to speak to issues that affect all of us. We need to tell our leadership to take action now and there's been enough talk, so that's why I am proposing this motion, any support here from the delegation would be much appreciated.

[Dennis White Bird reads the motion once again and a vote takes place by standing to show a yes vote.]

Carried with one Abstention

++++++

Kevin Hart is Regional Chief of Manitoba, a Treaty 5 member speaks to the participants. He said, "It's so good to see Treaty 5 here today to talk about our inherent and Treaty rights, and sovereignty, and it's good to see Treaty 5 organizing by moving forward to affirm sovereignty and title."

Kevin Hart, Regional Chief, Assembly of First Nations

I would like to thank the organizers of this historic gathering. I am a proud member of Treaty 5. It's so good to see Treaty 5 here today to talk about our inherent and Treaty rights, and sovereignty. For myself, I had my Elders guide me on Treaties and sovereignty how to move forward. I agree that the Assembly of First Nations should not be dictating what you as the true holders of Treaty should do in your respective nations and territories. It's good to see Treaty 5 organizing by moving forward to affirm sovereignty and title and yes there is a lot of work being done.

As Regional Chief, I try to get resources for the First Nations and those dollars should be at the First Nation level and do the developmental work on and aspire sovereignty and title. In moving forward, I totally support the Treaty 5 nations and the work they want to do to affirm their inherent and Treaty rights. I like to lift you all up for the work you are doing but let us not forget about the less fortunate. Have happy holidays and I look forward to being at the next Treaty 5 meeting.

++++++

An Elder advises the forum not to forget the spiritual nature of our gatherings.

Unidentified Elder Participant

[Speaks Cree and the following interpretation provided by Dr. Wastesicoot] The Elder acknowledged the past few days of deliberations and reminds the participants not to forget the spiritual nature of our being and not to forget the Creator who guides us and who gave us our language and our lands. She said the

Creator guides us in everything we do. We have to kindly remind the white people what they have done but we need to stand up together. The Elder stated we need to have meetings in our communities.

+++++

Two youth speak at the forum to announce their Youth Treaty Movement. They said they don't support the federal proposed legislation on the recognition of Indigenous rights. They recommend more curriculum content on Treaties in schools.

Emily McKinney and Kirby Buffalo representing the Youth Treaty Movement

Emily: Hello my name is Emily McKinney from Swan Lake First Nation and here is my colleague Kirby Buffalo.

Kirby: Hello, my name is Kirby Buffalo from Treaty 6. We are first year students and we represent the Youth Treaty Movement. We are never consulted on things that affect our lives and the leaders should make sure there is a youth platform and youth council of some sort.

Emily: our future generations need to know about the current issues and when new leaders come to the table the youth need to know the real facts about Treaties before issues are resolved. Emily: If you look at reserves, schools follow a curriculum with no Indigenous school curriculum. When you look at the Canadian curriculum where does it teach about Treaties, it doesn't. We need to develop a curriculum that teaches our history and our Treaties.

Emily: We attended meeting at Assembly of First Nations and just hearing what the leaders had to say, it was very mixed and a lot was about the Recognition of Indigenous Rights Framework on whether they were for it or against it. I said I didn't want it and instead I want my rights. What we did after that was we created the Youth Treaty Movement. We wanted to do more so we created Yellow Shirt Day and to wear the shirt for Treaty protection on December 4th. and also created the hashtag #treatystrong to bring awareness on Treaties.

Kirby: Further to our Treaties when our ancestors signed the Treaties they brought spirituality into the Treaty negotiations to perform ceremonies in the sweat lodges and also smoked the pipe. First Nation people are spiritual, our land, water and animals, they are all spiritual to us and you can't put a dollar amount to or to ceremonial land that's the difference between us and the colonial government that signed Treaties. It wasn't a land agreement, it was a peace Treaty. With the framework on self-determination all we can see is the extermination of our rights. We also need something from you leaders we need to save a spot where the youth can gather and speak to one another about the different issue because we are tomorrow's leaders.

The member of Berens River First Nation said this is a massive task that is being embarked upon and will require a task force comprised of Treaty 5 people. She relates to the former Framework Agreement Initiative and to learn from that experience.

Myrna Whiteway, Berens River First Nation

First thank you to the organizers and the speakers. I want to focus my comments on nation rebuilding. For me personally I have learned a lot these few days. This is a massive task that is being embarked on. I believe it's going to take a task force comprised of people from each Treaty 5 territory to make this work. The work has to begin in each community but first we have to rebuild our communities, we have to rebuild relationships in our communities and at the very least, we have to educate the membership why we need to work together. People have to understand the crab and bucket system has to stop. How can we rebuild a nation when we are so busy gossiping and pulling each other down and being jealous. What happened to our values of being compassionate to each other. I think this needs to be addressed.

There is a big elephant in the room that people pretend not to see. In 1995, I went to several informational meetings when Manitoba Chiefs was preparing to sign the Framework Agreement Initiative (FAI) in 1997. I would like to acknowledge Chief Helen Cook, may she rest in peace, she was responsible for ensuring the communities were consulted prior to signing this agreement. I had just had one question about FAI at that time. That was, where in plan is the training for First Nation's to take over administration over these budgets? The answer was the plan was revised every year. What was the result of the training our grassroots on the financials, the people and the Chief and Council and band membership. In Manitoba the First Nations ended up with the highest rate of co-management.

To this day a lot of our members don't know how funding agreements work because no body has taken the time to explain this to them. This is just a comment to share the information to the grassroots level. This should be a liaison that, all work will need, to start at grassroots level, that means someone must go door to door to be proactive and do this part so the information is ready for the technical working group. Grassroots needs to be a large part in this process and translation should be used at the community level when we are doing these information sessions.

We are always too busy working top down and forget to build a foundation for these processes. The one thing I didn't see here is a plan how you are going to achieve this process. You must have work plan in place for the participants. Why not make this available to the participants and to the community membership? I like to see the budget that goes with this plan. What happens to this plan if

'Trudeau' isn't re-elected, what happens to this plan? Does this plan die? Are you willing to work on this whether there is funding or not. Are you prepared to put sweat equity to make this work. I know I do. Thank you.

++++++

The Elder tells the audience to speak from the rule of law of the red man. He said, "*when a white man comes to our territory our rule of law is supreme and that's where we have to speak from*". The Elder cautions how Treaty 5 approaches this process and to know who its dealing with and to know "*our people of the Tribes, [where] they come from are nations.*"

Elder George Ross, Pimicikamak Cree Nation

I would like to put forward caution to people how they approach this, you have to know where you're going to speak from. Canada is just a commonwealth state, they had no business with the Treaties or with the nations in Canada. England has to do that [inaudible...] England is a nation and our people of the Tribes they come from are nations, we have the right to sign Treaties, we have to be firm standing.

You can't sign Treaties from a delegated position, this hat right here, has four colors of people made by Creator, black, red, white, yellow. Creator gave us the tipi, gave us tools to speak from, these tools include the laws. If you want to make Treaty, make it from your own tipi. When they talk about constitutional issues, parliament use high priced lawyers, they talk about rule of law of the white man.

For us we have to speak from the rule of law of the red man. It is us who have authority to speak on this land, the same right the black man has in his own country, same as the yellow man. In Africa the black man is supreme. When we go there we abide by their laws. Laws in Europe are supreme but when they come to Turtle Island our rule of law is supreme and that's where we have to speak from. When a white man comes to our territory our rule of law is supreme and that's where we have to speak from. You cannot talk from the rule of law from a delegated authority given by the federal government.

So I like to put out this caution for all nations, speak from your nation. You have to act as nations like that as you were before the Treaties. You have to stand from a firm ground of your nations and speak your language. Creator give you those laws to speak from. The white man came to our territory, he's just a visitor so we have to use our own law, the 'red rule'. I hope I got the message across.

++++++

An Elder tells the forum the Chiefs need to talk to their communities to get a mandate to organize how to represent Treaty 5 area and how they are going to work collectively so the voices of First Nations get stronger.

Elder Stan Wilson, Opaskwayak Cree Nation

We need to make A statement. I want action and that we need to direct our leadership to do whatever they need to do to set up how they're going to represent people in Treaty 5 area.

We have more power when we speak as a collective, so it will be up to leadership to go back into their respective communities to get a mandate from the membership to form an organization as to how they're going to work collectively so the voices of First Nations get stronger.

+*****+

A member of the Saisis Dene First Nation, one of the Treaty 5 Adhesions tells the forum her grandmother heard the Treaty promises and her grandfather was Chief and he negotiated the Chippewan Block. She encourages the Treaty process be taken to each community.

Nancy Powderhorn, Sayisi Dene First Nation

We didn't know all this was going on. I see the map of Treaty 5. I know about our Adhesion to Treaty 5 because my grandfather in 1930 to 1945 was a Chief in Churchill and before that in Duck Lake and Caribou Lake. On record he designated the Chippewan Block which I have seen on paper and its not supposed to have been altered.

I am educated but also taught by my granny Betsy who lived to be 115. She was at Treaty signing and she often asked, "When am I going to meet this Queen...when they talked about our land they promised us a big crate of food and the animals they were to bring, I haven't seen it yet. I want to meet the Queen and meet the officials to explain I was present at that Treaty and it has been over 100 years."

I was involved in the Framework Agreement Initiative (FAI). I did a lot of work at home talking to people door to door and I thought something was going to become of it and again it didn't go anywhere, nothing. It was upsetting not see our people come out in full force during this process, just one or two of the Chief and Council. There wasn't any real consultation. How many communities do you have in Treaty 5, I suggest you take this process to every community because it's their lives you are talking about. When you talk about these things down south it's my life up there. Take this process to every community so every soul knows this.

I've lived harsh out there on the land and a hard life in Churchill. We had relocation, we had residential schools and the people have been damaged. I was born to this. I was born in 1958 and I was born into that genocide but I refused to let them put me down, I went and got educated but we have a lot of damage people

at home and this Treaty thing they promised us back then never materialized. We have co-managers taking all the money and we got a relocation settlement, big deal, it went to the lawyers and their friends. My granny said don't take the Whiteman's language and don't give them what they want, create your own laws at your level, at your nation and the White people have to honour that. We should do it that way. I think we need to involve the Denesuline and it breaks my heart, my people are dying left and right. Thank you [in Dene]

++++++

Elders asks about stolen artifacts and wants to know more on the provision of Treaty that guarantees the continuance of commercial livelihood.

Elder Henry Traverse, Kinonjeoshtegon First Nation

I wanted to say I know about the artifacts in the museum and there was an investigation in 2000 regarding stolen artifacts. I want to know more about that. I also wanted to ask about the provision in the Treaty 5 on livelihood. Thank you.

++++++

A Councillor from Berens River First Nation tells about the Treaty right to 10 miles of water from the shores of Winnipeg. He said there are remaining pegs still visible that marked the waters. He recommends that Treaty 5 establish a historical society to gather and research Treaty promises.

Councillor Gerald Kemp, Berens River First Nation

Kenneth Coates from British Columbia did his thesis on Treaty 5 regarding a Treaty right where the land meets the water and the 10 miles of water. This is what the Chiefs then pushed for that is to fish in those waters. That's what Henry Traverse was referring to. How did that part of this original Treaty – reserve of the 10 miles of water reserve disappear?

The province has dwindled it away and they have taken that right away through their fishing regulations. The documentation and oral evidence of this original Treaty right is still there and applies to other bands. The original survey pegs that were posted originally 10 miles off shore are still there and you can find at Pigeon Point and Sandy Bar marked by Dominion Survey. Our Treaty rights are important to us. Fishing is important and our livelihood is dying off. In reality water is part of the Treaty right reserved to us. I'm told this issue is also part of the Treaty negotiations but it doesn't have the recognition it deserves. The oral promises that were made, only our people carry these promises.

Part of our duty is to collect all these oral promises we heard. Today, we have a lot work to do in defining these rights, retained and carried by the Elders. We cannot believe too much what the commissioners wrote because they are slanted

to support government policy. With this guy's thesis, I'm not sure if he talked to other communities. Donna Sutherland in Clandeboye (MB) started a historical society that documents this history. Treaty 5 should have its own historical society and document our Treaty rights. In Philadelphia there are stacks of information on Berens River Treaty 5 and we should send someone there. Thank you.

++++++

An Elder pleads for help to restore his traditional lifestyle and his environment. He said, the result of hydro development at his trapline left the initial shore line fifteen feet underwater. He pointed out the kids now resort to drinking and using drugs because their swimming and recreation area has been destroyed. He wants to know to what extent does water relates as a Treaty right.

Elder Thomas Spence, O-Pipon-Na-Piwin Cree Nation

I have been sitting here for the past 3 days and I forgot the most important question I had about our rights, the right to fish and hunt. Last fall I couldn't hunt because I had to wait for my firearms from Canada. I have a question about our rights, do we have the right to the waterways? At home our rights are 15 feet underwater and it has not been dealt with. These are the things I want addressed at Treaty 5 and to be revisited and for our rights to be given back.

I have filled out a lot of form for Elders who cannot read and write on rights that have been taken away, the rights and promises that belong to us. Our rights are 15 feet under water and I truly don't appreciate that. My father cried when I tried to take him to my camp where I took over his trapline. I rebuilt what had been destroyed, I built a cabin, brought a boat and motor and got a skidoo. I was proud what I had achieved and when I showed him he cried and I said I'm sorry. He said, my boy it's not you, it's hydro.

I would really appreciate if this panel would take my comments seriously to help us what was destroyed, our environment and our way of life. Before that we had beaches for each family which are now underwater. Now they wonder why kids get drunk and take drugs because they have no place to go for recreation. Thank you.

++++++

Chief Easter, Co-Chair of the Summit of Treaty Five Sovereign Nations stresses the need to dialogue at the community level about our Treaty rights and the Indian Act. **This is the next phase as part of the Nation Rebuilding (2019/20) workplan. [Emphasis mine]** He stated, the Indian Act will be gone and we might as well work together because we are all in it together.

Chief Clarence Easter, Co-Chair of the Summit of Treaty Five Sovereign Nations

Good afternoon Chiefs, Elders, Women and Youth. [speaks in Cree] further to the motion I want to get the story from the communities and we want to talk to the Elders, women and people in general about their knowledge and what was passed on by their Elders and ancestors at the time of the Treaties. This is where we get our strength from and justification. We can't just get information from this forum we need to listen to the people. The Recognition of Indigenous Rights Framework failed and is not supported by the Assembly of First Nations (AFN) because the government never went to the grassroots.

We want to go to your community because that's where the answers all come from. This forum determines how we can go to your community and to discuss the format what we want to go with and what kind of questions, need to be answered. We want to get right information and we want to feel right about the information being advanced. I want to tell people this is just a beginning and that we at the crossroads with the government and it's been over 150 years since we made Treaties.

The government is saying to do away with the Indian Act and we agree. We have to face the reality and put in our minds that the Indian Act will no longer be there. We hear in the media say the government will gradually do away with the Indian Act. So what do we do? We can say they can do what they want but this is the land where we live and we can do what we want and how we are going to make a living. We are in this together and we might as well work together. Thank you.

+++++

Chief Kent, Co-Chair of the Summit of Treaty Five Sovereign Nations states the July summit will provide strong mandates to direct what needs to be done. He said, the land is ours and the extraction of our resources cannot be done unilaterally by the government, he said those days are over.

Chief Sheldon Kent. Co-Chair of the Summit of Treaty Five Sovereign Nations

There was a lot information that was shared at this gathering. I want to acknowledge the Creator for bringing us together and I acknowledge the pipe ceremony from this morning. Before this all started we went into ceremony with the intent for good things to happen. There's got to be a better way for our people to live and the way it is now is unacceptable. The last 150 years since Canada was formed our lives have not been good. We have over 100 thousand Treaty 5 people and we are here and we are not going anywhere. Canada knows that they stole the land from us because we see it through history.

The intent of the presenters and speakers was to share information with you. We are trying to create awareness and to provide as much information for you to take

home and for you to talk to your communities, your leaders and say we will be meeting again in July 2019 and hopefully we will then come up with some strong mandates what we want to do as a collective. As a collective we come together again and say we are a Treaty 5 Nation and the land is ours and the government shouldn't tell us they are unilaterally extracting resources, those days are gone.

We know our rights, our inherent rights our birth rights which the Creator gave us but it is up to us to start exercising them and we shouldn't have to worry about the Canadian laws because their laws are flawed and they're designed to work against us. I heard a lot of good comments from the questions asked and this process is being recorded. We have a team of technicians and Elders from each of our areas and I want to encourage more involvement. In July we want to bring what we heard in a report form. I want to acknowledge the skeleton staff for all the hard work. Thank you.

++++++

Day 1 - Workshop Presentation #1

Rarihokwats, Historian & Lecturer

Everything You Need to Know About Treaty 5

(Verbatim)

Bozhoo, Tansi, it's a pleasure for me to be here this morning, in some ways I'm very much looking forward to my speaking to you. In other ways I am terrified because my job is to ask you to give up some up of your most cherished believes about treaties, and to think about new facts about things that you've never even dreamed about. So it's going to be a challenge and particularly so, cause in many respects what has happened until now is a tragedy.

I have it on the screen – “A Tragedy In Four Acts” -- what were things like before the Treaty, what happened at the Treaty, what happened after the Treaty, and fourth, there's always tomorrow, and tomorrow is what I hope we will be focusing on here.

Now when we say “Treaty”, we usually think about a piece of paper but the Treaty is really in terms of paper a total of seven different documents and you cannot fully understand Treaty Number Five unless you have in your mind all seven of these documents.

We're going to go through them -- it's a bit complicated but stick with it and I think you'll be quite happy at the end. I'm going to be here for all three days, and there's something you want to talk about later today, tomorrow, on Wednesday, I'll be here, and I'll be happy to talk to you.

Now this presentation about the seven documents are not just seven documents gathered together but these documents are linked by what I'm calling "a Golden Thread". It goes from one to the next, to the next, to the next, to the next. These are all tied together: they use the same language, they speak to the same thing and they will get you to a very good place if you follow them through to the end.

There's the *Royal Proclamation of 1763*. Grand Chief Jerry Daniels of Southern Chiefs Organization spoke about -- the Pontiac's War, the *Royal Proclamation of 1763* -- followed by something few people remember and that is the Treaties of Niagara in 1764 when your ancestor traveled to Niagara and participated in a meeting there of 2,000 chiefs from all over the Eastern part of North America. They agreed upon accepting the offer of peace from King George III.

Then after that, there is what's called the *Northwestern Territories Order of 1870*, also the *Rupert's Land Order* -- which is followed by your own numbered treaty, Then we have the *Natural Resources Transfer Act*, the *Constitution of Canada* in 1982 and today the *United Nations Declaration on the Rights of Indigenous People* which is right now before the Senate to have the Senate of Canada's approval for a law saying the laws of Canada must be in harmony with the *UN Declaration* and that brings us up to today.

Now this presentation is also about four different parties. The First Party were your great-great-great grandparents who entered into Treaty Five -- sovereign people, self-governing, self-determining, very proud and very capable people for whom you would not be here if it were not for them, Then there is the Crown of Great Britain and Ireland. The third party is the settler government of John A. McDonald and his successors and the fourth party is you because you are the great-great-great-grandchildren of the people who entered into Treaty 5.

But first, we have to unlearn most of what we to unlearn so that we can learn. "For the last 150 years, the central goal of Canada's Aboriginal policy was to eliminate Indigenous government to act as if indigenous people had no rights and to terminate the treaties and through a process of assimilation to cause you to cease to exist as distinct legal social cultural religious and racial entities in Canada, Canada tried to do all these things,"

Those words are not mine -- they're the words of Senator Murray Sinclair from Manitoba. That's what he wrote in the Report of the Truth and Reconciliation Commission.

"A country that engages in cultural genocide seeks out to destroy the political and social institutions of the targeted group" -- we are talking about destroying the whole people, their culture -- your great-great-great grandparents labor -- that's what he wrote in the report of the Truth and Reconciliation Commission. "Lands are seized, populations are forcibly transferred, their movement is restricted, languages are banned, spiritual leaders are persecuted, spiritual practices are

forbidden, objects of spiritual value are confiscated and destroyed, families are disrupted to prevent the transmission of cultural values identity in history from one generation to the next, Canada did all those things.”

How could have that happened? Well, it’s very simple. From the very beginning settlers who took over Canada engaged in an intentional campaign of deception which has now become institutionalized as Canada’s official history. It is the history that you learned when you went to school, those of you who are still in school are still learning it, it has been embedded in one generation to the next to the next, and the right questions are no longer being asked, The jurisprudence, what the courts have ruled over the last hundred and fifty years, the government policies for a hundred and fifty years, have created a new law, a new history which conceals the true facts. Imagine that.

The report of the Royal Commission on Aboriginal Peoples made that report in 1996 -- 22 years ago. My friend Professor Paul Chartrand sitting over there was one of the commissioners who made this report. Canada has been built on a foundation of false premises and institutionalized amnesia. Worthy newcomers came from Europe and discovered “unoccupied land.” They said the inhabitants that they found here were wild, ignorant savage people with strange and ungodly practices that over time they would follow the settler’s example -- that they would appreciate the settler’s “superior wisdom”, and gradually became civilized. Or they would be left behind in the march of progress, anthropological footnotes in history.

A country cannot be built on a living lie, and that’s the problem Canada has today, of trying to reconcile all the evils and illegal actions that have happened into a good positive relationship – that’s “reconciliation. But it doesn’t fit, because what they are asking you to recognize is not true.

We’ve all been deceived and our ask today, your task, my task, all of us, is to find the true facts, make them known and to change the course of history to one that is honorable and a good foundation, a good future for all of us.

So, I’m asking you now to think about something that is called the Doctrine of Discovery. Now when you hear all this and you understand what the Doctrine of Discovery is all about, you’re going to laugh, you’re going to say its foolish you know that anyone would believe that. But the law of Canada is based upon the Doctrine of Discovery, using it as we’ll find out under another name. The Doctrine is based on what church officials were saying at the time – that God gave the entire earth to Christians. They said that non-Christians -- heathens and infidels -- could not own land. You had to be a Christian to own land, and indigenous people were viewed upon as a part of nature, akin to the animals of the forest -- we have herds of elk, we have flocks of geese, we have coveys of pigeons and we have bands of Indians -- that’s where the word ‘bands’ come from, it is a dehumanizing thing. Really, human beings organize themselves into governments and civilizations, but

Indians only organize themselves into bands, the same way that elks organize themselves into herds. Indians are viewed as a part of nature, akin to the animals of the forest, not quite humans, incapable of holding land.

And so, when a man named John Cabot and his three sons arrived in Canada in 1496, he was armed with a piece of paper called Henry III's Charter and it gave him full authority, faculty and power to sail to all parts regions and coasts of the Eastern, southern, western, and northern sea under their banners, flags, and Ensigns to find, discover, investigate whatsoever lands, counties, regions or provinces of heathens and infidels and whatsoever part of the world place which before this time were unknown to all Christians. We have also given license acquiring for us the Dominion, the title, the jurisdiction of the same towns, castle, cities, Islands so discovered.

In other words, the piece of paper from Henry III gave John Cabot the authority to go and claim all of this for King Henry, and he would be the ruler of it and there on the slide is John Cabot arriving in Canada. He's carrying the flag, he's carrying the cross, he's going to plant those and with the planting of the flag and the cross, zap. You've all been zapped and you are now a part of the Empire of Henry III. All Cabot had to do was to put up this large cross, the flag of St. Mark, the flag of England and zap, the Indigenous people of North America were no longer sovereign, no longer owned any lands, and the law still says that in 2018. That's the law.

So, 1534 Jacques Cartier discovers Canada for France, and then they did the same thing [like the English]... then we have Martin Frobisher coming up into your own territory in treaty five, arriving in 1577, and what did Martin Frobisher do? He went around throughout treaty five territory as much as he could go and he heaped up stones in big piles by doing that zapped again, as if by magic, the Indigenous people had come under British sovereignty.

Those piles of stones are evidence of assumed sovereignty and because of that there are coins, Canadian coins, that are issued in the name of John Frobisher and he gets a stamp of his own. Samuel Champlain staked claim for France by setting up crosses and then after setting up the crosses, he then begged for the Indians he said "Hey, I got to go back to France and do some things, would you look after those crosses while I'm gone?". And they did, the Indians apparently were not aware that they and all their future generations had been zapped by that planting of the cross on their lands, they no longer had title, or ownership or anything of those lands.

Now today, it does not take a law degree for you to see that such claims are extravagant, they are absolutely absurd as a legal scholar Brian Slattery said, but nevertheless, they remain the law of Canada today. It is the responsibility of lawyers to put a stop to it, I don't know why they haven't done it long ago and I don't see anyone doing it right now. But, if you haven't noticed already, this

assertion of sovereignty with the flag and the cross is something that only works when white people apply it to other people for the rights, lands and resources of people of color, if you try to go over to London right now with your flag and your cross, and you try to plant it there and try to claim London as yours you'll be laughed at or put in jail. But these guys got away with it, and that's what we're doing today.

What the doctrine of discovery requires is an ocean shore to make it work. Because you have to bring in supplies, you have to bring in settlers, you have to bring arms and arm forces in order to defend what you are doing because elsewhere there has to be some other method like the territory like yours, it not easily accessible. And so how do we do it? We do it with the treaty. Look at the map of which I'm about to show you and see this of white area [Rubert's Land] involved in the centre of the map and if you look over on the right hand side, you will see Canada as it existed in 1867. That little tiny little colored strip over there is Canada, and that is all that was Canada. Upper Canada, lower Canada, New Brunswick, Nova Scotia, Prince Edward Island. So if very easy if you look over to British Columbia on the left hand side and the far west you see how easy it was for ships to come in bringing supplies bringing settlers and saying this land is now ours, but try to do that in treaty 5 territory, its not so easy, so they're going to do treaties.

Now, What is a treaty? If you look at the dictionary, the definition of a treaty is 'between two or more states or sovereigns' in other words, if you're buying a used car or something or buying a house. You don't use a treaty you do a contract. But if you are doing a treaty it implies that two sovereign parties are doing the treaty. And we define what a treaty is. It is a written agreement between countries, in which they agree to do a particular thing or to help each other. So, treaty five is by definition is a treaty between two countries or two nations, two sovereign peoples. So, who called this a treaty? Queen Victoria did, her Majesty the Queen Victoria, Queen of Great Britain that's who called it a treaty. So that was recognition that the other party that the Queen enters into the treaty with were sovereign people.

In order to understand the situation, back in 1760 before the Royal Proclamation, Pontiac, the Anishinaabe, the Ojibwe's, the Dakota's and the Mohawk's were all determined to do one thing, and that was to drive the British back into the Atlantic Ocean and let them go because they had enough, they had burned six of the even English forts. The crown responded by saying, wait a minute, wait a minute, please, please, it isn't [us] the crown that is doing this, its those silly settlers, they are the ones who are doing this, and so I. King George the third are taking back all the relationship with Indigenous people and put it back on a sovereign basis again and we will issue this Royal Proclamation. So that is document #1 that we're going to talk about was accepted in 1764, Treaties of Niagara and reinstatement

of the two row wampum and the covenant chain of friendship and those Treaties of Niagara are documents #2, we'll talk about.

The two row wampum is very simple, it's a two purple rows on a white background and the story is that the Dutch came to probably the Iroquois at that time and said we've got an idea, were getting along pretty well, we'll be your fathers and you'll be our children and we'll live together as a family. And of course, the indigenous people laughed at that idea and said no, no, we're going to live together as brothers and sisters and we'll live together still as a family, but equal side, you take all your people and put them in your ship. On one row we'll take all our people and put them in our canoe on our side, our language, our religion, our way of life, everything you take all of your stuff put them on your ship and we'll sail down the river together.

Side by side, and in peace and ever any of us need help, we can ask the other one, and we'll help each other. That's the two-row wampum. And when Grand Chief Daniel mentions that maybe we're going to have to accept the Charter, we're going to have to accept some of these other things. Well, that could be, but on the other hand, just to remind people of the two-row wampum. The Charter is in your ship, not ours. Your laws are yours. We have our way of doing things. So, the Royal Proclamation came out, it's a very official document and it said certain things which I'll quote. The two-row wampum is on the right-hand side. The Royal proclamation says:

“and whereas great frauds and abuses have been committed in purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians in order therefore that such irregularities then or in the future and to the end that Indians may be convinced of our justice and determine resolution to remove all reasonable cause of discontent”

In other words, this is an apology. Hey wait a minute. Don't drive us into the Atlantic Ocean, we're sorry, it isn't my fault, I'm going to prevent this from happening. So, the proclamation said:

“and where as it is just and reasonable and essential, t our interest, and the security of our colonies, and the several tribe nations, or tribes of Indians with whom we are connected.”

Notice the word 'nations of Indians' should not be molested or disturbed in the possession of such parts of our dominion and territories as not having been ceded to or purchased by us are reserved to them. Now this does not mean Indian reserves, like you know you all have reserves. This is not what they are talking about, they are saying that all lands on which we have not been permitted to settle all those lands are land reserved to the Indians.

Remember that term lands reserved to the Indians and the Royal Proclamation then goes on to say that no private person can purchase land from Indians because that was what the trouble was, someone would pay someone some money and they would say that land is ours and there'd be problems, and so to allow proper settlement but at any time the Indians should be inclined to dispose of said lands shall be purchased only for us in our name, name of the crown at some public meeting or assembly of the said Indians.

In other words, the Royal Proclamation sets out the rules that the British empire must follow in order to enter into a treaty, lands must be... uh, you want to discuss a treaty, you must obtain free prior and informed consent of the Indians to be able to have that land and lands must be compensated for. This is a part of the Constitution of Canada, the Royal Proclamation is a document that Canada must obey. So, in 1864, when the settlers decided, you know, we've got this PEI and we've got Nova Scotia, and New Brunswick and all of that, we ought to confederate and become some kind of a super colony but what they were really were after was the riches of what they called Rupert's Land, and what you call, what your ancestors called, our land.

So, the leaders of the colonies went over to England, and they met with Queen Victoria, and they said we've got this idea of creating this super colony over there in North America, and we would like to get those lands [Rupert's Land], all of that land, we'd like that to become a part of Canada. Queen Victoria replied 'sorry, these lands might be British North America but the Indians have the title to the land, and we do not have any treaty with the tribes and nations that inhabit it. If you want those lands to be a part of Canada, you must obtain their consent, their consent'.

So, that is why the crown with all of its great glory and sovereignty, and power and army's and navy's recognized Indigenous sovereignty, your sovereignty. The crown knew that it did not have the sovereignty that's called Dominion where you can tell someone what to do. And it knew that the territory involved was not a part of Canada, until treaty. So here again, we have this 1867 map all this white area here [include in most part, Ontario, Manitoba, Saskatchewan and Alberta], and if you want to see the boundaries of exactly what is Rupert's land, and what is the North Western Territory, there you have it.

That whole huge chunk in the centre in 1867 was not a part of Canada, and the area that is treaty five today was not a part of Canada until treaty five was entered into. It was treaty five that made it a part of Canada, by the agreement of your ancestors. We don't mind having this through a treaty arrangement, and so this is the way that the whole history unfolded a long series of necessary legal processes for this land to become a part of Canada and Queen Victoria knew what George the third had, had decided in the Royal Proclamation, that was her grandfather. George third is the grandfather of Queen Victoria, that they knew it as a family thing.

So, before then, Canada was just a colony, actually until 1982. That's when Canada became a country with a constitution and was no longer a colony of Great Britain and before that time there were no Canadian citizens, there were no Canadian passports, they were British subjects. If you wanted a passport to travel you had to get a British passport. Canada did not have ambassadors with other countries because Canada was not a country until 1982 when it became a country.

Now, where we are sitting right now? We were not a part of Canada until treaty one was entered into, it was treaty one that made this a part of Canada because of the people of treaty one gave their free prior and informed consent, through the treaty to become a part of Canada but under the conditions that were in the Treaty or until compensation is paid, it [Indigenous nations] may not yet be a part of Canada. I'll come to that and show you how that is in the law of Canada but until compensation has been paid for the, lands of treaty five may not be a part of Canada.

Now the Treaty, you often think of our Treaty with Canada but your treaties not with Canada, the word Canada does not appear in your Treaties, what appears is the crown of Great Britain, Her Majesty the Queen of Great Britain and Ireland, that's your treaty partner. So, as a result of this discussions with the fathers of Confederation, Queen Victoria issued certain orders, orders, that Rupert's Land and North Western Territory these orders were dated back to the 23rd of June 1870 that had the effect of recognizing your title to your lands. And at that particular meeting where the order was issued, I don't know why, but this impresses me, that the Queen, most excellent Majesty was present physically, physically present at the meeting where this decided. Along with the lord president of the Privy Council, the seal of the Lord Privy Council, the Lord Chamberlain the whole majesty and royalty that governed Great Britain were present at the signing of this document, this order of Queen Victoria, and what does it say? The orders say:

“and furthermore, that upon the transference of the territories in question, to the Canadian government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered in conformity with the equitable principles which have uniformly governed how the British crown in dealing with the Aborigines”

Okay, this has some important words in it. First of all, the purpose of the treaties is settlement, it doesn't talk about resources, doesn't talk about anything else, only settlement. Second of all, there has to be this consent given. Third of all, there has to be certain principles very high principles that are governed by the British Crown. In other words, the whole reputation of the British crown depends upon observance of these principles. So, when we go to the treaty what do we find in it? That treaty is regard to settlement and immigration, attractive country bounded and described as hereinafter, hereinafter mentioned, and to obtain the consent thereto.

So, you may have noticed there's some discussion today about you know there's an article in the paper by Premier Pallister just this last week saying 'hey, our access to resources is now being challenged, were going to have to go through certain environmental assessments and things like that'. These are our lands, and this thing about consent is going to hold us back. But that's the law of Canada today. That they must have free, prior and informed consent of yourselves to do anything with your land.

So, one of the lessons that was forgotten, one of the mistakes that Queen Victoria made, remember King George – the Royal Proclamation, because of all those frauds and abuses, all those things were happening while Queen Victoria made the same mistake of letting Sir John A. McDonald do the treaty making, that was what King George had prevented by saying "no, were taking it all back, we the Royal Crown will deal with the treaty making, we're not going to let the settlers do it anymore' but John A. McDonald [the settler] did the thing and the rest is history.

So, [the document #3 is the Treaty, Treaty no. 5] I want to make an important point with regard to Treaty no. 1 which is, as we know, where it is, in southern Manitoba was not supposed to be Treaty no. 1, it was supposed to be Treaty no. 2. What happened was that the treaty commissioners set out and came across from Sault St. Marie, and when they reached Rainy River, they decided that was the place to have the first treaty. And the people gathered there and they talked for a week and talked about this treaty thing, and at the end of the discussion, the people who were expected to sign treaty number one said 'hmm, I don't think so, we need more time to think it over, we're going to take the next few winters to think about it, come back and see us sometime in the future.' And the commissioners had nothing that they could do except pack up their bags and head for Winnipeg because free prior and informed consent had been denied. So, this is what happened that's consent in action.

Let go back to Treaty no. 5, its known as the Winnipeg Treaty it got started in 1875 in Berens River and Norway House by the Queen of Great Britain and England, and Ireland and the Ojibwe and Swampy Cree People of the Lake Winnipeg, that's what history says. Additional adhesions to the treaty were entered into 1876. Through the treaty the Queen received the right to take up certain lands for immigrations and settlement, that's what the treaty says, 'for immigration and settlement' and with the condition that the Canadian government would pay compensation for their use, the treaty with the adhesions covers much of central and northern Manitoba some parts going into Saskatchewan and Ontario.

Now, let's go back to that time in 1875, things were pretty tough, the fur industry had kind of collapsed, there wasn't as many animals as they were before and the people in Europe weren't buying many furs and as they were before. Prices had dropped and there was no alternative like in the south where people could take up agriculture, there was starvation, starvation specifically around Norway House.

Smallpox was moving in and ravaging entire villages. Can you imagine 90% of a village, being destroyed by smallpox? Can you imagine this room, where 10% of you are left to bury the dead. These were exceedingly tough times, and Europeans began to move in at this very same time. Now, one of the reasons that Treaty 5 became important, was not because of settlement, they didn't think, even back then that there'd be a whole huge flock of settlers rushing into Treaty 5 territory and that proved to be a fairly accurate estimate at the time, but they were interested in resources, maybe not the lithium that Grand Chief Daniel's mentions but they knew of other resources that were there and they wanted them.

They also, wanted to be able to have transportation into the west. How are they going to get to British Columbia? Well, there was going to be the railroad and all that, but they also thought that the waterway through Saskatchewan River and so on would be their key of getting into the west and so this is why the Canadian government sought Treaty 5. It had been the case that Treaty One, Treaty Two, Treaty Three, Treaty Four, the government of Canada had no intention whatsoever of following the orders of the Queen. They were settlers, this was going to be their country, God gave it to them, and they were going to run it as they wished, and they simply ignored the Queen.

So, this is the way it was, when these two men pictured here, one named James McKay who proudly called himself a Scots half-breed because saying he was a Scot half-breed had two hidden messages. Number one is, I'm not an Indian, and second of all, are not a damn Catholic because half-breed was a sign of great pride. So, they got on to a boat, the other guy was Alexander Morris, most of his photographs do not have the mustache but he grew one while he was the lieutenant governor of Manitoba, and they sailed on a ship called the Colville. This is the boat that they travelled on and burned wood. It doesn't look like a modern cruise ship by a long way.

Alexander Morris also brought along his daughters Christina and Elizabeth on the trip. They were going to take this great journey that they believed in the magic of what they were doing. It's the flag and the cross again. They were taking this trip in September, who knows, what difficulties they had. But they were willing to do it because if they did, then they could get the Indians to accept the Treaty, and the whole territory was going to become theirs.

So, they got going and they set out to Berens River. They can't leave they're stuck because of a storm and for two days they have to sit there just outside of, at the very beginning of Lake Winnipeg, to wait for the storm to pass and then sailed north. When they get there, the Treaty meeting was to take place in the Wesleyan mission school house near the Berens River, Hudson Bay post. They arrive there after the lengthy journey in that paddle wheel steamer. They couldn't start their meeting until four o'clock, it was already night. They adjourned at eleven o'clock. The Treaty transaction took seven hours, and in that seven hours, the Treaty was agreed to. The Chief and the Headman had signed the Treaty. It took until 1:00

a.m. for everyone to receive their five dollars and make their 'X' that they had received, it was all recorded on a pay list.

If you read the Treaty these five dollars is not payment for your lands that five bucks was a gift from the bountiful benevolence of Her Majesty the Queen. It was a gift for showing up at the Treaty meeting, it was a party favour.

So, all of this was done in one afternoon and evening. Alexander Morris and James McKay believed that through this Treaty, they had just gotten all those lands. Why else would they go there? That means they had had to believe that your ancestors owned those lands. Why would you go through all that trouble if someone didn't own the land? In other words, the very Treaty itself is an admission that you own the lands.

The other belief that the commissioners had was, if we do our magic, if we can do our planting of the flag, and the cross, that the land will become ours, and so if you believe what the commissioners believed, the people had just ceded, released, surrendered, and yield up forever all their lands, lakes, rivers, streams, their entire livelihood, their children's entire heritage. This is if you believe what the commissioners were believing. Can you imagine, you know, getting towards the end of the meeting and Alexander Morris says in English, translated by James McKay 'ah, Chief, you know all this land on the map here, you know all that's where you fish, and where you hunt, you know all that land? Well, Chief, would you give me all that land? I want all that land. Would you give that to me?' and the Chief say's 'all of it?' . . . Yeah, all of it, give me all of it. . . okay, you can have it. That's what you're asked to believe, that's what you're asked to believe.

So, that task was finished at Berens River. The commissioner set out the following morning for Norway house – 189 Kilometres away, along the east coast of the lake via the Nelson River. They had strong winds, they had to remain at anchor all day. They couldn't leave because of the storm. They finally set sail at midnight and at 9:00 the next morning they passed the old abandoned Norway House post and went on to the new post at three in the afternoon. They met in a large warehouse, with two groups of Cree, one group had been converted into Christianity. The second group was known as the Woodland, it had not converted, accept for their Chief, Donald William Sinclair, who recently been baptised.

Those were the two groups who were present there. The commissioner's strategy was to talk first about the terms of the Treaty, and everything was translated by James McKay, who knows what James McKay said. Nobody knows, nobody. What was promised? Nobody knows but after they talked about it, they talked about reserves, the Christian group wanted to go into farming and they were told that they would get a reserve in Fisher River which happens to be in Treaty 2 territory, and which had already been promised in Treaty2 but that was no problem. We'll give that to the Fisher River, what became the Fisher River people. So, they talked a little bit more and the Treaty was signed, the metals and uniforms

were presented, the Chiefs thanked Her Majesty for their kindness to the Indian people. According to the diary, the whole affair ended the same day, and you are asked to believe that the people gave away all their land, all their waters, all their lakes, all their rivers, and then we see this green area on the map which suddenly appears because as a result of that Treaty 5 was now a part of Canada.

So, what do the commissioners do next? They go over to Grand Rapids, Grand Rapids is another 130 Kilometers south west from where they were. The meeting took place on a cold September day, there been a large fire built, the commissioners used the same strategy. There was a problem with the reserve's location, which was on the north shore of the area which meant if they had had their reserve remained there, they would have control over the passage in Saskatchewan River. So, the commissioners wanted the people to move their reserve, move their community, their homes, their everything over to the other shore. The community said well, okay but you got to pay us five hundred dollars. Can you imagine to move, rebuild their homes on the other side, rebuild their communities. The commissioners agreed they would pay the five hundred bucks the following year.

But when they came back a year later, the Chief of Grand Rapids was surprised, he thought the negotiations were still going, he thought all he did was sign a receipt for his five bucks. He was waiting to negotiate the Treaty but the Treaty had already been negotiated. So, that was what had happened.

On their way back, uh, going back to Red River, they encountered a man named Thickfoot in English, He said he was the spokesperson for the Jack Head Point people and they told the commissioners they heard about the Treaty and they wanted to be included because what happens at a Treaty everyone gets the five dollars and the Chiefs and Headman got a suit of clothes. Thickfoot said "ok, I'll sign and I'm going to be the Chief". All the people that were there said "no, no he's not going to be our Chief but the commissioners said he'll sign, so he signed. That was what happened.

Eight days, more Treaty meetings, 4000 kilometers of travel and it was a done deal. The commissioners however were not done with the Treaty because when they got back home, they changed the wording of the Treaty to extend the Treaty Territory even further than what had been negotiated, and they wanted it to go to include the Pas. So, they just extended it. You know, take a little white out and put it on, sign over again and it was done. As a result, the commissioners in their diaries wrote 'everything went very well on this trip we have added to Canadas territory 258,000 kilometers of lands, waters, and resources for free. That's what you're asked to believe.

There a description of where the lines were going to be drawn, and they would go around later and do adhesions of anyone who had not been present there. There are many historians today who say that the commissioners were so eager to get an

agreement to the Treaty that they never discussed what the Treaty meant, it was not a part of the discussions. And, in addition, can you imagine explaining the complexity of a Treaty after you've just had this steamer right in there. You've got a few hours to do it but the commissioners saw no need to explain the Treaty because it already had been decided and the Treaty was not explained. So, it's important to understand because Queen Victoria said "you do these Treaties the same way that we've always done our Treaties".

In 1870 before the Treaty, in Eastern Canada, certain lands were decided by Treaty to be set aside for immigration and settlement. An Indian agent was hired by the Indians to sell the land. The money from the sale of the land went into something called a 'Revenue account', and the interest from the revenue account was drawn out by the government of the First Nation that entered into the Treaty. In other words, the nation entering into the Treaty did what's called a 'seller take back mortgage'. Alright, you want to buy the land? Okay, we'll sell you the land. Oh, you don't have any money? Well, we'll loan you the money so that you can pay us and then you pay us back the loan. Okay? Agreed. And that's the way it was done in eastern Canada in 1870, and as a result of that there was no tax money that went to Indians because Indians had their own money, their own money from compensation for the use of lands. The rest of the land was theirs and they continue to occupy lands reserved for the Indians. At that time Indian Affairs and all of Eastern Canada, had 14 employees to govern all of Indian Affairs because Indians governed their own affairs. They had their own money, they spent their own money. No taxpayer money went to Indians.

So, what happened to compensation out here in Western Canada in Treaty 5 territory? Well, John A. McDonald as I mentioned hated Catholics and he needed to get in as many protestants into Manitoba as quickly as possible before they established a legislature because that if they had established a legislature, the majority of the members of the provincial legislature would have been Catholics. John A. McDonald said "ah, no way. I'm not going to do that, I'm not going to declare a legislature for the next three or four years, until I can get settlers in. "Settlers free land, all the land you want. Just move out there. You get a farm, you'll get a home stead". And, that's what he did. Canada, Manitoba, free farms for the million. Forty thousand men needed in western Canada, hundred and sixty acres for free and by the way, John A. McDonald said, "we're not going to allow any African, Jews, or Asian, or East Indians, or southern Europeans into western Canada". So, that's how the population of the immigrants that came here were, all white Europeans. By the way, Frenchmen weren't allowed in either.

So, uh, 1873, there was a lot of discontent amongst the people who signed Treaty 1, Treaty 2 and Treaty 3 was being signed. There was no ploughs, there was no reserves, settlers were coming in on all sides. The complaints reached the House of Commons and Sir John A. McDonald told the House of Commons, "well, I'm not going to reopen the Treaty" and this is what the Hansard of the House of

Common said “The only way to deal with Indians is to be firm and just. The Indians had been free to enter into the Treaty, or to reject it. The Indians knew what they were surrendering and therefore it was a fair, just, honest Treaty, and it must be maintained”. Okay, so what have we learned here? First of all, that in 1871 the Canadian government had no plan what so ever how to deal with the Indians to fulfill the orders of Queen Victoria and as another historian put it “the negotiations were badly handled by an unprepared government”.

So, that brings us to 1930 and the NRTA. Now, in some ways I understand why people here are upset about the NRTA because at that time the Dominion government, the Federal government transferred all of the Crown lands over to the provinces. The reason why I say that I don’t quite understand the problem is that the crown had already stolen the land from the Indians. It would be like someone has stolen your car and you’re complaining about it, complaining about it, complaining about it, and then one day you see the guy that had stolen your car, and he had given your car to his son, and your all upset. He can’t give my car away to his son but he’s already stolen it. You see the land that was transferred in 1930 is already stolen from the Indians but there’s a thing in the NRTA that’s interesting, in the NTRA it says:

“That the transfer of the land to the province is subject to any trust existing in respect thereof and to any interest other than that in the crown in the same”

Who do you think they are talking about? The Indians who still have the interest in the land and there’s a trust responsibility of the Crown to pay for it. That is in there but no one has ever acted on this, no First Nation, no one has ever taken this to court. So, we see this in the British North America Act, the eastern provinces, Ontario, Quebec and so on, all lands, mines, minerals, and royalties belonging to the several provinces subject to any trust existing. There it is, one of the legal cases.

But, after 1930, the next document I want to refer to is the Constitution of Canada of 1982. The question that I’m raising here, is the government’s actions constitutional, in other words is the government behaving according to the constitution? Did you know that the Rupert’s Land Order and the North West Territory Order is a part of the Constitution of Canada and that in all of the years, from 1982 up until now, there has not been one court case that depends upon this, not one.

You all know about Section 35 of the Constitution because that protects your inherent Treaty and other rights but Section 52 of the constitution says: “the Constitution of Canada is the supreme law of Canada and any law that is inconsistent with the provision of the Constitution is the extent of the inconsistency of no force or effect”

Okay, any law of Canada that contradicts the constitution has no force and effect but Section 2, subsection 2 of section 52 says: “The Constitution of Canada includes the Canada Act of 1982 to be the acts and orders to referred to in the schedule”.

You know, I’ve probably read that a hundred times, and many years afterwards and it never occurred to me, schedule, what schedule? The schedule in the constitution no one here knows about it. But let’s look at this schedule. What’s in this schedule? A list of the documents and one of the documents is the Order of Her Majesty and Council. They had met on Rupert’s Land and the North West territories joining into the union dated the 23rd day of June 1870. In other words, that order says that land must be compensated for before it becomes a part of Canada, is in the constitution. And any law that contradicts that is of no force and effect. So, that’s the Golden Thread. That’s why as Sal Sanderson would say “Treaties trump laws”.

Your Treaty has more power than the laws of Canada. Rupert’s Land shall be admitted into and become a part of the Dominion of Canada upon the terms and conditions set forth. I know that’s legalistic language but let’s put it in the negative. Upon the transference of the land, I mandate that the Treaties will be negotiated in my name and under my supervision for the sole purpose of immigration and settlement but with no mention of resources, compensation must be paid, and the Treaties will be just and equitable. We now have two legal written opinions and that’s a yea, that’s the way it is. One of these legal opinions interestingly enough was asked for in 1982 by Treaty 8. They hired a lawyer named Kent McNeil who is just now retiring. He wrote the legal opinion, it has been around all these times and I got another legal opinion in 2012 saying the same thing.

Now, what is settlement? Settlement means to take up one’s residence in a place to inhabit. To settle or settlement does not mean to engage in forestry, to put in a mine, to put in an oil well, to take up lands and do nothing with that. The crown has a choice with all of your land in Treaty 5, they either take it up and pay for it or it is still your land and under your jurisdiction. I mentioned this is what Kent McNeil says in his legal opinion: “no claims the compensation for lands not required for settlement were envisioned because it must have been assumed that those lands would be left in the possession of the Indian tribes. It might be contended that the condition limited the Canadian governments authority to negotiate surrenders of lands actually required for settlement.

This was so clear that in Treaties 1 and 2, it doesn’t even mention hunting, fishing, or trapping, it doesn’t even mention it. Treaty 3 slips it in, and Treaty 5 slips in something more but it’s not according to the Orders of Queen Victoria. The validity of surrenders for other purposes may be open to question. Now, equitable principals, the Treaty has to be equitable. What does that mean? It has to be fair,

has to be just, has to be read as being reasonable. That's the constitutional standard that the government of Canada must be held.

This is an imperative order of the crown, Treaties must be obeyed, and the validity of the governments conduct is open to challenge. In summary Treaty was only for settlement, fair compensation must be paid for all other lands and those lands not compensated still belong to the Indian. Remember we talking about compensation for lands, resources were not included in the Treaty.

Furthermore, upon the transference of the territories in question to Canadian government, the claims of the Indian tribes to compensation for lands required for purpose of settlement will be considered and settled in conformity with equitable practices. In other words, this is repeated in documents, in time, after time, after time, after time. So, here it is right out of Handsard its repeated there. We go to the Treaty and order that there be peace and good will with the Indians that they may know and assume of what allowance there are to be paid, these five dollars for the benevolence of Her Majesty's bounty and benevolence.

I want to summarize, the day before and after the time of the Treaty. What do the Indigenous nations have? They have self-government, they have self-determination, they have lands, they have waters, they have resources. What does the crown have? The day before the Treaty, they have zilch, nada. nothing. zero. What happens on the day of the Treaty? What does the Indigenous nations give up? Well, nothing really. Did they give up self-government? No. Did they say no, we're no longer going to determine our own affairs? No. Did they say we're going to give up all those hundreds of thousands of square kilometres of lands and waters? No. so, that means, that it was the Crown that was requesting consent to apply its sovereignty to the lands on which there would be settlement and to acquire these lands in exchange for compensation. In other words, their sovereignty would only apply to the settlement lands they acquired.

So, where are we now a day after the treaty? Well, you still have your sovereignty you still have your lands, excepting those few lands that are taken up for settlement. You still have your resources, you have compensation for the lands that were taken up. What does the crown have? Lands for settlement, sovereignty over settler's land.

Now, comes the last document. The United Nations declaration. Canadian law has to be in harmony with the UN declaration. It talks about everything I've just talked about. Historic injustices, colonization, dispossession of lands and territories, its concerns and recognizes the need to promote the rights of Indigenous peoples. It recognizes the need to promote the rights affirmed in Treaties it is concerned that control by Indigenous people over developments that they need to maintain and strengthen their institutions. Article 8 says that: "they have the right not only to avoid forced assimilation, [think residential school] and any action which has the aim or effect of dispossessing them of their lands, territories or resources".

Article 10 states: “Indian people should not be forcefully removed from their lands or territories, and Indian people who are removed are assured of just, fair compensation”

So, remember that Golden Thread, Royal Proclamation, Treaty of Niagara, the Rupert’s Land Order, Treaty no. 5, Natural Resources Transfer Act, Constitution of Canada, the UN Declaration, they are all tied together.

I’m going to just make this very brief, there was another statement written by another Commission, here in Manitoba. Provencher 1875 and you can read it for yourself. He wrote, Indians may be expected to claim the exclusive right of property to lands, and they will deny to the government the right to possess without their consent, and as a natural conclusion, reserved to themselves the right of stating their terms and of selecting their reserves...

That’s all I have to say, except I have to ask the question. What are you going to do about it? So, you’ve heard about it. Now, what are you going to do about it? One of the best investments that can happen is to know that true story and then act upon it. Was consent required? Yes, yes, yes, yes, yes. Compensation was to be paid. Yes, yes, yes, yes, yes. Only lands for settlement. Yes, yes, yes... So, there you have it. If you want further information, there’s my email address, you can also look at acadamia.edu website, you’ll find a thousand-page history of Manitoba and that’s it. Let’s go for it.

++++++

Day 1 - Workshop Presentation #2

Paul Chartrand, I.P.C., BA, LLB (Hons), LLM

The Indian Act

(Verbatim)

My presentation today is about the Indian Act and how First Nations might emancipate themselves from the control and administration of life on reserves by the Indian Act.

I want to emphasize what previous presenter already said. That is that, what the Indian Act wanted to do, was to do away with Indian people.

So there were three main policies.

The old policy was to get rid of Indian status, the other one was save money and the other one was push the responsibility to the provinces. In my comments you’ll see how that has been implemented. I’ll come back to that. So, there was unconscionable control over the people who were put on reserves, and the only reason for the survival of Treaty nations is because the people refused to submit

to it, and that's the legacy that you have. You have a legacy that your parents, and your ancestors have refused to disappear under a policy that had that goal. In other words it didn't work. You're still here.

I think it's important too, to view the enterprise here as one of your own resistance and survival and that's what I want to talk about. Just to mention some general points that might be helpful as you think these things through and make the decisions that only you can make.

In the materials that you're going to get by email, there are lists of the attempts at changing the Indian Act. Let me just say this, that there have been attempts to get rid of the Indian Act including some of my friends who are here today have been involved in a particular in Manitoba venture, the framework initiative. That was one of the attempts to eliminate the control of the Indian Act, but there's been a number of them. What has remained generally is new legislation that is opt-in legislation, that is, people have the option of coming under that new legislation.

That was the old policy, I want to talk about something important, which is the new policy. What's the new policy that the government calls a nation to nation policy?. What does that mean? In the Royal Commission that I served on, [Canada's Royal Commission on Aboriginal Peoples 1991-96] we addressed that question, and we came up with a definition of a nation for purposes of self-government. Nobody's paid much attention to it. You can read that too when you get the email or if you read the RCAP final report, I won't go through all of that. What I want to do is to offer some of my thoughts about how we can turn this idea of a nation to nation relationship to good use in your negotiations with the government.

I have looked at many definitions of 'nation'. I cannot find a definition of a nation that makes sense in the context of this federal policy, I can't, for example, see much of a Canadian, what about Quebec nationalism? The Harper government passed a resolution in Parliament saying there was a Quebecois' nation, so which nation is dealing with whom?

I think there is another way. You can eliminate a lot of the complicated language and you can arrive at the same ideas and it is to never mind trying to find a nation because the government is dealing with all kinds of organizations anyway including Indian Act bands. So how can we think about 'nation to nation'? My suggestion is this; look for the principles, look for the ideas that apply when you have two artificial nations that are free, independent, and equal. So to me you don't need all the jargon about that you usually hear, and instead conceptualize, think about two nations dealing with one another, they're independent, free, and equal. Well, what would that yield? Alright.

Well first of all, one nation does not set the rules. There you go. Another idea would be, well there are no limitations, there are no limitations on either party;

the two nations are equal. So, one nation does not limit what it is prepared to negotiate with another nation. The only limitations that apply where they have free independent and equal nations are those limitations that have two features. You probably thought about them already, because I think this all very straightforward. The first one is that they've been specified, and the second one is they're been agreed. So the only limitations on your power, your authority, your dignity are those to which you have agreed, because they have been laid before you and you've consented to them.

One point that I'd like to emphasize is the principle of consent. The principle of consent is not well understood. Where do I look when I want to find the best ideas for Treaty nations? There's not much in the jurisprudence, in the cases or in philosophy. In the Canadian courts there is not a lot, but when I'm looking for acknowledgment of power, of political power I ask who does the courts respect out of fear or love, and how do they deal with their interests.

For example, consider Quebec and English and French minority language rights. You know that the Supreme Court of Canada has got three judges from Quebec because they're French and they've got a different law system. What the courts have said is this: "Consent is the basis of Constitutional legitimacy". The constitution is the basic law of Canada. No government can do anything against the Constitution. The Constitution sets out the powers of government, it limits the powers of government, and the courts have said "consent is the basis of Constitutional legitimacy".

The fact is though, it operates so that you can't go back after it is legitimized, you can't go back and throw the people in jail. You have to legitimize it, it's called the 'de facto doctrine'. So that was not developed in the Treaty Nation law That was developed in provincial French minority language rights in Manitoba, the first major case on that was the Manitoba language reference case of 1985. Then there's a long line of cases in the Supreme Court of Canada that follow that, and for those who are interested, I wrote a paper in a law journal in New Zealand on these ideas so you can read all about it, at some other time so, that is one contribution that I made.

I tried to suggest that a nation-to-nation relationship is typically ambiguous, uncertain talk, because different people have a different thing in mind when they say nation, and I can't find any notion that would make everybody happy. So, there you go, that's one idea, one of the suggestions that I have is for constitutional change. Remember I said the constitution says who has power, who has what power and what are the limits to that power.

Now if treaty five says you have self-government power, but if the rest of the Constitution says it's the provinces and the federal government that have power, how are you going to make the two work together? My view is this, what ought to be done by Treaty Nations like yourselves who want to get ahead and this

involves all First Nations across the country, you should develop amendments to the constitution. Constitutional reform is absolutely essential and I say if you don't have constitutional change, you're not going to achieve a proper state-Indigenous relationship. You need constitutional reform.

Now, there are two basic kinds of constitutional reform. One is a straight-forward amendment. For example, you take one that Rari mentioned, you take the North West Territory Order of June 1870, well if you look at section 35.1 of the Constitution Act 1982, it says that Aboriginal leaders are to be invited to a national conference to discuss a Constitutional amendment which involves the following; that is, section 35, section 91-24, what's missing? The Northwest Territory Order and we already talked about the significance of the Northwest Territory Order. But it's not in the list of things that are to call for a national conference on Constitutional reform. A lot of people don't know about that Order. It is in a schedule, it's kind of in the middle of the constitutional documents.

But let me tell you, there's a lot of strange things in the Constitution of Canada, including sawdust and woodchips too. If you don't believe me you can find the schedule and you know, what I can do I can send it to you by email, but our Constitution has woodchips and sawdust in it. It has to do with section 92, capital A which has to do with natural resources and the schedule gives us a definition. But I remember I laughed hard about that, we're probably the only constitution in the world that has saw-dust in it.

I want to briefly review some of the events and constitutional developments to give you the context in which you're going to have to think about creating institutions, but before I do, I want to say a quick word about the UN Declaration that has been mentioned before.

I want to mention just one point, and it's the word 'people'. You can see here, [Shows a large paper with a large S on it] S. I brought this, I was a teacher many decades ago, this is a show-and-tell. This is actually, an actual paper that I've kept at home since the 1990s when I was at the deliberations on the UN Declaration on the Rights of Indigenous Peoples in Geneva. The point of this is very important, but it's disrespected all the time in things that I read that people write in Canada, because they don't understand English. The word 'people' means, the people in this room, so, people can mean 'persons'. You know, you say one person, there's many people here as individuals. But a people is a special thing, a people is a large group of people with all kinds of things in common like the Cree people, the Anishinaabe people, and you know, that meaning and that one has a plural meaning 'peoples' so if you have the Cree and your job is getting together, you have two peoples getting together, but you'll see in a lot of even public forums, even speeches, government features, you'll see 'peoples' where they mean 'people'. So we're trying to deal with that confusion, and the point is that what we were emphasizing that the United Nations is that the right that we are dealing with are human rights, but there are human rights that are held by the community.

Here I'm talking about what you're embarking on is a new challenge in the development of the state Indigenous people's relationship as a collectivity. No one has a right of self-government. I don't have a right of self-government. You don't have a right of self-government. Who has the right of self-government? The community. So, the Treaty Five arguably or the Cree people or the Dene people, it is up to you to decide who has the right of self-government, because the right is not held by individuals. It's held by the community. So these are some of the ideas and the distinctions that you have to understand in order to create those self-government institutions.

Here is one more example of an idea that is important to understand. What's the difference between a subject and a citizen for example?

One of things I always scratch my head about is why do people refer to First Nations people as citizens? Citizens wasn't an idea until the Peace of Westphalia in 1648 and the invention of the modern state. Before that society was organized in smaller communities, such as cities for example. The idea of the citizen has to do with a relationship between a state and the individuals that are governed by the state.

So, I'm wondering why Treaty nations use that word 'citizen'? It is not up to me to say but I'm sure that people have their own ideas of what's the right relationship between your community and the individual that belongs to it. I don't know, but it's up to the Elders and others to determine that; so it's one of the questions that I have.

Let me now point out something very important in constitutional doctrine and law that was decided in 2014, four years ago, in two cases. The *Grassy Narrows* case and the *Tsilhqot'in* case, and in these two cases, the court made it clear that the law has changed a lot. The law of the constitution has changed. Remember I said the constitution allocates power and limits power. So, in the *Grassy Narrows* case, the court explained that Canada is a federal system. The federal government, Parliament, can make laws about certain things; the provinces can make laws about other things. So the court decided in *Grassy Narrows*, is that the provinces have the obligation to implement the Treaties within their spheres of jurisdiction, which means within their authority. For example, natural resources, you know that sawdust and wood chips schedule that I mentioned in section 92 A, that's about natural resources and who can tax them, and these very important powers belong to the provinces.

So what this means is that if the provinces have powers over the natural resources then, when you are making a deal with the federal government, nation to nation, it'll never be complete. It could, if once you get to the negotiating table and talk about natural resources and so on, and say well, you got to talk to the province. You see, so what has happened here, through the courts is a major change because the historic policy was one of protection, protection of Treaty nations, protection

of all the Indigenous people and that policy of protection meant that the government would keep away from the local level of government the power to deal with the lands and interests of the Indigenous people and that's why we have section 91-24 in the *Constitution Act 1867* which says that the federal parliament has the power over what's called "Indians and Indian lands", but the courts have changed that. They've now said yeah but the provinces have that power so that old policy of protection by keeping the power away from the local people has been taken away, so that's a huge change in Canada's constitutional history and it's a monumental change in the state Indigenous relationship, it has tremendous significance. So that's one of the reasons that I say constitutional change is necessary. The question is who is going to decide the state-Indigenous relationship?

Who is going to decide the relationship between Treaty Five and Canada? Is it the judges who were appointed by the government; the judges with on Canada's courts? Who do you think they're going to side with? So, you have to change the Constitution. That's why I say you need constitutional amendment and that's one of the reasons, and my suggestion would be this. When we participated in the constitutional reform meetings in the 1980s, you know there's a lot of pressure when you try to come up in meetings come up with a position, come up with a view. That pressure is not there right now because as I said we should do it right away, people would say Chartrand is crazy, we said you know maybe nobody's going to accept it because it will wake up Quebec separatism and all this kind of thing so what I'm saying well isn't it a good time for Treaty Nations to get together and to come up with a common position on the kind of constitutional changes that are needed? That's my point.

The other point is this: the constitution of a country is a very complicated thing, you can change it by your political action. I've already talked about constitutional amendment that is governed by certain provisions of the Constitution Act 82. But there's another way to change it. The way for example that the Prime Minister's office came to life, came to be a part of the way that the power is distributed in Canada. You will not find the word Prime Minister in the Constitution of Canada until 1982 and then they gave him the job of calling a meeting.

So how did the Prime Minister's office become so important in Canada, in Canada's constitutional makeup. It has become so important that the experts have called Canada the least democratic of the democracies. I'm not making this up. You just read the most well-known political scientists. This is their conclusion. I have read at least two books on the matter. Let's say because of the concentration of power in the office of the Prime Minister, Canada is not a real democracy according to particular democratic standards. So, this is an office that has a lot of power and it got there through political action. A lot of the modern trend to the centralization of power in the PMO was started by Pierre Trudeau, and it's become worse.

But this is something important for Treaty Nations and Treaty Five because in my argument which I've published, Treaty Nations are relevant constitutional actors which means your political action can change the constitution. Work through Treaty Five and what you do is assert that you are the ones who decided what Treaty Five means, we are the ones who decide how the government must relate to us and you just do it, you do it. It is by your political action. If you insist on doing it, if you insist and you do it, in time and in accordance to the constitutional theory that we have in Canada, you can change the constitution.

Another way to do the same thing is through what is called 'The duty to consult' when you have consultations, you can conduct yourself in particular ways and that too can establish the law of the constitution as you would like to have it. So you have to view this thing that you're doing which has never been done before, you're Trailblazers, you have to think about it and you have to say how do we want to change things, so I want to tell you that you're not without tools, without significance, you have a lot of constitutional significance.

The other next point I want to mention its very, very complex and very, very convoluted. But I want to make a few comments about it because it is an idea that I think isn't all that useful but so many people use it and it's the idea of jurisdiction. The meaning of the word 'jurisdiction' comes from the Latin language; it means 'to speak the law'. But what it really refers to is the power, the power to make laws or the power to decide. So, 'authority'; that's what it means. Look at my model that I introduced earlier about a nation to nation relationship. There is no need to argue about jurisdiction if you have all the power that you need to look after yourselves. Belgium doesn't argue with Norway and say Norway you don't have authority over this or authority over that, and that's where at least my analysis has gone beyond what we said in RCAP.

In RCAP we proposed a pretty complicated notion to deal with the concept of jurisdiction, but my view is this, that you don't need it, and you can challenge the government of Canada. You could say 'nation to nation' if you have two equal and independent nations then you have all the power that you need. So don't come to us saying we don't recognize that you have this power over whatever you want. 'Nation to nation': that's what it means.

So there are ready made ideas for you to adopt. The biggest, most powerful Treaty relationship on earth is the European Union. None of the countries in the European Union denies that another country has the power to make laws. But they negotiate agreements, agreements to share tasks. It comes by consent and so their principle there that you'll find in the European treaty, the Maastricht Treaty is subsidiarity.

That is one big word that I'll throw out today just because I want to tell you that under the nation to nation relationship, free independent equal nations you have all the power you need, and if you want an example of how that is already working, look at the European Union, but people in Canada don't often look at

Europe. We are a federal system here and people have been bamboozled by governments, telling you no, no you don't have this power; you don't have that power. Subsidiarity is an idea that gets rid of such argument.

However, my job here is to talk a little about institutions of self-government; ways of doing things so the decisions that you have to make as a Treaty Five Nation include a different meaning of jurisdiction because at least according to RCAP you are not obligated to take on all the powers to look after yourselves using all the powers. You have a right to choose some.

There negotiating tables on certain sectors. For example, we're going to deal with this subject or that subject, so there are four things to keep in mind in jurisdiction, and it's for a Treaty Nation saying okay, we don't want to do everything. You have a choice of saying we're going to undertake limited jurisdiction. That is, we are going to limit the subject matters over which we want to govern: the subject matters. So the first aspect of jurisdiction is subject matter jurisdiction.

The second one is jurisdiction over the person. Who do you want to control? Who do you want to boss as a Treaty Five Nation? Do you want to boss only the people who belong to your Treaty Nation, well who's that? Because you are going to need a membership code of some sort to establish who belongs. You want control over the interests of those people alone or do you want control over anybody who comes onto your lands?

And that one brings in the other the third jurisdiction which is territorial jurisdiction. Do you want to assert that you have jurisdiction or authority to govern your members wherever they are to be found or limit your authority to reserve lands only, or to Treaty lands only, or to Traditional Territory only?

These are questions that you have to face. Finally and this is the most important one for small nations, and that where I think my suggestion on what nation to nation relationship means is helpful. It's respect. Equal, free, and independent nations respect one another, and the fourth part of jurisdiction for self-government purposes, it's another big word, comity of nations, a comity, c-o-m-i-t-y. Which means respect for the others' authority. So for example if you took, if a First Nation took control over a particular subject on reserve only say, okay we're governing this from now on. Then a person breaches your law, but that person travels somewhere else and he ends up in court, federal court. He ends up in Queen's Bench Court. Will the court respect your Treaty Nation decision? Is the court going to respect your decision? That's called comity. That means respect for decisions made by the other nation so that's the fourth part of jurisdiction.

I'm going to come now to the end part which is to identify particular options concerning institutions of government and I want to make a few points about each one of them.

Here's something that I find worrisome about this nation to nation policy, the policy led to the split of Indian affairs. One new department is called the Crown Indigenous Relations Department. That's Minister Bennett's and this they said well this was recommended by that Royal Commission that I served on, ok and the reason is this we are thinking the basic reason is that it's not going to work if you have bureaucrats that have power over Treaty Nations because they are providing them with services, negotiating their way from them.

The people working in the department are in a conflict of interest. You have to get rid of that conflict of interest, so that's why you have to have another department. So, we'll create another department to continue providing the services for as long as people want them. But that's an interim measure until you get your own agreement which includes financing and access to resources and transfer payments and fiscal resources and so on.

But I have reason to be concerned that what I see happening doesn't seem to be created for a government to get away from control and to get away from a situation where there is as a conflict of interest in negotiating self-government agreements. Minister Philpott's department is involved in negotiating new legislation on child welfare services and that pits them in a conflict of interest. That should be the role of the Crown Relations Department. That has to do with agreement on First Nations taking on new authority. That doesn't sound to me like a department that's intended to die on the vine, to continue to provide services until such time as it's no longer needed.

There are other concerns that include the RCAP proposal that the Minister of Crown Relations should have budgetary control over all Aboriginal related initiatives in all the different departments and Minister Bennett doesn't have that. I wrote an article on this in Maclean's magazine so if you wanted to read about that one you can just google it.

I want to conclude by mentioning a few of the kinds of institutions that are available to Treaty Nations that wish to create a proper treaty relationship with Canada. There are a number of them and I want to emphasize at the beginning that most of these are not established institutions. Exactly how they are going to work, how they are going to be built is still pretty fuzzy and who's going to decide exactly how they are going to work and take the fuzz away? You, you.

As I said initially you're doing things that haven't been done before so you are in a position that if the nation-to-nation relationship really means something where free, independent, equal nations are meeting to reach an agreement then you can decide how those institutions will work. I am just going to mention them briefly.

One is that you must decide how you want to fit in within the federal system of Canada, Canada is a federal system that has a federal government and provincial governments.

There's a number of options but they involve the provinces. One of them which is made by Tom Courchene from Queens University; he's got a recent book on it. He suggests well you can create an Aboriginal province with province-like powers. That's one way to plug yourself in as it were to the Canadian Constitutional system.

In our experience we know that provincial power trumps treaty rights. I didn't say provincial rights: I said provincial power trumps treaty rights, and I'll just give you one or two examples. One is the James Bay and Northern Quebec agreement of 1975. The territorial reach of the agreement ended at the Ontario boundary.

Now what's the difference between the Cree people on this side of the border and the other side of the border? See, you will know as well from your experience that it is not easy to deal with more than the province in which your reserve boundaries lie. You know, so that's why we can say I think legitimately that provincial power trumps treaty rights. And you have to consider that then you have to change it then you have to look at well what power do we have to challenge provincial power. There's not that many sources of power in Canada, what do you have? You can influence public opinion which will influence votes, you use money, and you can use civil disobedience.

Those are the only source of power that I can think of and then you have to decide how much of these I got, what kind of leverage do it got. You know rights mean something, but I'm going to tell you a fact, that comes from international experience, that rights are usually best nurtured, best respected in places that have respect for rights, and if your rights are not respected, they don't count for anything. Human rights included. I saw it in the UN, countries that are dictatorships, they deny that there's indigenous people, they happily accepted the declaration, well, we don't have any you see.

I remember one story when I was living in Australia. There was an Indonesian general and his soldiers had just gone and there was a thousand people and they killed about 500 of them, and the news reporter asked the general, "your people killed like 500 of those 900 people. What do you have to say?" And of course, the reporter is thinking he's going to say something to excuse himself. No. He said he was really mad because his soldiers didn't kill them all. So the thing is rights only go so far. Rights are only good for people who are going to respect them for whatever reason. So those reason are usually hard-nosed reasons, and it's a tough world. You can claim rights but it doesn't mean that everyone's going to pay attention. So that's the context in which you're going to be blazing a trail to make Treaty Five effective in that state-indigenous relationship.

Another thing that might help, another kind of institution and we looked at this one when I was on that provincial Aboriginal Justice Commission. Which is a round table. They've got experience with that in Manitoba, where you get representatives of Treaty Nations you get representatives of government, and you

get representatives of private industry, and you get them to meet informally, and they get a little Secretariat to help them to do research and you get together and see how they work together. So, some people think that's one way to try make progress and try to move ahead. But that's for the provinces, as I said.

What I was looking at now is institutions that engage with the province. What I want to comment on a little bit now, briefly, is for those of you who want to introduce your own laws. If you want to introduce your own laws, you have to do it. You could just do it, but for a lot of Treaty Nations your law is not written on a wall, or it is not written in a book.

So that's a bit of a dilemma, but we've got the experience from a number of quarters to help us understand how you can go about making your own laws effective. One of the important things to remember is language. The best depictions of your laws are going to be found inside your language. It's a challenge to go outside your language to explain those laws, so you need experts in your language to help find your laws, and to describe them. The language is of fundamental importance.

The other thing is this, Treaty Nations, First Nations now have been living under the yoke of Canadian governments for several generations, You can count the generations under which people have been under government control and so you've become accustomed because of your environment to think about laws as rules. If you do this, then you know this is the rule, if you break the rule, the rule applies to everybody and then you get this what you call sanction, there's a result, something happens, often something unpleasant to you. So that's a rules-based approach to law.

But there are other approaches to law and one of them can be described as a values-based approach to law. Instead of saying here's a rule, you say you're looking to use your language and you ask what is important to us, that tells us how people should get along, what's important to us that tells us how the family should get along. The children, the parents, the other relations. How should you behave with your neighbours. How should you behave with strangers? So the way you behave is decided not by a rule but by a value.

And I've been privileged to listen to a number of Elders in the world where they have talked about their old laws or traditional laws and I think this is, I understand, I think that's what they were talking about. So, I think it's important to look at the language, and to look at the things people value and that will I think in a lot of cases be the foundation of your law.

Of course in modern agreements it's going to be almost necessary to write them. Because of my understanding from listening to Elders, the laws are flexible because you have that value and when something happens, then those who decide will ask themselves, in light of this idea or value that we have, how should we

deal with this situation? And they talk about it and let me just say quickly that I have friends in the Navajo nation that have a lot of experience in developing Navajo laws, and one of the things they say to me which I want to pass on, for you to think about, is talking it out. They say there's a lot of value talking it out. So if there's a dispute between people, you create an institution to allow people to talk it out. I think it's a valuable idea to say look, instead of having these rules, can you have instead a different way of dealing with the application of your laws? You create a place that everybody understands and you get together and you talk it out, so that's another institution of self-government and it doesn't come from the Indian Act.

Another thing that is a major gap in making Treaty Five relationship with Canada effective a major gap is Canada's not complying with international standards that require the state to recognize what we call the juridical status of Treaty Nations, of First Nations. What that means is that the system in Canada as in other countries, must have a way of giving legal recognition to your existence right now. When people go to court they sometimes go as an Indian Act Band. You can go to court as a corporate body.

If you look at the modern treaties or self-government agreements, like the West Bank Self-Government Agreement, it has a provision that says West Bank has these two lines of authority, one to make these laws that are agreed here, and also the capacity, the legal capacity of a natural person which is legal talk. Which means you are able to enter into contacts and so on, and have legal relations with other people. That's a juridical status and that standard that the state must do that is found in the OAS declaration on the Rights of Indigenous Peoples. You may have not heard about that but like you've heard of the UN Declaration, there's another declaration that involved North and South American countries and it was declared about two- three years ago. That is one of the standards that's in the OAS Declaration that is not in the UN Declaration.

The final institution that I am going to mention is contract and arbitration. That option is a very technical one. There is a legal way in which you can organize your relations with other people through contract. This could be handy for a First Nation that wants to govern itself but doesn't really know how to deal with strangers that are on your land. So you can require that the teachers and whoever else comes onto the reserve that they sign a contract and they agree that if there is any dispute, the dispute will be resolved within our arbitration and you can create your own arbitration or you can go to the general arbitration system. That's another institution that is available.

I was going to tell you another five quick funny stories, but Dennis is telling my time is up so, I'm just kidding, So I'm just going to say thank you very much for your kind attention.

All My Relations.

++++++

Day 2 - Workshop Presentation # 3

Niibin Makwa (Derek Nepinak) BA (Hons), LLB

Sovereignty and Treaty

(Verbatim)

Introduction

It's my great honor to be here this morning to join Treaty Five delegates and leadership from across the Territory. I want to acknowledge the pipe ceremonies and the prayers that have been had here. I saw my sundance brother leading one of the smudge ceremonies here today and I want to acknowledge the sundancers in the audience today. I want to also acknowledge Louis Harper, one of the key organizers of Treaty 5 and a committed technician to the cause. I recognize his dedication to Treaty discussions, to the Treaty movement. I am here as an ally in Treaty and I represent my family in Treaty discussions.

My name is Niibin Makwa. I received that name here in Treaty One territory and in ceremony many years ago we feasted that name and that's the name that's been given to me through the ceremonies of the Anishinaabe people, my people, I'm also known on paper and documented in Canada as Derek Nepinak. I have a law degree, I went to the University of Saskatchewan and I also went to Osgoode Hall Law school at York University, I have a first class honours degree from the University of Alberta where I did my undergraduate work. I studied history, I studied politics, I studied art during that time. But you know aside from being formally educated, there's an important balance that has to be brought between education and the knowledge systems that we understand as Indigenous people. I was very honoured to visit many lodges throughout my time in formal education and it was during my visits to the lodge where I began to really forge the identity of who I would become today.

Sovereignty as the starting point

The starting point for my discussion always has to be from the centre of sovereignty, the centre of sovereignty that I'm referring to is that fire that burns in each and every one of you. It's the fire that gives you your sense of sovereignty, your sense of belonging, your identity in the world that we live in. it's a very confusing world, a very complex world, lots of social boundaries and socially constructed barriers have been created to impede or deny us from the realization of who we are as the original Indigenous people here on Turtle Island.

I know many of you know me from my days as the Grand Chief which ended in my refusal to campaign for re-election in 2017. Since I retreated from that public space, and I'll call it a retreat because in many ways that's what it feels like. Going from the front lines of the war that we're in, you know into a space of introspection into a space of ceremony when I focused a lot of my energy to my commitment to the sun dance and my commitment to my home fire which is my household. The safety of my children and the education of my children is a very very high priority, as it should be for all of us. I believe that the key to being sovereign as an individual is demonstrated through your ability to care for yourself, as well as care for the ones you love the most in your family.

Family Sovereignty

My experience in life on the reserve has been a bit of an anomaly. It's a bit of an anomaly because I was born at a time where most of my generation I think, you know being born by young moms was being scooped up and sent off and, and purchased in some cases, some of our young people were being purchased by families through government, government was making money off us at the time and shipping many of us to different parts of the world, different parts of the country. This is part of a genocide that continues today by removing children from their family, their culture, their community. Oftentimes resulting in identity confusion, anger and ultimately institutionalization or worse for so many young people.

I was lucky enough that my mom protected me and brought me back to the old people in my community, and my grand-mother, my great-grandmother and grandfather protected our household with a fierce determination, a fierce determination that meant that no child was going to be taken from our home and that's the way we were raised, that's the way things were back then, even if that meant that five or six or seven of us kids were living under the same roof, that was going to be okay because we were going to take care of one another, and that's where I started from. That's where my journey begins in this world and in this life, and I also mention my sister because she was the first one to go to law school in my family. And when she went I thought to myself, "you know what maybe I could do that too", and I think that's an important message when we see young people succeeding in education because they paved the way, for their brothers and sisters in the next generation.

An education is so very important at this very confusing and complex time in the world. Much of my presentation is focused around some of the things that have already been discussed at great length by some of the previous speakers, you know we've got experts here in law and in policy, international law and policy you've benefited from hearing from people like Paul Chartrand you know who talks about international law and international rights, and you know one of the commissioners on the Royal Commission on Aboriginal people that was done back in the 90's, you've hear

d from Rarihokwats, these people are brilliant minds of our time and we are very, very, lucky to have them come into the room and share their wonderful ideas and thoughts and teachings with you.

Treaty is not the written words, Treaty is the spirit and intent

As we know from our treaty teachings from our elders, the paper that the Treaty is written on is not the Treaty, we have to recognize that the spirit and intent is the treaty, not the words on the paper and the spirit and intent has always come from the inherent rights and the jurisdiction and the sovereignty of our ancestors. When we view treaty from the spirit and intent, we begin to recognize that nothing was given away, we did not cede, release or surrender anything to anybody. Rather, we committed to sharing, and opening up the land for immigration for other people to also benefit from what the lands have to offer here.

Treaty is not just between humans, but between humans and the natural world

There's also a spiritual component to these treaties and I don't know if it's often discussed, because we spend a lot of time focusing on the relationships between human beings as opposed to the relationships that need to be discussed between human beings and our lands because there is that third party to the treaties, it's the Creator, as expressed through the lands that we live on, the water that we drink from that's a very critical important part of the treaty that we need to consider, because what it allows us to do, it allows us to see treaty and our lands and resources more than something for exploitation it allows us to put it into a context, the role of reciprocity. That is, the responsibilities that we owe to the land to keep it safe and pristine as stewards; our responsibilities have not been kept and maybe we've not paid attention as we should have because we have seen people come in and exploit and take the riches of our territory. A key piece of the treaty that we need to focus on as things are changing now and we are living in a world now of global warming and climate change and these changes are going to accelerate and how do we try to create balance in that relationship how do we restore it? That to me is something that has to be focused upon.

We can talk about socio-economic disparity, we can talk about the NRTA (Natural Resources Transfer Act), and I touch upon that a little bit in here but I really think that the future is about restoring balance and rebuilding our lands to the pristine, healthy conditions that they once were, recognizing that there are very few pockets of safe lands on the planet and Treaty Five is one of those safe areas.

Treaty affirms indigenous freedom & sovereignty

My perspective on Treaty oftentimes runs counter to what some people may believe to be Treaty rights or a Treaty rights discussion. I don't know how it ended up one way, but I woke up one day and began to realize that nobody can give

me treaty rights if I'm already born free! If I have an inherent sovereignty that burns within my spirit, nobody can give me rights because I'm born free here, and that's the context I think that I've decided to interpret and understand the spirit and intent of Treaty! Oftentimes my perspective runs counter to the popular discussions around the failure of government to protect and implement Treaty rights. When people ask where are our treaty rights, I respond by saying that I believe we are born with everything we need to live well here in our homelands. Being that we are already born here, nobody gives us rights in our freedom because our freedom and rights are something we are born with, we just have to find meaningful ways of expressing it.

Inherent sovereignty was silent in treaty negotiations

Early on in my political tenure I designed this graph where I talk about the original jurisdiction of Indigenous people, and that original jurisdiction is oftentimes referred to as, as being silent in the Treaty, these were the things that were never negotiated away or delegated away to anybody's government that includes economy trade, gaming, social gathering, language, family safety, child protection, these were left out of the treaty, but what emerged into the treaty space was a reconciliation of settler society interests, those interests are still there. They have interest in trade, agriculture and settlement but out of that we have to arrive at a treaty place, a place where we can reconcile differences and that to me is the where the foundation of what a Treaty based relationship really starts from, is the reconciliation of our inherent freedoms with rights and assertions from a dominant settler society that has come into our spaces and dominated many of the things that we once knew and once held dear. So that original jurisdiction I believe remains intact and I believe that it was understood by our ancestors and confirmed in our treaties. That's the premise that I start from, you can't give me rights to something I already have.

I challenge you to start thinking about your inherent rights, you inherent jurisdiction and your own personal sovereignty, and how do you express that in a complex political world, a complex social world, how do you express these things today? That is what I think the task is at hand here, is remembering that you have all the freedoms, you were born with freedoms, you didn't acquire your freedoms when the Indian Act gave you a card, or when a bureaucrat in Ottawa, sitting in a cubicle approved your Indian status membership, that's not where your freedoms come from, that's not where your treaty comes from, it comes from being born this way, it comes in the expression of who you are, where you come from, the language you speak, your activities on the land. That's what treaty is all about, as far as I understand, from my teachings.

The Indian Act is not our Treaty

So, where did this Indian Act come from? And why haven't we tossed it aside? The original Indian Act was passed into law in 1876, one year after Treaty Five

was signed, there's never been an agreement by Indigenous nations to be governed by the Indian Act, there's never been a time where we said 'yes you can govern us and we'll follow that process'. Except when we start incorporating their laws into our systems, and we start affirming the Indian Act by incorporating different polices and different laws that they craft for us.

As many of you know I have occupied a space where I would try to protect the inherent jurisdiction, the inherent sovereignty of our people by not agreeing to their laws, not once have I stepped up and said, "yes, we'll market this for you amongst the people". I've never done that and I never would. That's part of the reason why I don't run for political offices in federal or provincial governments; because I know what they're doing, I know what they are up to, and I say this with all due respect to people that are there fighting our battles for us in those venues, but I won't go there, because I believe that we need to occupy our spaces in our original jurisdictions and that's kind of where I stay. If anyone ever wonders what I'm going to do in politics, if I ever go into politics again, I won't be running for an MP position or anything like that because that's not where I believe I belong as a sovereign Indigenous person. I don't believe in the provincial boundaries that they've created, that they imposed upon our people, I don't believe in those boundaries, you know I'm not even technically a Canadian. Not at one single point in the history of my family have we ever pledged to the Canadian citizen Act, but I can guarantee everyone coming here now is pledging their citizenship under Canada's process, I've been to a ceremony where they asked everyone to do their pledge and I just remained seated though that process. Because I'm not a Canadian and I think that's the question we have to ask ourselves in a rights recognition discussion, or a rights framework discussion. Who is a Canadian? Who's a bona fide Canadian? And who isn't?

There are many things to be proud of in Canada, you know there's many things that have happened, but I don't think that they've made room for us, and I know that their laws are still designed to push us aside and keep us outside of our inhereed jurisdiction. I know the psychology that they've don't through policies, and I can't call myself a Canadian in that context and I think that's something we all have to go through, and I think that's why it's important to start the sovereignty discussion from yourself, and then from there expand out.

Heal to reconcile our colonial reality

In considering my freedoms and our freedoms as Indigenous people I began to think about why are we wrapped up this way? Why are our minds wrapped up this way to allow ourselves to be subjects of Canadian statute law to the detriment of our own pursuits to re-establish our self-determination? Why do we continue to be stuck in this dilemma? As indigenous people we have believed their policy approach and demonstrated our belief by participating in it; we have believed their governance structures, because we continue to participate in them. During my realization of our dilemma, I began to see that we need to begin our healing

process. We need to begin to unravel our minds from some of these process that they've convinced us of that work.

I often refer to this quote from Bob Marley '*Emancipate yourselves from mental slavery, non but ourselves will free our mind*' and I truly believe that it starts from self-recognition of where we stand and grounding our identity in our true freedom and from there recognizing that if we have the freedoms we need, we can simply begin acting on them.

So what did I do when I began to realize that? I jumped on my motorcycle, and I drove all over the countryside, stopping in communities all over the treaty territories, all the way to the foot of the Rocky Mountains, amongst the Blackfoot people, amongst the Plains Cree into the northern parts of Saskatchewan and Manitoba, into the Dene territories and even into Treaty Five territory, carrying a message of freedom and bringing the Treaty fire to each community along the way. It was imperative that people be given the chance to remember that we are treaty people, and that through treaty, our ancestors guaranteed our freedoms for their future generations of children, grandchildren and so on. As we travelled along the trails of treaty as a small group, we found that the once powerful nations of our allies and families had been weakened by the effects of being split into 'reserves', which are small parcels of land with very little to no opportunity to thrive. We also observed that many individuals and families are dealing with daily crisis and are not able to put their efforts towards self-determination because their greatest efforts are put towards simply surviving and finding food & shelter.

There is reason and there is rational behind the things that I've done in this role that I carried for a number of years. The messenger role isn't an easy one, you know it wasn't a joy ride on that motorcycle, we rode through very, very difficult conditions. We drove late at night in the rain, when people would say you're never supposed to ride a motorcycle at night though the rain, we did anyway, and there was a number of us. I was very blessed and honored to be able to travel with the late Anishinabe Elder Elmer Courchene who carried messages throughout that trip and that message was always about freedom, recognizing where sovereignty comes from and that to me is still a strong message that needs to be carried today because it's a message of hope and our young people need to hear those messages of hope; they need to know that people that are carrying the role and burden of leadership are continuing to push these agendas forward for their benefit and into the future. Being a Treaty Indigenous person is as powerful as we can be, recognizing our treaties are not domestic treaties, they are international treaties.

International messaging of our treaty truth

I carried a message of empowerment, a message of hope, a message of sovereignty to Colombia, South America, this picture here is the village that I spent two or three days in when I was down there and they made me a chief on that community,

so although I'm not a chief in any of our systems here I'm still a chief in South America!

So, it was a very empowering trip, it was a very beautiful trip. I was enlightened when I saw the struggles that our Indigenous brothers and sisters have in other parts of the world. I share that with you because there is an international responsibility to your treaty, there is an international responsibility to carry messages of strength & alliance to different parts of the world, where and when you can. I was very honoured that Chiefs of Manitoba sent me down there to be able to carry that message. The hardships of Indigenous peoples in other parts of the world are similar to what we've seen here in our ancestral lands. For example, in order to access education, which is a universal human right, kids have to wake up at four o'clock in the morning and walk through the dark for about a mile and a half just to get to the school bus. That becomes an access issue for the children of that territory. The education system that they have down there is not built to accommodate indigenous peoples.

There is also no fresh water in the community, there's a truck that comes in once or twice a week with fresh water and it's distributed as rations for people to drink. I found it to be a very difficult situation that they're in because I recognized that with minimal access to fresh drinking water, there is a connection to illness and disease.

I also carried the treaty message of our territories to an international forum in Morocco, Africa. The World Human Rights Forum in 2015 was a forum that I shared that we are facing our own genocide here in the nation state of Canada. I wanted people to hear that because Canada is very careful to shape the messages to shape the information that comes from other parts of the world, Canada did not have formal representation at the World Human Rights Forum in Morocco. There were a number of participants from the Middle East, from the African countries, there were people at this forum that lived in exile because couldn't live in their own country because they would be tortured and executed for their beliefs.

Treaty ensures peaceful but difficult dialogues can be had

Africa was where I first began to understand how messages are treated in different regimes, you know in different nation states around the world and I began to feel fortunate, despite the difficulties I felt fortunate that we can agree to disagree on many things and still have the resolve to come to the table and try and work things out. This is the good thing about our situation and it is a situation that we have fought and died for here in the nation state of Canada.

Treaty opens possibilities for alliance

You know that this is my territory, this is my home and I spend a lot of time looking for allies in our Treaty cause. One of our responsibilities is to recognize

alliances where they can be built. I also wanted to share this with you because as Treaty Five communities there are alliances that can be built, that can be used to strengthen who we are as Indigenous people in Treaty across Turtle Island. When I traveled to Wounded Knee, the site of a massacre of our allies back in the 1800's. I recognized that the grieving that's still happening amongst many of our nations is representative of the unresolved trauma that we've all experienced, and when we talk about truth, I think that we have to recognize that there's unresolved trauma. When we talk about reconciliation, we have to talk about it in the context of healing, because there's a lot of people, a lot of our nations, a lot of our families that have unresolved grief from what we've experienced over the generations. One of the messages that I took out of spending time with our allies in Dakota, Lakota territory was from an elderly great great grand daughter who has lineage to the survivors of the wounded knee massacre. She is advanced in her age now but her message was very clear. She talked about the unresolved trauma from the massacre at that site of Bigfoot's people as they fled Standing Rock to join their relations at the Pine Ridge Reservation. She spoke of how the United States has never provided an avenue for closure and healing for what they did to the people of her nation. I encourage everybody to understand that history, because that is our history regardless of the medicine line, regardless of the existence of the United States. Those are our relations as well, and they're proud and they're strong and they want to move forward in a good way. A lot of our strength is tied to our ability to heal, a lot of it is tied to recognition of what we've been through and what we have survived.

I think trauma prevents us at times from moving forward in a positive way, I think it clouds our judgement and keeps us from recognizing the steps we can take as the free people, the free Indigenous people of these lands. In my opinion, it is the unresolved trauma that sends us into survival mode and prevents us from engaging difficult concepts and processes that might help lead us from our entrapment in colonial policies and laws.

The core of our Treaties are tied to the Niagara treaty of 1763

Road to Niagara was in 2016 some of you participated in that, some of you were aware of what we were doing but once again it was an initiative of healing. It was an effort to draw recognition of the strength of who we are and where we've been. In trying to find our way back to where we were, it has always been my hope that we can understand who we are in a treaty relationship. It starts in the early times around 1763, around the time of the Royal Proclamation. The term '*as long as the sun shines, the grass grows and the waters flow*' was coined in 1763 in the treaty and that's where the concept of the permanency of our treaties can be accredited to. This is an important truth for people to consider because it was our indigenous alliances that protected the border from American incursions into our territory. If there is a Canada that exists today, they owe it to us as the indigenous protectors of the boundary lands in war, to recognize and respect our treaties as

the foundation for the existence of Canada. It was the Indigenous warriors that have protected those boundaries in the early days. So I wanted to talk about that because I believe that is where our expression of sovereignty can be recognized in the in the efforts of that time, in the coming together of the Treaty of Niagara.

Treaties are beyond provincial boundaries

Speaking more specifically on Treaty Five territory, I looked for a map of Treaty Five and all I found was a map of Treaty Five in Manitoba. As I said before, Treaty Five is not just Manitoba, we all know that it expands beyond these provincial boundaries. I don't mean to be provocative, but we're not bound within these provincial boundaries as Indigenous people, we've traveled throughout the territory long before anyone had a provincial boundary in place. Our trade networks are ancient, our economies are ancient and they go back thousands of years, before the arrival of these governments, these colonial governments and their boundaries. So I look at Treaty Five and I see vast wealth, there's a vast wealth of resources in humanity in the young generations, wealth in the fresh water, wealth in the timber stands, in the minerals that's all there for you to live a good life. The reason why that's important to put it in the context is because they've tried to take it away from us. The natural resource transfer agreement, some of you are aware of this and I think that one of the presenters spoke about it, in 1922 Canada announced to transfer control and jurisdiction of treaty lands to the provinces of Alberta, Saskatchewan, and Manitoba. Canada neither consulted with nor obtained the consent of Treaty First Nations to transfer the lands, water, and resources to Alberta, Saskatchewan, and Manitoba in 1930.

Treaty agreement does not delegate our independent voice to Canada

During the time of negotiating the NRTA with the provinces, Canada purported to represent Indigenous people and was in a clear conflict of interest in the process. Canada's bureaucracy still claims to represent us, that's still happening today. Many of the policy tables that exist in Ottawa are being populated by bureaucrats that work in the department and in the agencies, they say that they represent our interests. I've seen it, I've seen it first hand, so they are still doing that today and I think it's important for us to recognize that without consent, we cannot be bound by laws that we do not consent to. No matter how that consent is achieved or the attempts to achieve consent, unless we are expressly a part of the decision, then it's not our decision. The lands, waters, and natural resources within the ancestral lands and treaty territories have been and continue to be largely exploited for the benefit of government and private interests with free, prior and informed consent and without the meaningful participation of Treaty Nations. Treaty nations in Manitoba have been excluded from the meaningful share of the revenue, wealth and benefits generated by development activities carried out with the traditional and treaty territories of treaty First Nations.

Treaty guarantees us resources to continue with our own self-determination

Why is the question around resources important? Well I think it's important because the Royal Commissions on Aboriginal people (RCAP) in volume 2 at page 163 of part 1 states; *'to be effective, to make things happen, any government must have three basic attributes. There has to be legitimacy, there has to be power and there has to be resources.* Now, how do you in Treaty Five bring those three components together? As foundations of governance, legitimacy refers to public confidence and support for the government and I ask you, are we operating from a legitimate form of governance in the Indian Act system? And I ask you that because I know that the chief and council system in the Indian Act was created to mirror the municipality system that was created in other parts of what's now Canada. It was created to pave the way for that municipal style of governance to take hold in our communities. I'm not making that up, that's in the document record when we talk about power, it acknowledges legal capacity to act and includes the power to make laws, are we creating our own laws to re-establish our jurisdiction? I can tell you that Treaty Five elders have participated in the drafting of the great law that was recognized at the turtle lodge amongst our elders. The law talks about our relationship to the land in the context of unsustainable resource development that's been happening throughout our territories, I have observed that power is coming back but where does that power come from? Is it in the expression of Chiefs and Council powers, or is it in the expression of the sovereignty and the jurisdiction that comes from our people collectively? There is no stronger voice than our people coming together collectively.

RCAP states that resources, consist of the physical means to act. Not only financial, economic and, natural resources for security and future growth, but information and technology as well as human resources in the form of skilled and healthy people. Key resources issues include the fiscal and trade relationships among governments, which in turn affect the control and adequacy of resources for effective governance initiatives. You can't have a government if you don't have resources, and I say that because now is the time to reassert your jurisdiction over your resources.

Resources need protection and balance to preserve land based relationships

I'm not just talking about the lithium deposits or the diamonds, or the gold, the oil, the gas, or whatever is down there for exploitation, extraction and trade. I'm talking about identifying health human resources, developing healthy people, developing healthy families. That's where our strength really comes from. All of this can be done in the context of our responsibilities to the land because as we've been sitting on the sidelines, watching everybody else develop the resources from the earth, they've done it, in an unsustainable way, they've done it such a way that our actual very existence on the surface of the planet is at risk right now.

Asserting our jurisdiction over our lands means recognizing our responsibility to stewardship and all living things on our land and water. In 2014 I went on the tar sands healing walk and I walked for 16 kilometres, where they've done open pit mining and they've extracted oil from what people call bitumen or tar sands. In order to get that oil out of there, you need to burn four barrels of fresh water to get one barrel of fresh water and I ask you what's more important? One barrel of oil or four barrels of fresh water? Considering that fresh water is becoming scarce in so many parts of the world, this is an unsustainable practice. These pipelines and new mines that are being approved right now, that are going to transport oil across our territories are contributing to unsustainable activity that's leading to global warming and climate change. It is our children who need to breathe the air into the future, our grandchildren need to breathe the air into the future, and what are we doing in our responsibilities to these resources?

Treaty is complemented with international tools of governance

What tools do we have in addition to our treaties to make good governance? The United declaration of the rights of Indigenous people (UNDRIP) was adopted by the United Nations General Assembly in September, 2007. At the outset, Canada did not agree with it but later adopted it as well (albeit conditionally or aspirationally). Today we are involved in discussions on how to implement UNDRIP here in Canada. My friend Romeo Saganash has moved a private members bill towards acceptance of the declaration in its pure format and its true content. The declaration is an expression of the fundamental rights of Indigenous people around the world and it sets our principles of partnership and mutual respect that should guide the relationship between states and Indigenous people. The Declaration also provides ways to measure and assess whether and to what extent states are respecting and protecting the rights of Indigenous people. The Declaration recognizes that Indigenous people exercise a right to free prior and informed consent when any matter affects the inherent treaty rights, ancestral land, ceremony and culture purists, cultural and economic development and community health and well-being of our people.

The UNDRIP principle of free, prior and informed consent is consistent with the expressed consent of First Nations sought by the Crown of Great Britain during the treaty making process, as reflected in the oral and written record of the treaty negotiations. Now, some of you may have seen in Rarihokawats presentation that nothing is created from settler incursions into our territory without our consent and I believe that, that underlying truth, that fundamental truth is still there and as I said, colonial governments seek ways of trying to get us to imply consent through different policy mechanisms, though different maneuvers that they develop in far off places and then impose in our communities and in our homes. Be very wary of what consent means because if they attempt to force policy or law without it, they can't move.

Treaty can help us deal with global warming and climate change

I ask you as I approach the closing of my presentation and ponder governance in a world of climate change, you know one of the things that I've done since I have retreated from the front lines of political leadership is through my introspection, I began to understand that the greatest value that I can contribute is to helping our communities and our families find ways of surviving some of the challenges and difficulties that we have ahead. In the north, some of the climate change events that are happening are more recognizable than what people are experiencing in the southern parts of our territories. If you're living in a condo in downtown Toronto, you may not recognize climate change happening because you are quite removed from the natural world and may not even go outside for days on end. But, if you live in the communities in the North, you are seeing it every day and you are feeling the impacts. Governance of climate change needs to become a priority, particularly the need to develop institutions of change and transformation that will help us survive the coming years of accelerating change. We have to figure out how we are going to survive in the coming years. Earlier this year the intergovernmental panel on Climate change warned that we have less than 12 years to implement sustainable strategies to eliminate global warming, to once and a half- degree Celsius to avoid global catastrophes and massive loses of life on earth. This dire warning comes at a time when Indigenous nations are taking back our responsibilities over our lands and our water.

Time is of the essence, I believe is what the message is here, and we have a role in stewardship, we have a role in jurisdiction, and we have to apply it. It was mentioned airspace, earlier today, and some of you may have remember hearing from our prophets of a time when even fresh air to breathe would cost money. Well, it's happening right now I've been discussions and I've been in a learning phase when it comes to carbon. I was at the First Minister's meeting in 2016 when Justin Trudeau introduced Canada's climate action strategy, when they mentioned that there was a role for the Indigenous people to play, but that was as of yet undefined. And I spent some time thinking about what our role is, recognizing that many of you are living in the most pristine lands that we have in this territory.

Treaty as a tool to build sustainable economies

Treaty Five represents some of the most pristine land and clean freshwater in the world. You have carbon sequestering, where carbon is being sucked out of the air from trees and is being turned into oxygen. That carbon sequestration rate as they call it in science has a dollar value, and every square of timber in your territory has a dollar value, I know this because I'm participating and recognizing partnerships in the south pacific where the trees are being attached to a carbon value, if you don't get on this right away as leaders, the provinces are going to take that carbon value right out from underneath you. They are going to declare carbon capture for themselves and they are planning on doing that already. I approached the province of Manitoba in my personal capacity and nobody would

return my call. I wanted to talk about what they're doing for carbon, and what they are doing about the communities regarding the carbon in the north.

Most of the pristine land is where most of the carbon is being taken out of the atmosphere in the treaty 5 lands. Your lands are the lungs of the planet earth, the 'carbon sinks' as some would call it. So, what's being done? Something has to be done so I've aligned myself with partners that can help the communities. That is what I do in private life, because I think the time is now to start putting these plans in place. What's going to happen when they stop delivering food to our communities? Because that's going to happen, and that's already happening. Look at the recalls of the vegetables, in the last month, how many recalls has there been? E.coli bacteria in romaine lettuce, they're not going to deliver lettuce to your community if it has E.coli in it so what are we going to do to find ways of rebuilding infrastructure in our communities so that we have safe food to eat.

As it is already, most of the food we are eating is highly processed and its making us sick, that's what health is, what we're putting into our bodies, we've got to find new ways of getting healthy foods into our systems, into our communities. Indoor farming or indoor growing of vegetables and fruits may be a solution worth considering. These are things we need to think about, now is the time to begin implementing them because we are not going to be able to rely on the trucks and the transport of fresh fruits into the future, because of what's happening, it is been said that the law regarding pesticides, changes in climate may lead to a world-wide agricultural collapse for growing outdoors. We've already seen massive droughts in our own territories in Saskatchewan, Alberta, Manitoba. We've seen droughts that have impacted the cost of food; that have impacted the cost of bread. We've got to begin implementing strategies now and you as government's have to begin implementing strategies now to start growing your own food again.

The time is now to do these things, and this is what I truly believe. I share these ideas with you, not because I'm trying to impose myself, I only go where I've been asked to go, I only speak where I've been asked to speak, and when the tobacco passes, that gives me right to say the things I need to say.

In closing, I finish with a quote from one of my favourite people in the whole world, Nelson Mandela, some of you are aware that I spent 27 hours fasting in his replica jail cell at the Canadian Museum for Human Rights, because I want know what we are doing for our own apartheid here at home? We have beautiful examples like this beautiful man here who dedicated his whole entire life to overcoming apartheid. *'It always seems impossible until it's done'*. You know it's such a simple phrase, such a simple statement, but its true. There is so much truth to that, and I ask you, let's look at the impossible, and lets get it done.

Miigwech, thank you.

+++++

Day 2 - Workshop Presentation #4

Rarihokwats, Historian & Lecturer

Getting Ready: Understanding Where We Are and How We Got Here

(Verbatim)

Good morning everybody. Thank you for the privilege of being here a second time to speak with you. Thank you for your gifts, the gifts which gives me power to say what I need to say.

It seems to me that it is very appropriate that this meeting is taking place at this time. Tus is the time when the sun keeps getting shorter and shorter, the sun keeps moving into the south and you can wonder, "What happens if that sun doesn't shine again?" If it loses strength, you know, and if that is happening, what can we as human beings do about it? Very, very little . . . but we can do what we can.

In the Mohawk nation, our New Year's not until certain stars are directly overhead which usually takes place at sunset when they're overhead. This usually takes place in the middle of January, and there's a little warm spell that people could travel from their hunting lodges down to the place where they had their corn fields in the summer time.

At New Year, the job of the people is to go around to each of the other's houses and make amends for any problems, for any disagreements that have come up over the years, to, renew that relationship. And then the clans would go meet with other clans. Are there any problems we've had over the year that we kind of need to resolve? And they do resolve them and then at the end of the ninth day, the people come to the ceremony but before they come to the ceremony, they put out their fire. All of the fires. All of the embers. All of the little sparks even are extinguished -- in every household in the entire community -- in January! And the people come to the meeting, come to the Longhouse and meet there together, and at that time a new fire is kindled. It is done with a bow and flint. And you keep going, you keep going, keep going until there is enough heat that has been generated, that where that arrow is spinning it bursts into flame, and with that flame the people make a new fire, and at the end of the ceremony, each of the people return to their homes -- they take a piece of that common fire with them. They take an ember that's been packaged in a certain way and they carry it home and there they rekindle their cold stoves and get a fire going again, and throughout the year that follows, it means that every home in the community is living from the same fire.

To me this happens every year and it's always so beautiful and so empowering that this kind of thing happens. And it seems like this meeting that we're having here today is kind of preparation for that ceremony, preparation for a time when

you all rekindle you own fires from one fire and take it home to your various communities, to your families, but as a united people much empowered, more than exists at the present time.

I have a number of things that I would like to do today, it's kind of a mixture of stuff because I remember things I should have spoken about yesterday and I failed to do so. So, I want to talk about the rules of Treaty interpretation. If you ever have a court case, this is the way that the courts are supposed to interpret the jurisprudence.

One of them comes from the *Badger* case and it says that: "The key interpretive principals which apply to treaties are first that any ambiguity in the Treaty will be resolved in favour if the Indians, and second that the Treaty should be interpreted in a manner that maintains the integrity of the Crown, particularly the Crown's fiduciary obligation towards Aboriginal people"

What does that mean? Well, you go to court with one goal, what we talked about yesterday. About the Treaty and how the Treaty is supposed to be interpreted and the Government of Canada sends its lawyers and they say 'no, it's not that way, this is the way it is Crown is supreme and this, and this, and this and that'.

Then the court has to decide, and how does it decide? It does to the Rules of Treaty Interpretation. That's how it has to decide, and how it will decide.

A second principal is that it must be remembered that a Treaty represents an exchange of solemn promises between the Crown and the various Indian nations, Indian nations. It is an agreement "whose nature is sacred." That's from the *Sioui* decision, George Sioui from the Huron Nation who took that case and won that case in the Supreme Court of Canada.

Another rule: "the Honour of the Crown is always at stake in dealing with Indian people." Everything with the Government of Canada, the Queen's government, does with regard to Indian people, involves the Honor of the Crown. The interpretation of Treaties and statutory provisions which have an impact upon Treaty or Aboriginal rights must be approached in a matter which maintains the integrity of the Crown. If any government official is doing something that makes the Crown look pretty rough, pretty raw, pretty dirty, the court will overrule it because this is the obligation set by the Supreme Court of Canada.

Also there was *Sparrow* -- a very good case 1990, It was the first case that was argued before the Supreme Court after the 1982 Constitution. It has its problems, but it's a good ruling. Any ambiguities -- where maybe you could mean this or maybe you could mean that -- any ambiguities. any doubtful expressions in the wording of the Treaty or the document, must be resolved in favour of the Indians. If we have a choice -- in favour of the Indians.

A corollary to this principle is that any limitations which restrict the rights of Indians under Treaty “must be narrowly construed.” In other words, we must give it the tightest possible meaning to it, rather than “oh well, yeah well, it could go this way or that way. No -- it has to be interpreted very, very narrowly.

In making and applying Treaties, the Crown must act with honor and integrity avoiding even the appearance of sharp dealing, even the appearance that we might be putting something over on the Indians -- it can't even look that way. It has to be very clear.

An honorable interpretation of an obligation cannot be a legalistic one that divorces the words from their purpose. You can't just look at it like it might appear in a law book. It has to be interpreted in the light of the real meaning of what it intends to do, and thus the honour of the Crown demands that constitutional obligation regarding Treaties be given “a broad purposive interpretation”.

What we have is a mythology of white dominance in Canada -- we have to call it what it is, I'm not . . . I want to reduce that a little bit. We have to call it what it is, and it's a white dominance and its based upon white racism, and I'm going to prove every word of what I'm telling you because unless you deal with that upfront, you're going to have a difficulty.

There is something about this that these myths simply hide qualities and give the impression of progress, but really they contribute to a mythology of Canadian identity, the way that Canadians think about themselves. “I'm a Canadian” -- well what does that mean? It has a certain feel to it, a flavour to it. But what that flavour is is something that is called the ‘Nero Complex’ and a Tunisian political scientist named Albert Memmi says this:

“the reality of being a colonizer means agreeing to a non-legitimate privileged person as usurper” – someone who simply takes over someone else's rights.”

All, at the very moment of triumph, look at Canada. “Look at the country we have created here!”

But the settler also realizes ‘I did this on stolen lands, I did this by oppressing the real owners of the land’.

Look at Canada! See? It hits people very hard. This becomes what I call a ‘perpetrator trauma’ that goes exactly with the trauma that you all suffer from as a result of having to be dealt with in this manner. Therefore, how does Canada handle it? It falsifies its history, it rewrites its laws, and it puts the Indian as something in the past. It extinguishes memories -- people don't want to talk about the past. They want to talk about ‘Hey, let's reconcile’. Reconciliation is here!” [This slide is the face of Osama Bin Laden -- the fiercest enemy of the whole world practically. What was the code word for the operation against him –

“Geronimo.” And we have the War in Vietnam where the soldiers had to go out to face the enemy was referred to as going into ‘Indian Country’.

See, there’s, there’s this kind of thing that’s stuck in the minds of the settlers that they just can’t get rid of. And so, this serves to justify violence against “Indians”.

Just as we are instructed to celebrate Canada’s diversity! We bring in these people from all over the world, We are also taught to forget the colonial tactics of rule and the ways in which the whiteness instructs the teaching of history. What your kids learn in school with the Manitoba curriculum is a history of white settlement in Canada. We have to call it what it is.

There are national narratives that construct Canada and it advertises itself all over the world as a moral, a very benevolent place. Canada’s the good guys in the world -- they’re very polite people, they’re very generous, they are very ethical, etc. And this is the national dream of innocence. The Canadian establishment becomes very upset with anyone who disturbs this dream.

Just say “Hey! Just a minute! I want to talk about what happened to the Indians.”

“No, no! Sit down, sit down! Out of here!” See, that’s the way it works. The settler defining progress sees it as a very positive attribute and takes credit of having achieved it. “Look at what we’ve done to this country. We’ve tamed the wilderness, we’ve brought things under control.”

What they don’t say is “, , , but you can’t drink the water any more. You can’t breathe the air anymore.” “We’re facing the possibility of extinction of the planet before the end of this century.” If they do talk about that, the settler are encouraged to paint themselves as innocent bystanders, you know you talk to someone about ‘my parents went to residential school, this happened, my brothers and sisters are in prison, and so on’. “I don’t want to talk about that, no we don’t talk about that, that is not a part of the dialog, Why? Because ‘I’m not responsible for what happened in the past to your grandparents, I’m not responsible, I’m here today, I have never done any of those things’.

So they deny that responsibility. But if they are not going to fix the problem today, who’s going to do it? They are the ones who claim the benefits of colonialism, but they have not shared those benefits with the people that provided the resources to do it -- namely yourselves.

Today there is much talk about reconciliation and fulfilling section 35 of the Constitution, “the nation-to-nation relationship,” “the recognition of rights,” And some of them are sincere. I believe, have sincere intentions,

But there’s a ghost. The ghost keeps appearing all the time, in order to justify and maintain the status quo. There’s an invisible obstacle which keeps emerging, a glimmering thing from the past legitimized by racism and a sense of superiority

that should have been put to rest a long time ago. This sense of superiority comes right from the first *Indian Act*. The first *Indian Act*.

The first *Indian Act* was called “An Act for the Gradual Civilization of the Indians”. That was the name of the *Indian Act*. And why was it called that? Because as uncivilized people, you were not capable of managing your own affairs and therefore we need an *Indian Act* to treat you as wards of the government, to make decisions for you, you do this/you do that, you stay here, you got to get a pass before you leave the reserve. See, that’s the way it was done.

This, this thing is legitimized purely by racism, and so this “ghost”, as I call it here, keeps coming into scene anytime there are plans to change the status quo. The ghost keeps preventing any positive future. It keeps coming up. It keeps coming around, and so this will continue to happen as long as we also feed that ghost, as long as unconsciously we kind of agree maybe that were not quite as good, and we can’t quite figure out how that happened.

And so, what do we do? We get angry at ourselves, we get angry at the people closest to us, we get angry at our family, we get angry at our wives or our husbands, we get angry at our kids, our kids get angry at their parents. Everyone gets angry and they take it out on each other. Because it’s very hard to figure out, ‘How did I get into this situation?’ ‘How was I born into this poverty? What happened? What’s happening?’

It is very hard for people to understand, and there is a tendency to say it must have been my fault, I must have done something wrong. And people began to act in self-destructive ways, they drive cars carelessly late at night as fast as they can, there are accidents there are people putting needles into their veins, there are people who take pills, there are people who cut themselves, punish themselves, destroy themselves. Get this out of me whatever it is because I’m not a good person.

So, this ghost (as I’m calling it) came here on the first boat of settlers. It landed in British Columbia on that first boatload, and it builds an illusion that planting that flag, planning that cross, the Crown obtained complete ownership and jurisdiction over everything. Everything! Then, the ghost began to spread lies about the local people, “They’re so dumb, they can’t even speak English, they’re not really humans, they’re creatures of the woods. Yesterday remember that I mentioned “bands of Indians” like “herds of elk”. It goes further than that -- what do you call an Indian male? He’s a “buck”, right? What are little kids? They’re not children, they are “papooses.” You know, there is all this vocabulary that dehumanizes and teaches people that they are a part of nature, living in the forest with other “dumb animals.” “They’re even to primitive to be able to own land!”

And so, we have to hear it over and over, hear the ghost be a bolster that “I represent a superior race of people and because of our superiority, God gave us a

duty to help you. You are our burden that God asked us to carry.” “We will bring great benefits to you less unfortunates, benefits such as civilization, you will become civilized if you do what I tell you, you will become Christians, and I will look over you and I will protect you, and I’m even going to let you hunt and fish until you become civilized and no longer do that. . . . And so to the settlers the ghosts whispers, “Watch out for those people. They’re warlike. They’re savages, They’re devil worshipers.” The ghost has friends in high places, he teaches them, he inspires them, in the art of denigrating Indian people. You start by controlling the land, you take it all, all of it, you leave them with nothing.

“The Indians really have no right to the lands. Lands are of no value to them. They don’t know how to use them. If they have land, that would be to prejudice of the interests of the colonies.” That’s what Joseph Trutch, Lieutenant Governor of British Columbia, said in 1867. The ghost is happy because that denial policy is still the law in British Columbia, and still the law in Canada.

That was one of the differences between the Metis or the “half-breed group.” They had some white blood, so there was hope for them. They could own land, but Indian’s could not own land. The ghost is an outlaw, the ghost does not want the law to decide because the ghost knows that his policy is illegal, the courts have already ruled that it is illegal.

If you read the *Royal Proclamation*, the Crown recognized Native Title. If you read the Constitution today, it says that any ownership of land by the provinces is “subject to any trust existing in respect to their, and to the interest of the province in the same.”

Now, the ghost pretends not to hear any truths that come along and in 1888 the Queens Privy Council which was then like the Supreme Court of Canada, told Canada the provinces beneficial interest in Indians lands is available to them whenever the estate of the Crown is disencumbered of the Indian title – that’s what they pretended the Treaty process was all about. If you read the documents, if you read the letters going back and forth, between Ottawa and Winnipeg, Ottawa and Regina, Ottawa and Edmonton. What are they talking about? “Extinguishing the Indian title,” We’ve got to go out there, and all we’ve got to do is a Treaty and poof! The Indian title is extinguished. And better yet, the Indians will do it for free!

Now, if they want to extinguish the Indian title that’s also an admission that you’ve got Indian title, right? Whatever that is, you have it. You must have it, otherwise, why would we have to extinguish it? So, there is an admission there, in the Treaty, by virtue of the Treaty that at that time when you do that Treaty, that you hold the title to those lands.

The ghost survives by keeping the big question from being decided by the courts, all this stuff we were talking about yesterday has never been before the courts.

You know the courts today can't say one way or the other because they haven't dealt with it. Section 52 of the Constitution -- I think it's just dynamite -- has never been argued in a court in Canada since 1982, and so Canada has avoided any change in the way things have been for the last 150 years.

Now, in 1909 Canada decided to take British Columbia to court, on this very issue and after several years of commissions that were establishing with much dilly-dally, Canada decided that it was not in the national interest to have the question decided. Later, Parliament passed a law, making it illegal for Indians to retain a lawyer for a land claim -- it was illegal for the Indian, and it was illegal for the lawyer. If the lawyer accepted money from an Indian for a land claim, the lawyer goes to jail with the Indian.

This law was on its books in Canada until 1952 -- I mean well within my lifetime, this law was in the books. I was in university, and the law was still in the books -- Indians could not have lawyers.

So, we jumped to the *Calder* case in 1973. It was the first little bit of light that began to get shed on this. The government in the *Calder* case out in British Columbia argued that there was no such a thing as Indian title. It had never existed, so how could it be there now? they asked. When the colonists arrived, British Columbia argued the land was vacant. There was nobody there. There were just these uncivilized primitive creatures, and no written language, they didn't have any symphonies, they didn't know who Beethoven was. They were incapable of owning land.

And so, the Crown's sovereignty was asserted for a century until finally, the Supreme Court ruled that yes/ Aboriginal title did exist. A ruling for the first time! but it split on the rest of the question. Three judges went one way, and three judges went the other way. It never was decided, the ghost had been injured, but the ghost continued, and the ghost refuses today to give up. He has friends in high places, they enjoy fashioning the Crown's litigation strategies, they just pretend Aboriginal title has been seeded, released, and surrendered and even after *Tsilquot'in*, the case that came up in 2014, the ghost remained defiant. The ghost knows how to use delay.

How do we stop the ghost? We stop feeding it. We stop believing that Canada is right, we stop saying 'those are Crown's lands' when those are your lands. Why do you call them Crown lands? You know, we've got to have the political will and the courage to make change, we have to insist that the governments have banished the ghost, no ghosts are permitted at the rights and recognition table, no ghosts are permitted in the negotiations, no ghosts are allowed in the courts.

You know, you've got to say that, and you've got to get rid of the ghosts the person that has been the most active in dealing with successfully with ghost is a lawyer in British Columbia named Louise Mandel. She has been in court case,

after court case, after court case, and has been trying to expose the ghost. This is Louise Mandel, Canada's greatest ghost catcher. She has chased through the Supreme Court of Canada in the *Jack and Charlie* case, the *Sparrow* case, *Bear Island* case, *Okanagan*, *Haida Nation*, and then *Tsilquot'in Nation*.

Now, this idea in this slide of two Indian men scalping a helpless white woman is this myth that is carried by settlers. Have you ever read the book or seen it on TV, *The Little House on the Prairie*, I'm sure you have and your children watch it and they're enchanted by these poor settlers who come out there and endure all kinds of dangers, and wild animals, and all kinds of things, and they establish their home, the very home their children are going to be raised in. but, even in this idea of this, anything that goes wrong is blamed on the Indians.

The purpose of this discussion that I'm having right now is not to turn you to be against the settlers, nor to turn the settlers against their own heritage. But it has to do is to engage in the task of decolonizing our minds, it is not only your lands, and your governments and the way of the *Indian Act* that you have to deal with, you have to deal with your own mind, and you'll be deeply surprised as to how deeply colonized that is. I know my own mind and I know the colonization that I have had to dig out and put into the trashcan.

The next slide contains some of the imaging, the pioneers, the pioneers, the heroes of Canada taming the wilderness so that Canada can build cities, have farms, all of that, they are the pioneers. All of the images . . . For settlers, holding land is a big thing. They had a thing called " 'freeholders' – meaning for a long time, you had to own land in order to vote. If you did not own land, you couldn't vote. Still today, a senator has to own land in order to be a senator from a particular area of Canada. So, if the land is owned by the Indians, how can the settler settle it or we have to pretend the Indians don't own it, that's what we have to do, and so the sovereignty and occupancy of the land of the Indian is dismissed and the settler assumes the right to occupy.

The Little House on the Prairie is going to defend itself, to defend its right to be there, and it is going to try to drive off any Indians who try to take it away from them. The settler has it in the mind of a settler that if the Indians ever have self-government and take control, they're going to treat the settlers like the settlers treated the Indians. This must be prevented at all costs.

But at the same time, we have to do this we have to disavow there's been no violence. "We are a peaceful people." The settlement in Canada has been a peaceful settlement. So how do we deal with this because with this mythology comes the fact that the Indians are disappearing, they're a disappearing race, and in some ways with smallpox and everything and poverty -- that was true. In the year 1900 there were less than a hundred thousand Indians in Canada from ocean to ocean, a hundred thousand. They're a dying race, you know, hey either adjust

or they have to go and then we have this empty vacant land, and we get it all so peacefully.

But now we have a problem as a settler in getting land peaceful because we have our hero's, you know, those guys who defeated the Indians, and how so if its peaceful then how come we we've got these guys who. . .you know it's like a schizophrenia that that have.

In the House of Commons, the door that I leave when I go to a committee, there is a picture of Dollard, he is the guy who single-handedly challenged the Iroquois and there is a Dollard Day celebration in Quebec, it's like a national holiday, and there are these re-enactments where, where people dress up like Indians and people fight them and they defeat the Indians. This is done annually in Quebec, and he even has a postage stamp that was made in his honor, and this is the re-enactment of where they put up a teepee and the settlers come in and they attack the teepee and they have a monument put up to him -- why? Because he got engaged in a battle with the Indians -- but I thought it was peaceful? OK. Well, how are going to deal with this?

Well, first of all, this is the image of the Indian that is engraved in the mind of the settlers. It is put there when people are children and they play games called 'Cowboys and Indians' and even the Indians want to be cowboys when they play that game. This is the image so the settler is the hero who defended his people and his homeland and after doing so he recruits the vanquished Indian, the Indian who he you know, conquered he used them to celebrate the victories of conquest, and so these historical relationships are within the national tradition in order to develop a mythology of white settler innocence, and is in various forms today.

This slide is the Calgary Stampede, who leads the Calgary Stampede? The Indians, they get out there with all their headdresses, on their horses and they lead the Calgary parade of all the white people behind, who are following them in. They have over in the bottom corner there is the many something butter, that's the trademark of the butter, this woman dressed up with all he Indian clothing, we have up above there the other corner, the kids playing cowboy and Indians. They're all dressed up and they put on their cowboy hats and the Indian does the [makes noise] well all along they play you know big deal.

We have in the other corner, Lone Ranger. When I was you know, six years old or so I always listened to the Lone Ranger on radio, we didn't have TV then. And he was accompanied by his faithful Indian guide whose name was Tonto. Right? You know what Tonto means in Spanish? It means dumb, stupid. You know, that's what the word Tonto means, is stupid. And so we have the Lone Ranger, "Hi Ho Silver!" .

But the other thing, and I don't know I can hardly even tell you about this because it makes me want to cry, and that is when we were little kids, we played a game,

today I call it the “Genocide Game.” At the time the game was called ‘Ten Little Indians’, and there it is, written right out, and it is done this way, A group of kids get around and they stand there sitting on the ground and they stand up one by one, as their “one little, two little, three little Indians, four little, five little, six little Indians, seven little, eight little, nine little Indians, ten little Indian boys!”

That’s half the song the other half of the song is ten little, nine little, eight little Indians, seven little, six little, five little Indians, four little, three little, two little Indians, No . . . little . . . Indian boys.” None. They are all lying dead on the ground. I mean, that . . . that hurts. It hurts to know I played that game.

So, let’s go on to the dream of the patriot and the idea in Canada that Canada is going to be as it says here in the circle, it is the destiny of Canada, that these British people will be united in nationality from one ocean to the other. It’s Canada’s motto still today. In other words, Canada was intended in the beginning to be a white British nation. That was its origin. Confederation had this idea, we’re going to be from ocean to ocean and on this slide it’s said right there in the House of Commons, these are quotes from the House of Commons, you look forward to the the when the whole expanse from the Atlantic to the Pacific would be peopled with one race, the same as ourselves, enjoying the same political rights, and moving forward to the same destiny. That’s what the vision was.

Or, we can take this other one, that we have recognized the rights of the Aboriginal’s of the country, we made Treaties with them, we’ve given them compensation, which is not true, for their lands, dealing with them in as minors incapable of the management of their own affairs. But, always acting generously towards them. These are the words that come out of John A. McDonald, convincing what a great Prime Minister he’s been because of his good treatment for the Indians, but the the Hudson Bay Company had never pretended to extinguish these Aboriginal rights, which had preceded. There’s a settlement must come to with the Indians for the sake of the protection of the colonists, and at the end we had acted justly towards them and we continued to do so.

And there is, there is Canada’s emblem and what does it say in the bottom of the blue ribbon? [inaudible], that’s the emblem of Canada today, and what it means is it has to do with one nation of white people of British decent from ocean to ocean, from sea to sea. See how these little messages are hidden away, the messages from colonialism are confronting us all that, all the time and we never really thing of what they mean, and so even today the Indian is romanticized as a figure of the past there is no place for the Indian in settler society, we’re going to have reconciliation of some kind but we still have settlers and Indians.

On this slide there’s a quote there from a French and Algerian psychiatrist who wrote a book called ‘*Black Faces, White Masks*’ -- it has to do with the phenomena of the African who becomes colonized and wears a white mask, for the settlers for the moment when colonizing disappears, if reconciliation should

be that a group of white people are going to have to move out of an area into another area in order to have this as a country for the Indians, the settler has no wish to stay there, he'll move out, because its negative to the vision of a white country.

And we see that in the residential school. This little kid, his name is Thomas Moore, and he went to residential school and they were very proud to take his photo when we went to residential school and equally as proud to show the photo of the product of the residential school. The hair is gone the dress is gone, the manner is gone, the way he stands is gone, everything is gone, there's nothing in the young man to the right who is Indian. At all this been erased by this process. And so, we have this mythology that takes place, that the Europeans are entitled to the land and that has been codified into law. There's this slide that I was looking for, Geronimo.

Now, I'm not sure if I could read all of this but, George Manuel, who was a very good friend of mine, spoke about the time when we come to a fork in the road and we can continue to follow the fork which leads us to everything is familiar, it's the way things are now. There's no trouble, we know how things work or there's a new road and were not sure where it's going to lead. It's a decolonized road. It's something that's different. Maybe a welfare cheque isn't going to come from Chief and Council anymore, or something you know, is going to change and people are unsure about it and so people are having at this time to make a choice if they want to go to something different, or as things are now. And so, we have this situation that faces us today.

Now yesterday, I talked about, a bit about sovereignty, and today I'd like to talk a little more about the term sovereignty. I do not believe in Indigenous sovereignty. The reason I do not is because sovereignty means 'to rule over'. Sovereignty means in Latin, to rule, reign, to reign over. That's what sovereignty means, so at the time of Treaty we have not just two different people coming together, but two different cultures coming together. We have the British, the commissioner who wants to extinguish Indian title, and I'm now in charge of the Indians. Sovereignty. I'm sovereign over the Indians.

But over here we have the way it was done, on a Great Turtle Island, where we are all related to each other and we're related not only to other human beings but were related to the animals. To our brother the deer, and the elk, even little insects, we have to be careful to them because they feed the birds, and the birds give us their songs they're related to us. We're a part of this whole thing and there was never in any inclination, even in the way people raised their children, to destroy the sovereignty of the child and enjoy the independence of the child, not sovereignty.

So, a child was allowed to discover the world. To go places, preventing any danger nothing like that, there was protection. But at the same time no one told the child

‘do this, eat your turnips, put on your hat’ you know, ‘don’t talk like this, don’t talk to me like that’. That’s not Indigenous culture children are treated with respect from the very time they are born. The European culture says ‘oh, when the child cries don’t give them milk or anything, because it will just make him cry all the time to get more milk’. But no just a little whimper from an Indigenous child, and the parents are right there. The brothers and sisters are there, do you need anything? Anything you want? How can I make you more comfortable?

You know this is a different relationship of one group who comes in, determined to get the rule over the other, and the other who says how are you related to me? Oh, the Queen. Well, we’ll call the Queen our Great Mother. That’s how she’ll be related to us, and you’ll be, because she’ll be our mother, will be related to each other as brothers and sisters. That’s the relationship that was envisioned at the time of treaty and it didn’t end up in that way. So, we have this whole idea of the European idea of sovereignty and it has to do with a superior human being who has been appointed by God. God appointed Queen Victoria to be the leader. Not only of England, but also the church of England. Queen Elizabeth is the head of the church of Indian of England, and she got that way because god appointed her. That’s what it is, with this idea of sovereignty.

Now there, in this slide, there was at the very beginning of the relationship in the 1600’s where Indigenous nations were regarded as nations, and even in European terms, were regarded as being sovereign and so at one there were these four Mohawk kings they were called. Mohawk people do not call their leaders kings, they call them [inaudible] means the nice people, the good people. But, these four Mohawk Kings are invited over to Europe and while they are over there, they are wined and dined as the kings that they were and people came from other countries to see them over there,

The Europeans courted Indigenous sovereignty Their sovereignty was understood, was recognized and accepted. In fact, European nations courted Indians, come and work with us because we are fighting this other group of Europeans over your land, and so this slide shows the was the map at the time. We’ve got one area of land that is “Canadian,” another part is claimed by the French, another part, down in the bottom right is called the Thirteen Colonies that were breaking away from England. They want their own country. “Indians come on over -- be on our side, because we are going to fight the other side.”

Over in the brown thing on the left, at the bottom are the Spanish, there’s a French flag flying over York Factory, the European nations are fighting and what are they fighting over? Indian land. And so, the time came in the year 1701, in Eastern Canada when they were 1,300 delegates -- can you imagine, 1,300 delegates arriving in Montreal -- of First Nation people, and they entered into a treaty called the ‘Great Peace’ and following that peace treaty there a hundred years of war came to an end. This was a very important time in Canadian history, and a Canadian stamp was issued in honor of that of the Great Peace Treaty that was

entered into between France as a sovereign nation and the Indigenous sovereign nations.

Following that, there were additional peace Treaties in 1785 all over Eastern Canada, and the settlers used this as a time to expand their control of Indian lands. They used the peace for that purpose. But in 1753 the Mohawk nation said, "We're breaking our Chain of Friendship with you". There used to be a thing called the Covenant Chain of Friendship, and it was said that the British boat was going to be tied with the strongest rope that they could find, to the biggest oak tree that they could find so that if ever a storm came up and that ship were blown out to the sea, that the chain of friendship would hold them there. It was an alliance, they it was a very strong alliance with the English at the time, but the Mohawk announced in 1753 were tired of this, we're going to break off, we're done. You guys do not know how to behave yourself.

So at that time, the American settlers began to occupy the Iroquois Confederacy lands and in 1754, there was elaborate ceremony in which the settlers brought a silver chain to show its value, a silver chain to restore the friendship. And friendship was therefore restored. Sovereignty was expressed in European terms.

Then there was the outbreak of the Seven Years War, in 1756 between the British and the French. The Iroquois Confederacy was neutral in that conflict, and then came Pontiac's War, which we mentioned yesterday. Chief Pontiac had just led a rebellion that had burned down ten of the twelve British forts and they were going to drive the English into the sea. The English needed peace badly, and so they offered the Royal Proclamation of 1763, confessing to the "great frauds and abuses which they had perpetuated. The Proclamation admits that and then says, "We're so very sorry."

Runners were sent out all over eastern North America to carry the Crown's message, and the next year, 1764, two thousand chiefs representing twenty-four nations as far as the Mississippi, as far as Hudson Bay -- I'll bet you your ancestors were at the Treaty of Niagara. Niagara was the joining of twenty-four nations. A wampum belt was done and that is the wampum belt called the Twenty-four Nation belt. And it was the peace and it was accompanied by the Two-Row Wampum and this is what they said to the Englishmen at the time,

"Englishmen, although you have conquered the French, you have not yet conquered us. We are not your slaves. These lakes, these woods, these mountains were left to us by our ancestors. They are our inheritance and we will part with them to none. Your nation supposes that we, like the white people cannot live without bread and pork and beef, but you ought to know that the Great Spirit and Master of Life has provided food for us in these spacious lakes and on those woody mountains".

And those were the words that were spoken, words of a people who believed that they were masters of their own future, they had their own laws, they had their own lands, they had the support of the Creator. And so the first colonization of Canada did not take place in the 1700's. Did not take place in the early 1800's. Colonization of Canada began with Confederation in 1867.

When you celebrate the 150th Anniversary of Confederation, you're celebrating the beginning of colonization in Canada, and it would, did not take them a decade after Confederation that they passed their first "*Act for the Gradual Civilization of the Indians.*"

So, the point of all this stuff that I'm telling you is that all of the ingredients to decolonize are already elements of settler history. In other words, the history that is the settler's history has to be decolonized. Whose history are we going to choose from?

There may be some of you who say 'I'm tired of being an Indian, I want to be a Canadian. I'm going to give up this stuff, I'm going to move to Vancouver, I'm going to do something else.'

But let's go back to that first *Indian Act*. It was not a decade until a permit was required to leave the reserve, three or more Indians were not allowed to gather together without a permit. Three guys could not stand on a street, on a road corner crossing and talk about how are things, because they'd be arrested and put in jail by the Indian agent who was also a Justice of the Peace. Yes, Indian Agents were Justice's of the Peace and they sentenced Indians to jail. Indigenous governments were to be destroyed, the tribal systems were to be done away with, children were to be removed from their homes.

Then came "The Vanishing Red Man." The Indians are going to disappear anyhow, and so the *St. Catherine's Melling* case that I mentioned was decided by the top court in Canada without a single First Nations person present. The takeover of the sovereign government. of your government, was in full swing. And so, in 1923 a Cayuga Chief, part of the Iroquois Confederacy, took the case over the ocean to the League of Nations, which was like the United Nations in those days. This Chief Deskaheh went over there and said, "I represent the Cayuga Nation, a part of the Six-Nation Confederacy, I want to speak to the other nations of the world about what's happening at home. He was blocked by one country, first Britain. At that time, Canada was not present because Canada was still not a country, a colony of England.

While Deskaheh was trying to give his message, in 1924, while he was over there speaking about was happening in Canada, the Canadian government invaded the Council House of the Iroquois Confederacy at the Six Nations reserve and they took everything. And they planted their own system of government under the *Indian Act*, and all of those things that they took, all those different symbols and

the wampum belts, and everything is held today in Canada's national Museum of History. They are still there.

So, at Akwesasne in the 1920's there was a case there because a settler claimed a large area of land right in the middle of the reserve. He said he had a 999-year lease. "We signed a lease with your grandparents for 999-years." People laughed. "Get out of here," they said. They went into court, and the Supreme Court overruled that a 999-year lease is in valid, it constituted "a sale." It is not a lease, and therefore it is illegal, So the next year Parliament passed a law saying notwithstanding the Supreme Court decision, we are going to make it legal, "It's now legal == we just passed the law making it legal." That's what happened. And so the Mohawks had to go back in the court again, to have another legal action.

And so Parliament passed another law – a law that an "Indian" cannot hire a lawyer to prosecute a claim and a lawyer cannot take a claim to the courts. At that same time, an Indian could not be a witness in a court trial, if some white guy beat up an Indian guy, and they matter went to court, the Indian guy cannot be a witness in the case. Why? Because, the law said, an Indian is too primitive to know the meaning of an oath to tell the truth.

That was the law of Canada at that time, and as I say it was the law of Canada until 1952, and this was the world that I was born into.

We're not talking about ancient history. Well, maybe I am ancient, but we're talking about a long time ago. And for over a century this settlement disease began to take control, and this paradigm of the Doctrine of Discovery gets in there.

So these are the two narratives, your narrative of who you are, where you came from, how you got here, what your rights are, where your land is, you've got this narrative engrained in your mind. But settlers have something else engrained in their mind and their mind is Canada is a moral and benevolent place. Canada would never mistreat other people. It invites people from all over the world to enjoy a just and democratic Canada. How is it possible that Canada could discriminate against Indians? This is Canada's national dream of innocence.

The settler defines progress, It its progress was to make a Canada without Indians. It takes credit for its progress. "Look at the progress we have made in Canada over the years!" That's why sometimes you can't breathe the air. You can't drink the water. The current Canadian sees himself or herself as an innocent bystander to all this. The fact that the current generation doesn't think it's responsible for what happened.

There's also this obsession that you may have noticed in different places in Canada where there are these monuments -- "the first white child was born here," "the first white women crossed this river in a certain year." Someone has

described this as being “as if the country did not precede the traveler.” In other words, the country only came to be here when it was occupied by a white settler.

This “Narrative of the Indian” is what conceals poverty, trauma, injustice, the ongoing exclusion. When Members of Parliament hear about this, when Senators of Canada hear about it, they are absolutely shocked. They can’t believe it, and when they go on visits to reserves -- and I suggest you invite Members of Parliament to visit your reserve to come into your housing to see the situation you face -- they will not believe what they are seeing, and they will feel devastated.

So, I want to add one thing more to all this. I want to mention to you why you are not “Aboriginal people.” It would really be nice if you all would take an oath, “I will never refer to myself ever again as being an Aboriginal person” Why? Because Aboriginals are those creatures over there in British Columbia that were like the bears of the forest, But when the treaty commissioner came to meet with you, you had to give your consent so the Crown could have some land for immigration and settlement, There’s that difference between you and the people called “Aboriginal.”

So what does the word “Aboriginal” mean? It means “before the Originals.” Who are the original people of Canada? the English and the French, of course. The “Aboriginal People” are those creatures that were here before the Original People. I know it doesn’t make sense, but that’s the way it is.

You see, the Crown understood you are people who have the right to give your consent, or not give your consent to the Treaty, and that’s what makes you different.

Now the thing that becomes very hard to understand when we come to Treaties. Recently the Supreme Court of Canada ruled in the *Tsilquot’in* case. The Court ruled these people has a right to “Aboriginal title” to their land. Which means that the “Aboriginal title” is on top of the “Crown title.” So they were recognized as having a huge area of 1475 square kilometers of land, all the oil, the minerals, the forest and everything on it because they have “Aboriginal title.”

So, you figure it out. Imagine there’s two brothers and they live on either side of the Rocky Mountains and one day they are talking and one brother from one side says to his brother on the other side, “Hey, we’ve got a Treaty coming our way...you going to join with the Treaty?”

The other guy on the Pacific side of the mountain says ‘Ah, I don’t think so, I’m going to stay with the Tribe, I’m not going to do a Treaty.’” Okay, so they meet a little a while later, years later. “Hey, bro, how did things go without the Treaty? What happened to you?”

He replied, “We got 1,475 square kilometers of the land, we’ve got the oil, everything on it, the mines, everything else, we run it like our own, you know,

we're really happy with what we got out of the Treaty and we still have a lot more land coming to us. What did you get, bro?" "I got 160 acres", brother #2 replies. But I got a Treaty."

So, why would anyone would enter into a Treaty when the "Aboriginal People" got all that land? Somethings wrong here. You know, I mean it's just obviously very, very wrong and you all have start saying "this is wrong what is happening to us Treaty people." It's not just that we have a right, it is you are committing a wrong against us to insist this is your land, and not ours. We are not asking you for your land, we are asking for our land, and if you want to know why, read the Treaty, read the Treaty! So you are "consent people" -- you have the power of consent -- and that is why you are not "Aboriginal people,"

And this brings up another subject and it has to do with this thing called 'consultation' because if we're going to put a nickel mine or something else up in Treaty 5 Territory, we're supposed to consult with you, the government says. Here's the plans, this is what we're going to do -- is that okay? And you got to say "Yeah, oh well, we have this concern and that concern and so on, and so forth, and so on." But then they go ahead and build the mine anyhow, right?

But if they have consent, then they don't build the mine. So, the next time people come over from the province of Manitoba or the Government of Canada and say "we have a development that we're proposing that may impact upon your rights, and we'd like to consult you about it, so that we can accommodate your rights as best as we can, and then we're going to build a mine", you reply to them, "No, sorry, but we're not Aboriginal people, we are not, we do not hold Aboriginal title, we hold Treaty confirmed title, and we have the right to give consent, or not give consent. So sit down and let's talk".

See, that's the kind of change in attitude and thinking and your understanding of who you are needs to be when you understand you have inherent rights. You are not an Aboriginal People. Your rights have been confirmed by the Crown by its entering into the Treaty.

So I've taken up a lot of your time, and it must be getting close to your lunch hour, so I'm going to quit, I'm going to be here for the rest of the day, I'll be here all day tomorrow, if you want to talk, I'll be happy to talk with you. Thank you very much.

++++++

Day 3 - Workshop Presentation # 5

Pam Palmater, BA, LLB, LLM, JSDⁱ

Native Sovereignty: Foundation of Nation-Buildingⁱⁱ

(Verbatim)

Kwe n'in telusi Pam Palmater. I am from the sovereign Mi'kmaw Nation on unceded Mi'kmak'i territory, from the east coast of Turtle Island. Our treaties were negotiated and signed with the Crown during pre-confederation and are a little different from your numbered treaties. Ours speak to trade, military alliances and the provision of supplies, like guns and ammunition. But we share a similar history as treaty peoples.

It is a privilege to be here and to travel to different native territories. It is truly a privilege and not a right to be in your territory, so thank you for inviting me. Thank you to the elders, youth, organizers, and the elder for the prayer and the sacred medicines in the room. I also want to thank the youth – you are doing incredible work. Imagine being only 16 years old and already an international traveller speaking about injustice to Indigenous peoples. This delivers a strong message in terms of our power and the calls to action on the Truth and Reconciliation Commission.

Today, I will be talking about native sovereignty. There is a great deal of debate around “sovereignty” and I want to address it, as I believe it is the foundation of our nationhood. To this end, I will be talking about three things. The first topic is native sovereignty; the second will be where we are in terms of Crown relations; and the third will be nation-building and the path going forward. So many of us often feel stuck where we are right now, whether it is negotiating our contribution agreements or trying to engage in economic development. It can be a challenge to focus on the future because the present has so many concerns like the lack of resources. It is difficult to focus on where we are headed, in terms of nation building, as opposed to always being forced by the government to focus on our local crises. Whether it is social, economic, legal or political, Canada creates the crises and we are forced to respond to them.

It is important that we keep in mind that the actual “Nation” part of nation-building and the fundamental nature of our inherent, pre-existing sovereignty as Nations. Yet, whenever I talk about “sovereignty”, somebody inevitably puts up their hand and says, “there’s no word for sovereignty in my language” or “why would we use a European legal concept”? Some people become very anxious about even talking about the word at all, but to my mind, we need to have these conversations - very open and frank conversations - about our sovereignty and its

importance. Some of us are so focused on decolonization that we block ourselves into a corner where we can't talk about anything if we speak in English or use English terms. I don't think that's helpful. It is true, that I have no choice but to stand up here and speak English because of the impact of residential schools on our languages and not every generation is fluent. Plus, even if we were all fluent, we'd all be speaking different languages. So, I have to speak English but that does not mean that we must adopt English concepts, ideologies or definitions.

For example, there may not be a word for sovereignty in Mi'kmaq language, but that's only if you're looking for a direct translation. The word is more of a concept that we may express differently in our languages, but has the same core meanings: peoplehood, nationhood, sovereignty, independence, or self-determination. So, we shouldn't get hung up on the words themselves or worry about how western laws define them, we need to look at them as concepts that have special meaning in our native contexts. The *United Nations Study on Treaties and Other Constructive Agreements with Indigenous Peoples* said the very same thing. We can't get caught up in semantics and limit our ability to talk about these concepts. At the end of the day, we can spend all of our time trying to debate how to have these conversations or we can just get into those conversations and forgive the fact we can't have all these conversations of our languages simultaneously at the same time.

The same should apply to other terminology or political correctness around the words "Aboriginal" or "Indigenous" as opposed to "Indian". Pouncing on people who use the word "Indian" denies thousands of native people all over Canada and the USA who still focus on "Indian pride" or "native pride". Sure, the word may come from the *Indian Act*, but with all the native people that I work with in Canada and the US, this "Red Power movement" and Indian pride is what matters – the solidarity around our identities as diverse native peoples. The fact that the Indian nations on this continent have been here since time immemorial, that we have true sovereignty - that is what matters. If we are going to have this conversation, we can't worry about what's the nice thing to do or let's make everyone happy or make sure we are inclusive of other non-natives. Ultimately, Mi'kmaw sovereignty is about Mi'kmaw sovereignty and it is about Mi'kmaq territory and Nationhood. It should never be about what is the politically acceptable thing to do – what will make the Crown or Canadians like us better. That path undermines our nationhood.

So, what is native sovereignty? It's about land first and foremost. In all the research I have done across Canada and US, when I talk to native nations about what it means to be a nation. Sovereign peoples always talk about their territory. It starts first on our lands. It is the core of our sovereignty and that's why the federal specific and comprehensive claims process is so dangerous. Canada is literally buying native sovereignty one acre at a time. It's true, you might get

compensation for land that they stole, or that they currently use for hydro lines or phone lines, but you're giving up your inherent land rights in exchange for something far lesser. Federal negotiators prefer to offer monetary compensation versus land for land. When we do that, we're literally allowing them to buy our sovereignty one acre at a time because you have to surrender your land in exchange for "crown land" with all of its legal limitations.

There's nothing wrong with saying we're not surrendering our land and it will be ours forever, however we will allow you to use it. For example, a parcel of land illegally taken for a power line, can be subject to compensation for the loss of past use, and still remain ours. We can simply grant the power company a permit to put their power lines on it and charge them an annual permit fee. If they ever don't need the land for power lines, it stays with us. If they continue to need it, the permit fee is an income for our future generations without sacrificing our land, our sovereignty or our right to govern over it. Our ancestors refused to surrender lands in the way Europeans define it. We have to look at how we are holding our land, which is different from a grant from the government that might be given to a province or an individual. We are sovereign peoples and we hold our territory as sovereigns. That makes us fundamentally different than anyone that comes into these territories afterwards; whether its original settlers, immigrants, visitors or any other cultural groups. When they buy land, that land may be subject to the underlying Crown title, but Crown title is subject to our original, paramount, sovereign title.

Canada would have us believe that Aboriginal title only belongs to native nations that never signed a treaty. They would have us believe that treaties were about surrendering lands and sovereignty. But that is not true according to our native laws. Even the *UN Study on Treaties* which looked at treaties signed between Europeans and Indigenous people all around the world concluded that there was no intention to surrender lands. Half the time, the European negotiators didn't tell the people the legal effect of their English words. The UN study concluded that no court worth anything would uphold the surrender of lands under those conditions. So we need to start pushing back on Canada's challenges, pushing back on its positions, and pushing back when it tries to manufacture inter-First Nation conflict – like through the federal government's so-called over-lapping claims issue.

We have always known whose territories is whose. We may not always have agreed and had historical battles to expand our lands or trade routes, but we have always defended our territories. The Mi'kmaq knew where their boundary lines were and the Mohawk knew theirs. That's an essential element of sovereignty and nationhood, i.e., having a defined boundary that everybody else knows. That doesn't mean that we have to prevent everybody from coming in, but they need our approval to hunt on our lands, for example. During land claim negotiations,

the government often alleges overlapping claims and stalls the process. Many First Nations argue that these over-lapping claims have been manufactured by federal and provincial governments to stall negotiations. You all may not have to worry about it here, but there are overlapping claims the government has worked hard to create in other areas. Yet, despite their efforts, everyone in Canada knows where Mi'kmaw territory is, for example. Our elders can tell you exactly here is where the territory is and here is where we hunt, where we do ceremony or where we trade.

There is also a fundamental difference between sovereign peoples, versus minorities or cultural groups. Our sovereignty is collective – it's about the Nation, the peoples. That is a far cry from random individuals claiming native identity from a long ago ancestor and no connection to their nation. Our nationhood does not come from Ancestry.com or ethnicity shopping. We are not just a cultural group, a minority or a diaspora of displaced people. No matter where we are – on or off reserve – we are always on our sovereign lands. We may sometimes be on the lands of our brother nations, but in acknowledging and respecting that, we can honour their sovereignty as they protect our sovereign status. We're actually a collective with defined territories and it's fundamentally important that we keep that in mind.

Many government officials or anti-First Nation academics have tried to argue that native people had no concept of land ownership and that the land was free for the taking. Alternatively, they have tried to argue we were not nations but random nomads roaming the countryside with no concept of territory. That's flat out wrong and perpetuates the myth that we can't own or govern our lands. Yet, we wouldn't have been engaged in inter-tribal wars to defend our lands if we had no concept of land ownership. Remember, we shouldn't get caught up in semantics. You can call it ownership, stewardship, governance, control or whatever you like. But we knew which lands were ours. Just because we did not engage in mass extraction, clear-cutting or other destructive practices like Europeans, that doesn't mean we did not own our lands. While European concepts of land ownership revolved around extraction or production, ours was geared towards sustainable use and inter-dependency. Sometimes not using lands, not extracting resources was more important to protecting our territories than destructive European concepts.

Assuming responsibility for our territory and protecting it for future generations is a critical part of governance and sovereignty over territory. Our traditional native knowledge systems and laws ensured we did not abuse the precious ecosystems within our territories. Interference with our sovereignty not only impacted us as nations, but impacted the plants, animals, fish, birds and insects which shared the territory. In this way, our nations were more than just cultural groups. Yet, many court cases in Canada try to reduce us to cultural groups and

try to reduce our powers to cultural powers. For example, you can control the language of your culture, you can do a little bit of hunting and fishing, but when it comes to the core aspects of who we are as a sovereign nations, Canada disputes our inherent jurisdiction. Governance, lawmaking and enforcement in international trade for example. Public safety or national security is deemed a federal power. But our knowledges, practices, laws and governance included everything every other nation has – math, science, engineering, manufacturing, astronomy, medicine, politics, and so forth. We were more than just what people view as stereotypically cultural – art, drumming, or ceremony.

Our sovereignty therefore encompasses the full range of our inherent powers and jurisdiction. While many seek recognition from Canada of our sovereignty, in practice, recognition follows acts of sovereignty – not vice versa. If you look at some other countries in the world who were not previously recognized as sovereign, but they asserted, lived and defended their sovereignty until they became defacto sovereign or actually recognized as independent states. In many cases, their diplomatic requests to international bodies to recognize them as sovereign, were refused. But because they believed it, asserted it, lived it, and defended it - bled and died for it – they were eventually recognized. It's rarely the other way around. You will likely never see a colonizer state going around voluntarily granting sovereignty to others. Everything we ever had as native nations had to be defended with our lives. Any rights we have came after long struggles. This will be no different.

The other important thing about our nationhood is that it is a two-way street. We have our nations only because our citizens recognize our nations as such, contribute to our nations and defend our nations. If we don't put enough time and effort into our citizens, we're not going to have defenders, we're not going to have volunteers or people who are willing to give up their time for nation-building. This also applies in the reverse. Our citizens have a nation to call their own; a nation that keeps the culture, language and practices alive, a nation that governs the territory (on and off-reserve), and a nation that provides critical programs and services. There is no such thing as an "Indigenous" person. Everyone comes from a collective. There is lots of discontent amongst our peoples because of the negative impacts of colonization we all suffer, and less focus on the responsibilities of citizenship (versus rights). But our status as sovereign nations means that we are all in this together – with all of our imperfect laws and governing practices and processes. There is bound to be lots of problems as we've been so impacted by colonization, but we're doing it anyway. We need to just assert our sovereignty and work out all the problems as we go. We can't wait until we think we have the perfect law or the perfect governing structures. We have no choice but to focus on protecting our nations and our sovereignty before any further damage is done by Canada.

I would argue that despite the core differences in languages, that we all have words, phrases or concepts for this idea of sovereignty, nationhood, peoplehood, independence, freedom and self-determination. Our leaders, in all their diverse forms across our nations have been asserting our sovereignty since contact. Numerous native negotiators and Chiefs pushed back against Crown assertions of dominion over our territories. They responded and said “no, we are supreme in this territory and this is our land. During the treaty negotiations in eastern provinces which included one of my nations, the native representative told the negotiators stop trying to include land in our treaties, we’re not giving up our land and I quote: “this land where you want to become absolute master this land is mine, I have come out of it like the grass it’s where I was born and it is my land, that is mine”. Throughout of the treaty minutes (not the actual treaty) the native representatives kept saying “you can’t step an inch over where you are right now - this is our land.” They told the crown official that this is our land and this is our sovereignty. The crown negotiators lied and made false promises and mistranslations. They told us, “don’t worry you’re not giving up your sovereignty”.

So, our ancestors were strong and they were forceful. There are a lot of examples all across the country, with treaty negotiation minutes and stories from the elders about really happened. It’s a myth for Canada to perpetuate a history that says otherwise. We never surrendered our lands. The BC Interior Chiefs at that time, back in 1800 to 1900s, kept saying things like “no we’re not negotiating treaties out here and more than that, you need to remember that even if you live here by agreement in our territory, we are the ones that are supreme; we are the supreme sovereign. Quote: “When they first came on these lands, they were only Indians. Here they found the people of each tribe supreme in their own territory and having tribal boundaries known and recognized by all. They know that and we know that and they have worked very hard to convince our people otherwise. They have developed a legal system that is essentially creates a series of legal fictions around this stuff, so they can justify their actions after the fact. Despite hundreds of year of dispossession, oppression and genocide our core sovereignty remains intact.

The *Royal Proclamation of 1763* did not grant rights – our rights were recognized. In fact, the *Royal Proclamation* recognized that we were nations of Indians. It did not refer to communities, families, or groups of nomads. The Crown knew we were nations and one of the reasons for the *Royal Proclamation* was to secure peace and friendship and protect Indian lands from settlers. Now there’s lots of problems with the wording of the *Royal Proclamation*, lots of different interpretations and varied views on its legal status or impact. The main point is that long before most treaties were signed – the Crown recognized that they had to negotiate treaties with us because of our sovereign status as nations. Government uses the word “community” over and over, and rarely will you hear “nation to nation” unless it is Prime Minister Trudeau talking about his

relationship with the Assembly of First Nations (AFN), Metis National Council (MNC) or the Inuit Tapiriit Kanatami (ITK) - but none of those are nations.

It's also noteworthy that the *UN Study on Treaties* concluded that according to the law nations that existed at the time, Indian nations were regarded as sovereign entities. So, by their own laws, concepts and mechanisms, European countries entered into treaties with us; knowing that we were sovereign and knowing all of the legal implications of that status. The Crown didn't displace our laws or governing powers. The Queen's agents came into our territories and signed treaties (some fraudulently) and this is still an issue today. They knew then we were sovereign and they know it now or we wouldn't be engaged in a comprehensive and specific claims. Canada wouldn't have to have to pay people to surrender their land 1 acre at a time if officials truly believed Canada was a legitimate sovereign.

Though many European countries and colonies wrote history as if they were the ones who created the treaty process, our native nations were engaged in inter-tribal treaties north and south of the arbitrary border, long before contact. We had confederacies and military alliances, as well as people that were designated to learn different languages so that they can negotiate inter-tribal treaties. According to international law at the time, only sovereign entities can negotiate into treaties with other sovereign entities. Canada would not enter into a treaty with an Association of Canadians, for example, because states don't enter into treaties with citizens. Treaties are evidence of (not the source of) our status as sovereigns. Sadly, the public does not see it that way and sometimes our own people don't see it that way. We have power and we don't have to take what they give us. In fact, we have survived every former prime minister, every former Indian Affairs minister and every provincial Premier. So if anyone believes this is the last time to get the last best deal, that's not the case. We can wait them out. We were here long before them and will be here long after them and that's why the Creator placed us on our territories.

We need to push back and remind them who we are. Here's one of the special things about Manitoba: from the time I was a small child, the people that I looked up to where some of the First Nation leaders in Manitoba. Manitoba First Nations have always been the heart of the resistance. You all refused to give up and that's why today Manitoba is literally Ground Zero for every horrific thing governments can do to your people in terms of child welfare, murdered and missing Indigenous women and girls, over-incarceration, homelessness, and police violence against native men in particular. Manitoba First Nations refused to give up, even when the federal government was trying to push this *1969 White Paper* to get rid of the *Indian Act* and eliminate treaties, Indians and reserves. All of the attention was on Harold Cardinal's powerful *Red Paper* from Alberta First Nations which pushed back and said no we're not giving up any of our rights. Manitoba Indian

Brotherhood also had *Wahbung: Our Tomorrows* and what's unique about *Wahbung* is that is based all of our rights on our sovereignty. That was back in 1970, back when many people didn't think we were sovereign anymore. Quote: "Indian tribes of Manitoba are committed to the belief that our rights original treaty emanate from our sovereignty as nations of people".

Manitoba First Nations have never given up that sovereignty and that's why you see such harsh treatment from both federal and provincial governments, but you continue. The thing is, that your continued assertions make you so much stronger in terms of political and legal negotiating positions. There is a fundamental difference between what Canada is offering (limited rights under federal and provincial jurisdiction) versus First Nation sovereign powers (jurisdiction). In the former, federal and provincial governments offer consultation on rights exercised under another government's jurisdiction. In the latter we exercise our powers under our own jurisdiction. This is where we need a major shift in thinking and positioning. We need to shift the negotiating table more in the direction of recognition of powers versus a recognition of a set list of limited rights. As sovereigns, we can take care of our own and Canada has legal obligations to us as nations versus Canadian citizens with rights.

My best advice would be to continue to put your traditional and modern laws into writing, create enforcement mechanisms and dispute resolution (justice) systems. It won't be perfect and it may even be messy at first, but that is sovereignty – its organic, fluid and always adapting. Don't rely on Canada's laws. Remember, that everything bad that has ever happened to us came from colonial laws, policies and practices. We know that the very foundation of crown relations or so-called nation to nation relations with Canada and First Nations is based entirely on what's in their interest. It doesn't matter who is in government NDP, Conservative or Liberal – they can be friendly, but they always work in the Crown's interest.

Sometimes we think that things will change if we only vote in a different party or if only a certain man or women is the leader – but that is wishful thinking. It's never been about the party, because in the law, the Crown is the Crown is the Crown. The Crown is indivisible and they all share a core interest acquiring our lands and resources and having all the power. That is 100% inconsistent with our sovereignty as nations. So, we have a choice. Do we keep going down the same government-controlled path we have been on for decades or do we take the risk of making our own path based on the foundation of our sovereignty? A different path means withdrawing from government processes that are not working for us. It means taking away some of their power and reasserting our own. Some of us may want to try to negotiate a different relationship with the Crown inside their constitution. Others will likely want to determine our own path outside of Canada's constitution and inside of our own. Either way, it can be negotiated so as to protect our sovereignty.

We can't let ourselves be fooled by the political party of the day. One may offer extra funding and another may offer legislative changes. It is important not to look at various initiatives, but to analyze the government over the long term. The historical record shows that while powers shift from one political party to another – they always have the same objective with regards to First Nations: legislative assimilation and land dispossession. One era, the Liberals are the bad guys. In another, it's the Conservatives and then they shift again. It is enough to distract us and make us chase the friendly party, but all of the policies behind the scenes are the exact same. We cannot look at Crown relations with blind faith or hopeful trust. That does a disservice to our peoples. I respect that it is in our traditions and protocols that we reach out in good faith and try our best to work with other governments. However, that does not mean we should blindly trust people that we know that are not in it for our best interests.

It makes it difficult for us when governments hire our aunts, uncles, siblings, cousins and friends who really want to make a difference for our people. Indian Affairs often uses native staffers to deliver bad news or use them as a buffer to delay making critical decisions. But no matter how many of us they hire, it's not the bureaucracy that makes the legal or policy decisions, it's the people at the top – the Cabinet Ministers. So, we can't be distracted when our family members, who work for INAC, try to convince us to go down Canada's path. We need to look beyond the staff and see that it's the Ministers who pull the strings. The *UN Study on Treaties* said if we're going to really look at our relationship with the Crown through treaties, we have to do it with open eyes. The report emphasized the fact that European law is an instrument of colonization. European countries created laws after-the-fact to try and justify all the things they were doing in our territories. For example, the courts in the US used the doctrine of discovery to reconcile native sovereignty with American assertions of sovereignty. So they decide that the European country that discovers lands inhabited by peoples not subjects of a Christian Monarch were up for grabs. They really had to manipulate their own laws because the recognition of us as sovereigns – Christian or not – is a recognition of our title. Calling the lands of Indigenous peoples all over the world “terra nullius” – no man's land – was a way to justify their theft. Makes little sense to sign treaties with sovereign nations if they in fact don't exist – the lands are barren?

The problem has never been about our laws or our side of negotiating table. It's always been about their laws and tactics, like how they constantly change their policies and terminology to throw us off at the negotiating tables. But Canada is worried. They are terrified we will withdraw from their processes and stand on our own sovereignty. It is a challenge to educate on people on the real history, when all the government jargon says “we are all treaty people”. This simply isn't the case. Not all First Nations signed treaties and no Canadians signed treaties. Treaties are not between states and their citizens. Treaties are between sovereign

nations on a nation to nation basis. Canadians enjoy all the benefits of the treaties signed with the Crown, but have none of the obligations. The other part about treaty education is that for the most part, it leaves out the majority of the atrocities and human rights violations committed to force people to sign treaties, even when they didn't know what they were signing. The oral histories of our elders are often confirmed in the treaty negotiation minutes.

These minutes were often kept by colonial officials and documented the horrors of the treaty process. (Reading from slide) It's not about ambition or empire like Europeans, it's just to defend their territories, In fact, all the injustices the Europeans have imposed upon Indian people have been about divesting them of their land by fraud, first making them drunk and second making them sign what they knew not. The treaty minutes often show the agreements we made in good faith and the spirit and intent is far different than how the Crown has interpreted them. Many of our Nations conducted ceremony and took the treaty making business seriously. They are supposed to be interpreted in our favour because the Crown held the pen on what was finally put in the treaties in their language, according to their laws and mistranslations. Canadian courts have now upheld some of the worst parts of the treaty provisions. (Reading from slide) It wasn't just about fraud, Europeans community gross inhumanities to native peoples - they would cheat, abuse and beat them, sometimes to the loss of their limbs. Sometimes they would set dogs upon them, and all the while this was happening, people were being beaten and/or starved into submission in different parts of Turtle Island.

One part of the treaty was being written in a completely different sense than what was being told to the native negotiators by the express orders of the governors. This wasn't about an innocent cultural miscommunication – it was purposeful mistranslation that should never be held against native peoples. I wonder how proud Canadians would be if they knew colonial negotiators were trying to beat people into submission and dispossess them through fraud? If Louis were to come up here and take a baseball bat and threaten to beat me if I did not sign away my property, it would have no standing in law. Yet, even the *UN Study on Treaties* found that no honest court would hold up anything that was done without the full educated consent of the treaty negotiators. In all my research, I have yet to hear one elder say, “yes, we totally agreed to give up all our lands for some lard.” I can't imagine that the colonial practice of “clearing the plains” and starving us into submission, is in any way, legal. None of this has ever been addressed.

Canada can't rely on fraud as valid evidence of giving up our sovereignty. They know they don't have a leg to stand on. Now they want to bring the numbered treaties to the table and get you to voluntarily surrender your rights? They are doing this because their sovereignty isn't entirely secure within this territory and if their sovereignty isn't secure, well then maybe the natural resource transfer

agreement where all the natural resources went to the provinces; maybe that's not secure either. We could choose to use that power in whatever way you want to as nations but it really helps to know that we have this power. If you don't set up your negotiating position from a place of power, then we risk getting sucked up to go to section 35 tornado. I was going as a Vortex but tornado looks more menacing because they constantly have us chase their terminology. Section 35 protection for Aboriginal and treaty rights sounds good, but it's less about rights and more about how Canada can breach those rights legally through consultation. It should be about getting our consent, because this is happening in our sovereign territories and where the rightful governing power. Consultation is something countries do for citizens and interest groups. But states should have to get consent from sovereign nations. Those are markedly different conversations and markedly different way of negotiating.

At the negotiating tables, that I have seen here in Canada, the US or any other countries, native nations have different ways of negotiating. Anecdotally, the ones that fare better are the ones that don't use the US or Canadian negotiating parameters. Now this might mean that we might not get as much compensation, but money is nothing compared to our lasting sovereignty and land base. Section 35 isn't actually what First Nations had intended when they were advocating for section 35 in the constitution. To some, it was actually supposed to recognize our sovereign jurisdiction, be our own head of power and have self-determination recognized within the constitution. And that is the one thing that they refuse to agree to, no matter how many times the First Nation negotiators tried to re-write or amend the concept of First Nation self-determination.

Federal and provincial governments seemed okay to recognize our Aboriginal and treaty rights because in their mind, that's limited to hunting and fishing. In their mind, it's cultural. But when it comes to the core aspects of sovereignty, they said no. So, we went down the rabbit hole of section 35 court cases. The *Sparrow* case of 1990 was the first court case dealing with section 35 and it sounded good. It was about the Aboriginal right to fish and the Supreme Court of Canada said that constitutional protection means that our rights take priority over others, including recreational fishers, sports fishers and commercial fishers. They were very specific – i.e., if a river only has 10 fish left and you need 5 to conserve the fish for the future and there's only five left, and if the native people need to five to eat, that means no one else in Canada gets to fish. While there were problems with that case, it was still a strong legal constitutional priority, but you have to keep in mind, they consider fishing to be more on the cultural activity. Everything changes when we talk about constitutional protections of the so-called Aboriginal right to land. In the *Delgamuukw* case, the SCC recognized there could be Aboriginal title, then provided a long list of everything that could have priority over Aboriginal title: economic and regional interests, historical reliance agriculture, forestry, mining, hydro; species protection, infrastructure

development and settlement to foreign populations. In seven years, section 35 rights went from the highest priority to the possibly the lowest. Mining companies don't have a constitutional right to take minerals from the ground; so how is it that private companies could get a priority over our Aboriginal rights?

Minister Bennett is trying to sell you this concept that you don't need the *Indian Act* anymore, you don't need tax exemptions or federal protection for reserves - you'll just be under section 35. This is the alternative protection they're offering and keep in mind with that protection, comes provincial jurisdiction, laws and taxes. Once you are under provincial jurisdiction, where does your sovereignty go? Ask any municipality where sovereignty goes. That's why it's important to think about our sovereignty and base our governments on our laws and not theirs because government initiatives are like Trojan horses - they give you something on the surface but they take away something fundamental. The SCC has also said that section 35 exists for one important reason – that we were here first, but look at their wording. They talk about people here first living in communities, when in fact we were living here as sovereign nations and we were defending our nations and our territories. We were also participating in our cultures, yes, but we were also trading, manufacturing, engaging in science, treaty relationships, and complex economies. We were not just engaging in cultures but you see why they wrote it that way, so as not to diminish Canada's assertion of sovereignty and to limit the types of rights protected under section 35.

The fact that we were here first living as sovereign Nations, defending our lands is what distinguishes us from minorities or cultural groups. However, look at how Canada treats us. Canadians are consulted on things like legislation through the committee study process – either in person or via written submissions. Canadians have the similar rights, they just package it differently. Yet, they don't have the constitutionally-protected Aboriginal and treaty rights. Let's look at the Trans Mountain Pipeline decision, when the federal court of appeal tells Trudeau, not only didn't he consult with First Nations properly, Canada didn't consider their Aboriginal and treaty rights under section 35. Canada's response was very telling when federal officials said: "Well you know it's a national importance and it's just going to get built." This is all despite the constitutionally-protected rights. I don't think it is the best idea to put all our hope and faith in section 35 of their constitution, to be interpreted by their courts, only to be interpreted, applied and even ignored by governments however they choose. They might put us more on the vulnerable side.

But there are other cases too. The SCC in the *Haida* case talks about sovereignty, but they see the purpose of treaties, is to reconcile pre-existing Aboriginal sovereignty with Crown sovereignty. This is one of the rare times that the SCC seems to recognize we are sovereign prior to contact. To my mind, our pre-existing sovereignty is far stronger than the Crown's assumed sovereignty. The SCC says that treaties were a way to resolve competing claims in an honourable

way. That is a giant leap. I have yet to find one treaty that was negotiated and implemented in an entirely honourable way. Then what about those First Nations without treaties? Are they trying to say that “without a treaty, the sovereignty claims have not been reconciled and thus the pre-existing Aboriginal sovereignty still exists”? That seems to be one of Canada’s biggest fears. It also seems to be the underlying basis of comprehensive and specific land claims. Even their self-government negotiating process is based on the requirement to cede, surrender and extinguish all of your rights and claims. In this way, you can start to see the danger of putting all your eggs in the section 35 basket. It’s a tool, for sure, but keep in mind government speaks out of both sides of its face.

Even the Indigenous Minister of Justice, Jody Wilson-Raybould permitted Justice lawyers to make legal arguments in court they cannot remove gender discrimination from the *Indian Act*, because they’re legally required to consult with First Nations first. This is despite the fact that First Nations won four cases over thirty years, which all directed Canada to stop discriminating against Indian women. Then the Minister turns around and allows Justice lawyers to argue in the *Mikisew* case, that Canada does not have to consult First Nations on any legislations impacting our rights, because it’s their sovereign right to pass any legislation they want. Why would Canada argue it has to consult with First Nations before it removes the gender discrimination in the Indian Act, but then argue in another case, that consultations are neither appropriate or required? Because Canada was always do what is in it’s best interest – never ours. What a devastating case to have on the books now – all thanks to Trudeau’s Liberal Cabinet.

We should be very concerned about their policy agenda as well. While they have distanced themselves from the *1969 White Paper*, the federal government seems intent on abolishing the *Indian Act*, converting reserve land to fee simple, transferring First Nations to provincial jurisdiction and no more tax exemptions. That sounds very close to the 1969 White Paper to me. The interesting thing about the 1969 White Paper is that Trudeau senior, together with INAC Minister Chretien, developed it after nationwide consultations with Chiefs. Imagine deciding to write the exact opposite of what was being said by the Chiefs and develop that as a policy? Harold Cardinal writing for the Indian Association of Alberta pushed back with the *Red Paper* and said no, we’re never going under provincial jurisdiction, we are not getting rid of the Indian Act, and it will only be amended with our consent, on the sections we want amended. First Nations did not want to lose our taxation exemptions for example. The *Red Paper* also resisted provincial jurisdiction and the elimination of our treaties.

Wahbung said the same thing, but based it directly on our sovereignty. First Nations in Manitoba said the same things as the *Red Paper* and also said Canada will not abolish the *Indian Act*. They also said that the *Indian Act* will be amended

when and how they see fit. First Nations made it clear that wanted to retain our tax exemptions, but further that we should retain control all of our own resources, and never go under provincial jurisdiction. Trudeau Sr., was so taken back by all of the protests and the strong resistance to the *White Paper* that he said “Okay, we are not going to do this we’re abandoning the *White Paper*, let’s start over.” At least that’s what they will tell you, but when you actually access their historical documents and records, you will see there was never any intention to abandon the *White Paper*. In fact, their Assistant Deputy Minister wrote to them and said (paraphrasing from slide) “Here’s the plan going forward, we’re not changing the *White Paper*, we’re just going to break it up into little pieces so it’s less recognizable, but we are not changing any of the content, and that’s how we’re going to go forward working with First Nations.”

We have to stop looking at government officials as people, and see the government for the institution that it is, because when we act like this is a relationship between the really nice staff person and us, we forget the larger context. Governments use our cultural traditions, practices and protocols against us so that we focus on the one of one relationship with the staff person and forget we are dealing with the government – an entity whose interests has always been and always will be opposed to ours. We have to tell these bureaucrats that, no offence, but we are going to fight to the death to protect our lives, lands, treaties and sovereignty, and it’s not personal. Despite hiring more native people and being nicer to us, the government just kept moving forward with the *White Paper* in different form.

Then you had the *Buffalo Jump* in 1980s, where they had a very strategic plan; not just to implement the *White Paper*, but how to do it strategically and how to sell it to First Nations. This time, their core plan was to actually sell the concept as a so-called “joint solution”. This is where the government finds a First Nation leader to stand beside one of their Ministers and do joint announcements. You can see that strategy used today over and over. If they can sell it as a joint solution, it’s going to be a lot harder for First Nations to attack it. Our people wonder if the initiative is bad, because this person standing by the Minister is someone we may know, we may trust him/her. So, some of us may forget about the dangers and give the initiative the benefit of the doubt because we trust the person, then we may give government the benefit of the doubt and start going down the wrong path.

The other thing they did, was purposely turn the so-called “Indian problem” back on itself – blame First Nations leaders for their own woes. You can see that now in the media. From that time forward, all of a sudden, you hear government officials or media commentators, say or imply that all of our Chiefs are crooks and millionaires. You would hear comments online, that if Chiefs were not spending so much money, millions of dollars, for all their mansions and luxury

vehicles, then their people wouldn't be so poor. That rhetoric helped do two things: (1) it helped her turn First Nation citizens against their leaders because people tend to believe what they hear in the media or what's in the paper. In fairness, people should be able to read the news, and believe it is factual. The other thing this rhetoric did, was gain support in the broader Canadian public for federal and provincial governments to not to "throw more money at the problem". The implication was that Indians misuse or mismanage money and somehow that is the root cause of the problems. What they don't say, is that no First Nation Chief in this country was ever paid one million dollars in salary from federal funding – ever. The AFN did a survey of the average salaries of First Nation leaders – Chiefs and councillors – and the average salary was less than the average Canadian. The majority made less than some municipal librarians. But try to convince any community member of that today - it's almost impossible.

The government's strategy to divide us has been successful in many cases. For decades now, many community members believe the cause of their poverty is their Chief and that makes it harder to advance nation-building efforts. How do you get a mandate to negotiate, if everyone assumes that you're a crook and getting a million dollar salary? It's to the point where, Sun News, did a whole half hour video, on how I am a millionaire Chief is Friday. It was completely baseless. I've never been a Chief and I only wish I was a millionaire. They try to say, how can you be a Chief with a truck and house when your people are so poor? Couldn't we also say to Trudeau, how can live in giant house, paid by Taxpayers, when there is millions of homeless Canadians? We don't have to deny ourselves jobs, vehicles and homes to be considered First Nations. We need to reject their double standards. The issue what we should be focussing on is how do we provide for everybody? But the federal government has made sure that our leaders can not provide for everyone, because the underfunding means we never have enough money.

That was the other part of their plan – for the federal government to reduce critical funding for First Nations for fundamental things like: social programs, so that everyone would have to live off reserve. They also reduced band operational core funding, so that First Nations would not have the capacity to respond. So, as things got worse inside and outside, you have less and less money, to even hire a policy, technical or legal advisor. Yet, we need this governing capacity to face INAC's 5000 person army of bureaucrats. Justice Canada is the largest law firm in Canada, with thousands of lawyers they can summon to fight against us. When do we come to the table to negotiate, many of our First Nations are lucky if we have one or two people to work on a file, because we don't have access to the same resources as the federal government. So, they did this on purpose. Once the federal government created so much discord in our First Nations, they thought: "Let's try the *First Nations Governance Act*", "Let's try to access all of their own-source revenues", "Let's try to get provincial jurisdiction over elections"; and "Let's get

the *Canadian Human Rights Act* applied to First Nations” so that band members can actually sue Chief and councillors for not having a house instead of suing the government.

The slogan of the day during the Harper era was to create more so-called “accountable First Nations” where they have to do even more reporting on their funding, despite the fact that Canada’s Auditor General recommended less reporting, because upwards of 60% of all the reports are never read by anybody. These reports appear to be a make work project, wasting our time and resources. So what happened was that some First Nations protested against the FNGA and the government said “Okay, we won’t do that, we will abandon the FNGA”, but they applied the same strategy as they did with the White Paper. The government said they were abandoning FNGA, but they still went ahead with it by breaking it up into pieces. (Referring to the slide) You’ll notice the items on this in red. They got everything they wanted by passing individual pieces of legislation against our will and without consulting us. They continue to get what they want, even though they say we’ve abandoned it. (Referring to the slide) You’ll notice this is both Conservative and Liberal legislation. The Liberal and Conservative policy agendas have been very similar – like keeping the funding low for critical social services (ex. 2% cap in funding).

They both have limited funding for any self-governance negotiations and offer little more than municipal-type powers at the negotiating tables. Why would Canada stall negotiations and extend the timeframe to last as long as 25 years, even if the new government does promise to repay all negotiation loans? Because they can literally take all of the fish, timber and minerals out of our territories before an agreement is ever reached. They can leave our lands empty of resources. You’ve got specific claims and comprehensive claims, which still contain cede surrender and extinguishment wording, it even though Bennett promised they were not using that language anymore. Talk to any of the negotiators at the negotiating tables, the federal government is still using that language, or they trick you by using language that says you voluntarily give up all your rights, and if that doesn’t work you cede, surrender and extinguish all your rights. That’s fundamentally the same thing. At the same time, it seems like they’ve increased litigation on Aboriginal and treaty rights. Any time an issue gets media attention for a sustained period, then there’s a lot of pressure on them to act. So, they turn to the AFN and say “Why don’t you go set up a fiscal relations table, and you can work on that for the price of \$20 million for the next three years”? Meanwhile, the First Nations on the ground will not get increases to their contribution agreements. They do that on every single issue – meeting tables at the AFN for any number of issues. Alternatively, the federal government sends the issue to a study, committee, commission or inquiry, but no hard-core solutions or action is taken from the federal government.

The other thing that's impacting you here in Manitoba, is that they seem to have instituted major delays on Additions to Reserves (ATRs). I understand you are under the TLE process, but the unreasonable delays in ATRs have been applied to non-TLE First Nations as well. It went from a couple years to three years to five years to seven years to 10 years to 13 years for an ATR, for no good reason. Even in my territory, when we have all the third-party interests, all the surveys done, what's the reason for the delayed ATR? Someone's on vacation at INAC, then the files are passed to somebody else whose in training, then its waiting on meetings with higher-level officials who send you back down to bureaucrats. Meanwhile all resources are being taken, so it's pretty rich for the federal government to say (referring to slide) "Trust me, everything's going to be different and how do you know? I give you my word." That's insulting to me, to say I give you my word, because you can't take any of that to the bank or the courts. They give you their political promises, but then in court, they argue that political commitment election promises are not legal and binding. By relying on Trudeau's word, what has AFN received?

The Trudeau agenda has been developed in complete isolation from First Nations. Instead of it not being a top-down process, we get surprise announcements along with some cheerful apologies. They change the name from Aboriginal Affairs to Indigenous Services Canada. They just didn't create to Minister of Indian affairs, now we have three - the third one just slid under the radar. No one consulted with us before the Trudeau government developed the so-called "10 Principles" and said this is how our relationship is going to be going forward. They have no input from us. Then we have this Legislative Framework. t was hard enough to argue let's get rid of Indian Affairs, but you have three minister of Indian Affairs? It's quite disconcerting - who do we talk to? It is something we didn't ask for, yet it costs money, it costs time, and it takes more and more employees to do that. I wonder what the total count is now? The Chiefs have been saying all along, and especially here in Manitoba, that we don't need Indian Affairs. Can you just transfer us our money and we will govern ourselves? Instead the people at Indian Affairs decide to triple up? That's a really bad sign, but if you look at it on the other hand, they must be pretty scared if they need three Ministers instead of one to deal with us.

(Referring to slide) The thing that stands out about these 10 principles, is that their based on section 35 court cases. In other words, they are nothing new. In fact, they give us less than the Supreme Court of Canada decisions. The problem is they are worded so that they sound good. (Referring to slide) I'm just going to use one example: the purpose of these 10 principles is section 35 reconciliation. We naturally assume reconciliation refers to the TRC and how we're making amends for the past and fixing current injustices. That sounds good but it's not the reconciliation they're talking about. What they're talking about is reconciliation of Canada's assumed sovereignty with our pre-existing sovereignty and they get

to decide what happens moving forward. That's not what we want, but that's what they're telling us. In writing, this is how we're going to move forward, and unless we say otherwise, then that's how it's going to be. They also use very tricky, Justice Canada weasel words. For example, "We aim to include free, prior and informed consent". There's a fundamental difference between you have the right to free, prior and informed consent, versus well we will give our best efforts to use FPIC. This is the kind of DOJ language they are using.

The other two important things: their intention to continue to develop our lands and extract resources from lands is right in there. They specifically say that reconciliation requires a fiscal relationship, but what is the new physical relationship and their terms? Is it more treaty money? No, it's about joint resource development, i.e., you don't have a right to say no and if you want money that's where it has to come from. If that's the case, then we're in trouble with these 10 principles. Additionally, if the plan is to only protect rights that are constitutionally protected rights, then we're talking mostly about hunting rights and fishing, and similar cases. To my mind, the majority of our rights and our powers are outside of section 35. They are inherent. The federal government also promised to meet the "objectives" of UNDRIP - but not necessarily "implement" UNDRIP. Every time the federal government says they fully support and UNDRIP, they add the limit that it will be done "in accordance with Canada's constitution", which is a pretty big condition to put on UNDRIP. What they are basically saying is: "We support the idea of UNDRIP, but only in accordance with section 35 limitations. The problem is section 35 limitations are one of the reasons why we need UNDRIP - because our rights are not being fully recognized and implemented.

So, you can see the vicious circle. In case you want to know the limits of the government's negotiating mandates, you need only listen to Minister Jodi Wilson-Raybould's legal positions. (Referring to slide) First, she made it very clear that UNDRIP is "unworkable in the law" and argued that First Nations shouldn't put their focus on UNDRIP, but instead put their energy into getting rid of the *Indian Act*. Raybould also said, with regards to free, prior and informed consent in UNDRIP, that "consent is not a veto". When concerns were raised about the legislative rights recognition framework and whether the federal government would recognize First Nation jurisdiction, she said they would be "drawing down jurisdiction" from federal and provincial jurisdiction. This shows how important it is for us to listen very carefully when they speak, because they promise that this framework will not impose municipal governments on us, but Trudeau said otherwise. Trudeau was travelling outside of Canada speaking to some world leaders, said here is how we envision First Nations governments: (referring to slide) after the federal and provincial governments and after municipalities, First Nations are the fourth level of government. Municipalities don't have inherent powers, they stem from the province.

Minister Bennett has travelled the country and said specifically (referring to slide) “we have no interest or desire and turning proud First Nations into municipalities”. I have no beef with her as a person, but let’s do a fact check. The legislative framework proposal that she shared with the Chiefs, says that Canada gets to choose which nations and collectives that will recognize, as if Canada has the power. It also says which collectives they will recognize as “natural persons”, so some of the Chiefs were asking, what is a “natural person”? Some researchers made an *Access to Information* request, including Jeremy Schmidt, to find the plan. The Indian Affairs internal documents said exactly what we thought they were doing, i.e., that their goal is to treat us like municipalities. It also referred to the fact that some municipalities were transformed into natural persons or corporations in law, so they could flow funds and sign contracts. They appear to want to do the exact same thing to us, so that reserve land will be treated as municipal units or corporate persons. We need to stop believing the things they say and look at what their actual plan is. The Chiefs have passed numerous resolutions saying we don’t want the federal rights recognition framework and what was Minister Bennett’s response? She didn’t want to won’t hold the process but would listen to Chiefs’ concerns. That doesn’t sound like a nation to nation relationship to me - especially when we’re the ones not in control.

(Referring to slide) I created a chart of all the major policy initiatives to show what’s been offered to us in the last few decades: the *White Paper*, *Buffalo Jump*, Harper’s agenda and Trudeau’s agenda. If you strip away all of the political rhetoric and look at the fundamental objectives of all the policies – they are identical. They all want to convert reserve lands to fee simple lands, even under Trudeau government. The ATIP documents showed that this federal government has been giving millions of dollars to First Nation organizations to find a way to implement reserve privatization. It’s clear they want to transfer jurisdiction over Indians to the provinces or ensure that any limited powers we have are under provincial jurisdiction. The federal government seems to still want to gradually terminate our treaty rights (via status). The feds keep updating their language, but the objective is still the same: assimilation became integration became social inclusion. Assimilation is assimilation - don’t let them put fancy words around it.

Our treaty rights are also at risk, and we should be very cautious of that. (Referring to slide) Because, if you look at this chart, and of what’s being offered, it does not look anything like what’s in the UNDRIP minimum standards. Remember, when UNDRIP came out, Article 1 incorporated the existing international human rights protections for Indigenous peoples. The international standard for Indigenous peoples is self-determination, autonomy, lands and resources, free, prior and informed consent, and recognition and enforcement of our treaties. That’s the exact same thing even talking about for decades, but none of that is what’s been offered by the federal government. The only thing that is being offered now is to

“meet the objectives of the UNDRIP” but those so-called objectives are subject to section 35 limitations. If we rely on the very limited section 35 that have been recognized, we don’t meet the minimum standards in UNDRIP. So, what’s the path forward?

People often misquote RCAP. RCAP did say that one of the paths to recognizing our self-determination and our sovereignty is to negotiate self-government agreements with federal and provincial governments. That was one path. The problem is, sometimes that’s the only path that people candidate quote, but RCAP also says that in situations where fair and just agreements are not possible or not practical, exercising self-determination can occur outside of that negotiating process. To my mind, this means that we can exercise our self-determination outside of their constitutional laws and rely on our own inherent sovereignty. We can use our own laws to govern independently outside of their processes. It may well be practically easier to negotiate an agreement with funding, but you don’t have to settle for anything just to get an agreement. Your sovereignty is going to stay in tack and that’s why in terms of the path moving forward, we should focus back on sovereignty. I don’t think we talk about it enough. We have to make sure that in everything we are doing, negotiating or signing, that we are not infringing on our sovereignty. That’s a question we should ask ourselves, every time and that moving forward we need to think of sovereignty as the core of who we are nations. We are collectives of peoples, not just individuals. The viability of our futures depends on our collectives and our lands. This has to be absolutely fundamental going forward.

The fact that Canada will negotiate land claims only helps Canada - it does not help First Nations - because they know that land is critical to our sovereignty. Even under international law, all of the things they recognize for sovereign states or nations are population, land, a government, and the ability to enter into agreements with other states. We have all of those things and more. But if land is off the table during claims negotiations, and if all they’re offering is legislation some policy changes, then we are no further ahead. Recognition just a legislative offering, that does nothing for our land. I want to see them come to the table and say: “Here’s treaty implementation; here’s lands and resources; here’s shared wealth and we will recognize you in any way that you want.” Remember, sovereignty and jurisdiction is about all of it, not just our cultures or practices, but all of it. It’s about governance, economy and social systems. It’s about things like international trade, national security, public safety and emergency management. All of those things are important and for the most part, we as First Nations are not engaged on these matters of sovereignty at the national level.

It was hard for me to find someone to work with on all these international trade agreements to protect our rights, because they purposely keep us out. I’m talking about sovereignty but we’re also talking about jurisdiction. They would like our

jurisdiction to be limited to reserve lands and just members that live on reserve, but as sovereign nations we decide what sovereignty is on and off reserve and on and off our territory, for band members, descendants, citizens from other nations, and anyone engaging in activity in our territories should be under our sovereign jurisdiction. Here's the thing about native sovereignty, it's about power not rights and they're trying to keep us very focused on rights. Even at the rights recognition framework tables, rights negotiations, they're not talking about powers. At the end of the day, recognition follows sovereignty not the other way around. There is no point in asking them to: "please recognize us". That's not how it works. Sovereignty has to be constantly lived, asserted and defended. Our ancestors knew that and they sometimes paid with their lives to protect our sovereignty.

Some people might say: "Pam, that's not very practical. You know, practically speaking, how could we really live as Nations with such small populations?" So, I'm going to leave you with this parting note on nationhood. Let's look at examples from around the world. (Referring to slide) the Vatican is a nation and they have sovereign nationhood status with a population of 800. San Marino is entirely enclosed within Italy, with a population of only 30,000 – but they are a Nation. Monaco is bounded on 3 sides by France and has a population of only 36,000 people. If you take Six Nations - they have more than 25,000 people and +/- 4000km². Six Nations can compete with any of those Nations in terms of size. Who is to say we can't be independent nations if that's what we wanted. I'm not saying that's what everybody wants, it may be practically better to do something else, but for people to say you have to settle for what's being offered because the other option – nationhood - is never possible, they are wrong. We need to come to the negotiating table armed with the full spectrum of possibilities – not start at the lowest offerings.

In terms of negotiations, we should be talking about powers and jurisdictions. It's your choice whether it's inside or outside their constitution, but those are possible. Maybe it can't happen without massive federal provincial and territorial legislative amendments, but there is no possible way, that one piece of federal legislation will address natural resources in the province of Manitoba. The constitutional division of powers doesn't work that way. If you think for a second, the province of Manitoba is just going to say yes and agree with the feds – that simply won't happen. Something much different is required and when I'm talking about a sharing of natural resources I am not talking about trees, fish and all of that other things horribly abused by settler governments. I'm talking about they need to share with us taxes, fees, fines, licensing, royalties, and all of the wealth that is generated on every single road, highway, bridge and ship that comes to and from our territories. Ultimately Canada's wealth is only possible because of our lands. We would be 100% independent if we had a small fraction of our wealth.

My best advice? Don't negotiate in any process that limits or defines your rights especially a treaty right. Our treaty rights exist all on their own outside the constitution. You also don't want anything that limits our rights or powers to a one-size-fits-all approach. This whole pan-Aboriginal legislation that puts Inuit and Métis in with first Nations, changes the whole dynamic. Métis people for example, don't have the same rights that First Nations do - it's just a legal fact. So, why would you put all those groups together and try to make them all the same? (Referring to slide) Also, if you oppose anything that the federal or provincial governments do, don't just tell them in a meeting, on the phone or in a text. Put your concerns and your positions in writing. Remember, the government relies on documents in courts – we need our own record. Sometimes, governments even change the record. Negotiate directly with Canada and never use a third-party specially like the AFN, MNC or the ITK that don't have any rights. Only sovereign nations should be negotiating on behalf of themselves and any prerequisite for any talks should be an influx of resources so you can be engaging with your own people. Everything you know about what's going on, your people should know too. There should be ongoing community information sessions discussions and active participation for everything. Thanks for listening and I hope you found this helpful.

¹ The author (Pam Palmater) edited the original verbatim transcript of her presentation for spelling, punctuation, grammar, and formatting (paragraphs, etc.). The core content of the presentation was not changed.

¹ This presentation was based on my research, analysis, and interpretation and constitutes fair political commentary. The content of this presentation comes from my research over the years, and can be found in my blogs, publications, presentations, workshops, media commentary and videos. This presentation should not be construed as legal advice, nor relied on as such.

¹ For more information about my work (blogs, publications, podcasts, media commentary and videos), you can refer to my website: www.pampalmater.com.

+++++

Day 3 - Workshop Presentation # 6

Wapastim Harper, Berens River First Nation, Grade 11, Escowpaysis

Reconciliation

(Verbatim)

Tanisi, Wapastim ka kosta ne ta kosit ka nee po wit Harper ñin-tin-scath. Good Morning, my name is Wapastim. My band is Berens River First Nation. I'm a 16 year old neheyo escowpaysis.

I have been asked to be here this morning to speak on RECONCILIATION and what it means to me as a youth. Reconciliation in the dictionary means *the restoration of friendly relations*.

As we are aware, the Truth and Reconciliation Commission recommendations investigated and dealt with the treatment of residential schools students and survivors. Its recommendations known as the Calls to Action were directed toward the governments concerning Indigenous peoples generally.

As a youth, I believe the reconciliation movement is a good thing because it acknowledges the damages that have been inflicted on our people, in many ways since the arrival of the Europeans due to colonial policies. The reconciliation process also recommends how to deal with these problems. The damage has been insurmountable because it continues today and impacts the youth. Nevertheless the long path toward reconciliation has started.

There has been many TRUTH AND RECONCILIATION COMMISSIONS around the world that look into the atrocities on human life. Commissions are setup to look into different kinds of conflict such as the effects of war on Indigenous Peoples or even the deliberate killing of Indigenous peoples through government policies.

In Canada the human rights violations that existed at government sponsored residential schools led to the Truth and Reconciliation Commission in 2008 to 2015. Then, the Calls to Action made recommendations to the federal, provincial, municipal governments, churches and even Indian Act bands how to change the current policies and practices in order to deal with the imminent damages on the Indigenous peoples. There are a total of 94 Calls to Action recommendations.

But to me, reconciliation means more than restoring to friendly relations or try to make amends. It also involves decolonization and to take back what's rightfully ours. We, as youth will need to do our part. Reconciliation is a two way process.

We have to deal with restoring our power and also to make the other side accountable to correct the wrongs they have caused.

Reconciliation also involves commitment by the governments. I think Truth and Reconciliation Commission made strong recommendations such as developing curriculum on residential schools, the Declaration on the Rights of Indigenous Peoples and on Treaties. Employment is also a priority for youth. Personally I would like to see recommendation 92 (11) implemented. It states: "Ensure that Aboriginal peoples have equitable access to jobs, training and education opportunities in the corporate sector and that Aboriginal communities gain long-term sustainable benefits from economic development projects." I see this benefiting our people.

As a youth, I see the Truth and Reconciliation Commission and the 94 Calls to Action has heightened recognition on the struggles of our people and that something is being done about it. How successful it may be over the years remains to be seen. I hope to see the change in my life time.

I also think Truth and Reconciliation Commission did not go far enough to address the wrongs that were inflicted on our people since European contact. I know the historical events that depopulated our people on Turtle Island for instance, the deliberate imposition of germ warfare on our people and the deliberate polices and laws that tried to eliminate our identity and our beliefs and values which are found in the Indian Act. These are events that should be looked at, recorded and stated as fact in history. If you want reconciliation this history has to be told as well and the perpetrators made accountable.

The application of the Doctrine of Discovery continues today to give legal rational for taking away our lands and the natural resources because the colonists have nothing else to rely on. The Doctrine of Discovery assumes we are unworthy of owning land because we are sub-human. I have read the *Johnson vs M'Intosh* case that legitimized the taking of Indigenous lands and legitimizing the Doctrine of Discovery and is still the leading case in law. The Truth and Reconciliation Commission, Calls to Action recommends Canada immediate rid this doctrine.

The government of Canada is big on reconciliation and one of the ways is to make room for First Nations to attain self-government as opposed to continuing under the Indian Act. I think the youth would prefer the colonial administration of our people under the Indian Act or the Indian Act band government BE DISBANDED. Being under colonial rule goes against our Treaties on independence and be self-ruling. I think we need to embrace our Treaty that lays the principles and foundation for our future.

An important part about understanding our nation, who we are and what rights we have is understanding our Treaties. Promoting inherent and treaty rights in schools, in offices or any workplace will embrace the idea of reconciliation. Also knowing the sacredness and taking care of the land will preserve our traditions , customs and ceremonies,

But more importantly, I believe reconciliation can also restore balance in our communities and live by the traditional teachings of our grandfathers and grandmothers of equality, love, respect and honesty. I realize that there is a lot of history to learn on the impacts of colonialism and reconciliation not just with the Indigenous Peoples here in Canada but around the Indigenous Peoples of the world.

To me, reconciliation is a process that involves equal commitment by both nations. Reconciliation is about being able to understand one another, to be able to sit down and not just listen but feel that hope for a brighter future.

As I stated before, I strongly believe that the *Calls to Action* is one of the key foundations in which reconciliation can move forward. Whether it be recommendation 48; which calls upon church parties or faith groups to formally comply to the united nations declaration on Indigenous rights as a framework for reconciliation or recommendation 53; that calls upon parliament to create a national reconciliation council.

As Indigenous youth, we need to do our part in decolonization and reconciliation; to be part of the empowerment process; eliminating discrimination and rebuilding our institutions based on our values, our traditions, and our ways. These concepts can be implemented in our communities, schools and at .

In order to continue on the path of reconciliation, history also cannot be ignored because the past affects the present. To deny and not recognize the true history of our nations will only distort our path and will in turn corrupt our future.

As a youth, I have dedicated myself to the challenges that face all of us. For example, the lack of education on our histories, our beliefs, customs and on the topic of reconciliation in our schools a fact that cannot be overlooked. I cherish the idea of a place where all people live as one, in peace and harmony, just like Creator intended. It is an idea that we should all hope to live for and achieve.

I want to thank you for listening and thank you for including me in this very important occasion to talk about what reconciliation means to me.

++++++

Resource Materials

Story about Treaty 5, 1875, “The Winnipeg Treaty”

It is important to understand that the “numbered treaties” did not just appear out of thin air.

First, we have the Royal Proclamation of 1763, made after Pontiac’s war had threatened to drive the British back in to the Atlantic Ocean, and had already burned several of the British Forts. King George III apologized for the great frauds and abuses which had taken place, and set up a strict regime ordering that any British subjects who were on unsundered Indian lands should remove themselves immediately. All Treaties or land transactions would be directly with the Crown, not with colonial governors. And all unsundered lands were to be “lands reserved for the Indians” until a treaty had been made and arrangements made for the purchase of the lands by the Crown. The King’s offer was accepted at the Treaty of Niagara in 1764, and the Two Row Wampum and the Covenant Chain of Friendship were set in place.

So when we fast forward to the early 1860, 15 years before Treaty 5 was signed, “Fathers of Confederation” from Nova Scotia, New Brunswick and other British colonies were in discussions with Queen Victoria about Confederation, the talks turned to Rupert’s Land that extends from southern Ontario all the way to the Rocky Mountains, from the United States border north to the North Pole. The Canadians wanted the Queen to give them that entire territory to be able to connect Upper Canada with British Columbia. “Sorry,” the Queen told them, apparently recalling the Royal Proclamation. “I don’t own those lands. You will have to enter into Treaties with the Indians.”

And so a series of elaborate addresses, new laws in both England and Canada, and strict Royal Orders were set into motion by Confederation in 1867. In the *Rupert’s Land Orders*, it provides that the only purpose for the Rupert’s Land involved was “immigration and settlement.” Lands not taken up for immigration and settlement were to remain “reserved for the Indians.” No provision is made for natural resources. The Treaties were to have been made “under the Crown’s supervision,” just and equitable compensation was to be paid by the Government of Canada for the use of lands. Remembering the Constitution of Canada, 1982, states that any law of Canada which is contradictory to the *Rupert’s Land Orders* “is of no force and effect.”

The Treaties are not made with Canada, but rather with the Queen. The Queen’s involvement was necessary because Canada, as a colony, had no authority to enter into Treaties.

Treaty 5 is known as “the Winnipeg Treaty.” It was entered into in 1875 at Berens River and Norway House by the Queen of Great Britain and Ireland and the Ojibway and Swampy Cree people of Lake Winnipeg. Additional adhesions to the Treaty were entered into in 1876. Through the Treaty, the Queen received the right to take up certain lands for immigration and settlement with the condition that the Canadian Government would pay compensation for their use.

These were tough times. The Indigenous peoples who had depended upon the fur trade found a dramatic decrease in their well-being. There were fewer animals and lower prices. Unlike the southern Indigenous peoples, agriculture was not a viable option. There was starvation around the Hudson Bay Company Post at Norway House. Smallpox continued to ravage entire villages. European settlers were starting to move into the territory.

To understand the Treaty, we also have to understand the historical situation as it was in the 1860’s. What is now Treaty 5 territory did not have much settlement, but non-Indigenous political leaders of the day wanted to acquire the lands around Lake Winnipeg for resource extraction, and to have a secure transportation route to the West. So, in 1875, the government appointed Lieutenant Governor Alexander Morris and a well-known multi-lingual Metis trader, James McKay, as Royal Commissioners to handle arrangements for Treaty 5. McKay has been described as “thoroughly understanding, of Indian character, he possessed large influence over Indian tribes, which he always used for the benefit and the advantage of the Government.”

Decisions made were that they would offer less favorable terms to Treaty 5 than had been set out in earlier Treaties. The rationale was that the lands in the northern region which included what is now Treaty 5 were not as valuable as the agricultural lands in Treaty 3 and 4 territories. They would offer to set up reserves of only 160 acres per family of five, rather than the 640 acres in Treaties 3 and 4. A gift of only \$5 would be offered instead of the \$12 in the earlier Treaties. The Treaty states that the Indigenous peoples would give the Queen’s people free navigation of all lakes and rivers and free access to the shores. Otherwise, Treaty 5 would be similar to the earlier Treaties – there was little room for negotiation. And, as had been the case of Treaties 1-4, the Government’s conduct indicated it had no intentions of following the Orders of Queen Victoria on fair and equitable compensation in Treaty 5.

So this was the background and setup when Commissioners Morris and McKay set sail from the mouth of the Red River in the Hudson Bay Company’s new propeller-driven steamer, the *Colville*. After having to wait two days for northerly winds to stop, they sailed north to Berens River, arriving at 9:00am, 20th of September 1875. The Treaty meeting took place at the Wesleyan Mission school house near Berens River Hudson’s Bay Post. It started at 4:00pm, and adjourned

at 11:00pm. According to the text of the Treaty, in those seven hours, the Treaty was agreed to, and the Chief and headmen had signed the document. It took until 1:00am for everyone to receive their \$5, all recorded on a pay list. The \$5, incidentally, was not intended to be payment for the lands – rather it was “a gift from the bountiful benevolence” of the Queen.

It was all done in that afternoon and evening. “Here’s your Treaty. Sign here.” (Not all of the people of the area were present – other Commissioners had to come back the following year with the rest of the Treaty money.)

If the Treaty would be interpreted as the government interprets it, the people had just ceded, released, surrendered and yielded up forever all their lands, lakes, rivers, streams – their entire livelihood, their children’s entire heritage. This is not the case according to the Indigenous Peoples. Lands not taken up for immigration and settlement were to remain “reserved for the Indians.”

At Berens River the task was finished, the Commissioners set out the following morning for Norway House, 189km north along the east coast of the Lake via the Nelson River. Again, there were strong winds, and they had to remain at anchor all day, setting sail at midnight. At 9:00am the next morning, 24th of September, they passed the old abandoned Norway House post and went on to the new post at 3:00pm. There they met in a large warehouse of the Hudson’s Bay Company with two groups of Cree. One group had converted to Christianity. The second group, known as “the Wood Band,” had not converted (except for their Chief, Tapastanum, also known as Donald William Sinclair, who had recently been baptized).

The Commissioners’ strategy was to talk first about the terms of the Treaty. Everything was translated by James McKay. After they set out the terms, they talked about reserves. The Christian group was told that a reserve would be established for them at Fisher River in Treaty 2 Territory to the south. The non-Christian people would get their reserve on the westside of Cross Lake on Otter Island. There was more talk, the Treaty was finally signed, the medals and uniforms presented, and the payments made. The Chiefs then “thanked Her Majesty and her officers for their kindness to the Indian people.” The whole affair ended the same day it had begun.

Then the Commissioners headed toward Grand Rapids on the Saskatchewan River, 130km southwest across the Lake. That Treaty meeting took place on 27th of September in open air on a cold morning. A large fire had been built. The Commissioners used the same strategy that had worked so well for them at Norway House. But there was an additional problem with the reserve’s location. The village was on the north side of the river, and the Commissioners wanted it to be moved to the south side. The community demanded \$500 to cover the cost

of moving and rebuilding. The Commissioners agreed to pay that amount the following year. (The following year when other Commissioners went back to pay the \$500, the Chief of Grand Rapids was surprised – he thought the negotiations were still going on and that the discussions about entering Treaty were still continuing.)

Nonetheless, their work done, the Commissioners headed back to the Red River Settlement. On the way, they encountered Thickfoot, a spokesperson of the Jack Head Point people, along with others from Big Island, Black Island, Wapang and other islands in the area. They told the commissioners they had heard about the Treaty, and wanted to be included. They also requested a land parcel along the main shore, where they could farm and fish. Thickfoot demanded that the Commissioners appoint him as Chief. They did, over the objections of the people involved. Everyone was told to meet with the Commissioners at Dog Head Point next summer to select a reserve.

Eight days, four Treaty meetings, 400 km of travel on the waters after the first meeting, and it was a done deal.

But the Commissioners continued tinkering with the Treaty. Without even consultation of the Indigenous peoples involved, the Commissioners decided to alter the western boundaries of the Treaty, so as to go all the way west to include the Swampy Cree at The Pas settlement on the Saskatchewan River. Thus the boundaries were altered without worrying about obtaining consent – the Commissioners recommended that those after-the-fact discussions would take place the following summer.

Then the Commissioners headed for home in the Red River Settlement. Their diaries recorded that they thought everything had gone well. They boasted of adding Canada's territory 258,989 square km of lands, waters and resources. The area ran from the east shore of Lake Winnipeg all the way to the west of Cumberland House in Saskatchewan, and as far north as Split Lake. The fine points would get settled the following year, when other Commissioners would get the X's on paper from any communities which had not yet signed onto the document.

Some historians are of the view that in their rush, the Commissioners were so eager to get agreement to the Treaty that they had failed to discuss what the Commissioners thought the Treaty meant. In addition, the Commissioners had limited time to have discussions, to fully set out what the Treaty was all about. Other historians note that there was no need to have discussions – the terms of the Treaties had been decided even though they were not in writing, and what the Treaty meant was never explained. They saw their job as getting in, talking for a bit, assuming that the taking of the money offered meant acceptance of the Treaty,

and then going on to the next site. There never were any “negotiations.” The two cultures came from different worlds and neither spoke the language of the other. The Commissioners decided who would be recognized as the people’s leaders. The whole scene was ripe for confusion and misunderstanding.

As historian Frank Tough points out, the government was interested in engaging in the Treaty process only when it was convenient. It considered solely its own needs, and not any concern for the economic conditions of the Indigenous peoples or their needs.

As Canada’s Minister of the Interior put it, “It was essential that the Indian title to all the territory in the vicinity of the Lake should be extinguished so that settlers and traders might have undisturbed access to its waters, shores, islands, inlets and tributary streams.”

There are some interesting things to note in the Treaty. First, today’s discussion about the *UN Declaration on the Rights of Indigenous Peoples* and its article for the First Nations to give their free, prior and informed consent for any use of their lands, in the numbered Treaties, “Her Majesty” wished “to obtain the consent” of the Indians to open up lands for settlement and immigration. On previous occasions, where “the Indians” had refused consent, the Treaty Commissioners had no choice but to move on.

The purpose of the Treaty, the Treaty itself says, “so that there may be peace and good will between them and Her Majesty.” The fact that the results of the Government’s interpretation of the Treaty has resulted in considerable conflict and loss of good will means that something has gone wrong with the fulfilment of the Treaty. It will be the duty of this generation of the Indigenous Nations of Treaty 5 Territory and the people of Her Majesty the Queen to meet to polish the Covenant Chain of Friendship to remove the century and a half of “tarnish and rust” and to restore its strength once again.

GLOSSARY

Cultural Assimilation is a process in which a group or culture voluntarily or involuntarily assumes the values, behaviours, beliefs, and culture of a dominant group and begins to resemble those of a dominant group, sometimes so as to receive certain benefits or privileges or acceptance. Canada's policies were designed and intended to achieve this objective.

Colonialism is a process and condition whereby one nation which results in taking control over the governance of another nation so as to have access to resources and labour. Sometimes conversion to the colonizer's religious beliefs is part of the objective and is sometimes described as a benefit given in exchange for resources taken. The colonizer may abandon the colonizing enterprise when colonizing is no longer profitable. The colonizers are present temporarily, and then return to their own homeland.

Settler Colonialism is a special type of colonizing which is the permanent relocation of large numbers of "settlers" to take over lands as well as resources. The settlers gradually see themselves as the legitimate owners of the lands and see the colonized people as a burden.

Doctrine of Discovery is a belief which is applied to justifying an action.. The Doctrine of Discovery originates from a series of formal decrees or statements made by the Pope in the 1400s called *the Papal Bulls*. In Canada, the application of the Doctrine of Discover is hidden by the use of terms such as "point of first contact" or "date of assertion of sovereignty" In either case, the terminology is used as justification for the assumption and control over another people, their sovereignty, lands and resources and other dispossessions.

First Nation is a term that came into use in Canada with the formation of the reformation of the National Indian Brotherhood as the "Assembly of First Nations" – the ejection of status as a "band" pursuant to the Indian Act.

The Indian Act was proclaimed shortly after Confederation of Canada as "An Act for the Gradual Civilization of the Indians", meaning a declaration that Indians were incompetent to manage their affairs in Canadian Society, and required the Government of Canada to take over management of their affairs. Provisions of the Act provided for a process of "enfranchisement" in which an Indian male could prove that he had become "civilized", and after a probationary period, would legally become a Canadian. Still today, 2019, the *Indian Act* is the principal legislation through which the federal government administers "Indian Bands". The Chief and Council selected pursuant to the Act. They are accountable to the Minister of Indian Affairs for any federal monies provided to them. Through the Indian Act, "the band" is given delegated authority to administer specified aspects of their affairs as prescribed by the *Indian Act*, such

as the hours in which pool halls can be open, the maintenance of roads and ditches, etc.

Indian Residential Schools were government sponsored religious schools established under Canada's assimilation policy and legislation, namely the Indian Act. The purpose of the Residential Schools was to educate and assimilate Indigenous children into European culture. The last federally operated residential school closed in 1990.

Indian Status is a commonly used term but has no legal basis. The Indian Act sets out the rules for determining whether a person is a person who is entitled to have his name appear in the "Indian Registry" maintained by a "Registrar" pursuant to the rules set out in the Act. Such a person is commonly referred to as having "Indian status". Such persons are given an identification card which is commonly referred to as a "status card". Note that there is no such thing legally as a "Treaty Card". "Treaty Indians": and "Status Indians" all receive the same card.

Inherent rights are God-given rights. They are inalienable rights that cannot be taken away. Inherent rights, among other things, refers to the right to self-government, a right to land and resources and a right to practice one's spiritual beliefs and customs and much more.

Institution Building: refers to building an establishment that is essential to the functioning and well-being of a community. Some examples are, a university, child welfare agency, policing services, hospital, bank etc.

Nation is an aggregate of people united by common descent, history, culture, or language, inhabiting a particular territory. The Royal Commission on Aboriginal Peoples defined Indigenous Nations as a sizable body of Indigenous Peoples with a shared language, history, geography, and sense of national identity that constitutes the predominant population in a certain territory or collection of territories. It said there were 60-80 such nations in Canada. Today Canada describes "a nation" as consisting of more than one "First Nation".

Natural Resources Transfer Act (NRTA) of Manitoba is one of three Acts – one for each of the "Prairie Provinces", and Canada in which the Federal Government transferred control of "federal Crown lands" to become "Provincial Crown lands." The transfer was subject to "any underlying Trusts. NRTA also required the provinces to transfer lands back to Canada to satisfy outstanding claims by First Nations (TLE).

Own Source Revenue (OSR) is revenue that a First Nation Band raises by generating business, collecting taxes, resource revenues and other income. OSR is generally spent at the discretion of the First Nations, however, Canada has a National Policy requiring First Nation to spend OSR on essential services. This is

particularly true under self-government arrangements. “Taxation” is seen by government as a source of revenue. The expectation was and perhaps is that all “bands” would have sufficient OSR that federal monies would no longer be necessary.

Reconciliation, as the word is applied to “Indigenous peoples”, is a noun, a verb, a process, a condition. Reconciliation, in the context of the Truth and Reconciliation Commission is a process that redresses the wrongs that were inflicted on Indigenous Peoples by Canada's policies, in particular, the Residential School System. The Truth and Reconciliation Commission through the 94 Calls to Action (recommendations) recommended to the federal, provincial, territorial and municipal governments, churches, the business community and society in general how they may reconcile these wrongs. Among the phrases often applied to “reconciliation” is “mutual understanding. The Truth and Reconciliation Commission saw it as “first you reveal the truth”, and that “will lead to build a shared future together” The Supreme Court of Canada in *Haida* said that what was to be reconciled was the two “sovereignties” -- the pre-existing sovereignty of the Indigenous peoples by virtue of their prior occupation and the “assumed sovereignty of the Crown.”

Royal Commission on Aboriginal Peoples (RCAP) was established in 1991 after the armed confrontation of Oka, After five years of hearings, it published the Commission's Report on the historical and contemporary issues of Indigenous Peoples and the relations with non-Indigenous people. It acknowledged the Right to Self-government under section 35 of the Constitution of Canada. Among other things, they also recommended a new Royal Proclamation recognizing Indigenous Rights.

Royal Proclamation of 1763 was proclaimed by King George III in 1763 to prevent the “Great Frauds and abuses” which had taken place. He said that any lands for which consent had not been provided and compensation paid were “lands reserved for the Indians”. He set out the proper process of treaty-making for a Treaty to be entered into with the Royal Crown. The Royal Proclamation also gave recognition to First Nations Sovereignty, Self-government and ownership of lands. The offer of King George was ratified by the Indigenous nations at Niagara in 1764, including the restoration of the Two Row Wampum and the Silver Covenant Chain of Friendship.

Self Determination is a term most popular in the international fora/forum in describing the rights a colonized people to determine their own future and to freely pursue their economic, social, and cultural development. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) defines the rights associated with self-determination.

Self-Government is a formal governing structure through which Indigenous peoples have full jurisdiction and control over the administration of their people, land, resources and related programs and policies.

Socio-Economic Disparity or Deficit relates to economic inequality, particularly when this inequality causes inferior living standards, education or results in health problems. The socio-economic gap that exists between First Nations and the rest of Canada also relate to the discriminatory laws, policies and practises of the governments in restricting First Nations in economic development.

Sovereignty in European terms refers to a nation which is independent and governs itself. In the terminology of many Indigenous peoples, sovereignty can also be exercised by individuals, families, clans and communities. The term is often involved in discussions on the effects of Treaties and whether the Indigenous party had sovereignty in entering Treaty, and whether that sovereignty was diminished by entering into Treaty. The Indigenous view is generally that the First Nations people neither surrendered nor lost. The Royal Proclamation of 1763 recognized First Nation Sovereignty. Sovereignty refers to having a full right and power to govern without interference from outside sources. It's a term describing and designating supreme authority over some one's nation.

Treaty Land Entitlement (TLE): is a term commonly used to describe the process to resolve the specific land claim. First Nations who did not receive all the land under the terms of the Treaties are entitled to be compensated. TLE settlement agreements are negotiated between First Nations and the Government of Canada, typically with the participation of provincial governments. The Natural Resources Transfer Agreement under section 11 in Manitoba and section 10 in Saskatchewan provides for the provinces to set aside lands so Canada can fulfil its obligations under Treaty.

Truth and Reconciliation Commission of Canada (TRCC) is a commission established by Canada to look into the abuses at residential school. In order to redress the not-so-good legacy of residential schools and advance the process of reconciliation, the TRCC made 94 Calls to Action in many areas such as child welfare, education, language and culture, health, justice and so on. The TRCC was headed by Justice Murray Sinclair, now "Senator Murray Sinclair.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a document that outlines the rights of Indigenous Peoples of the world. It was officially adopted by the *United Nations General Assembly* on September 13, 2007 except by Australia, Canada, New Zealand and the United States. UNDRIP confirms, among other things, Indigenous right to self-determination, Indigenous land rights the recognition and implementation of Treaty Rights, the right to establish Indigenous institutions. In 2016, Canada recognized and adopted UNDRIP without qualification.