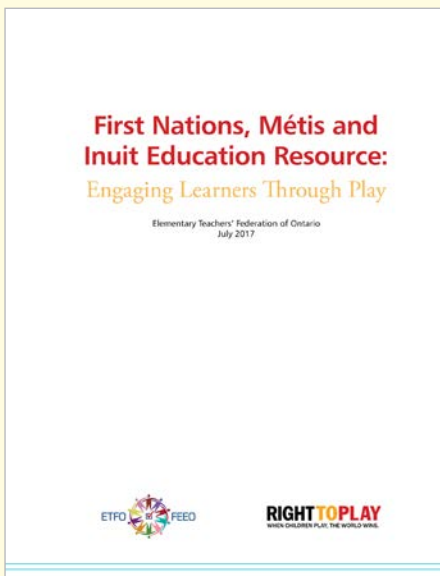


WHAT ARE TREATIES?

Treaties are formal agreements between two separate nations. These agreements include promises of peace and friendship, land cessions and other benefits for both parties. Initially, the intention of this process was said to be the development of diplomatic relationships between the Indigenous Peoples and European settlers.



Excerpted from *First Nations, Métis and Inuit Education Resource: Engaging Learners Through Play*

The Elementary Teachers' Federation of Ontario and Right to Play Canada Partnered and created First Nations, Métis and Inuit Education Resource: Engaging Learners Through Play. It is intended to support elementary public school educators in their pursuit of learning about Indigenous Peoples in Canada to inform their instructional practice.

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“The Government of Canada and the courts understand treaties between the Crown and Aboriginal people to be solemn agreements that set out promises, obligations and benefits for both parties.

Starting in 1701, in what was to eventually become Canada, the British Crown entered into solemn treaties to encourage peaceful relations between First Nations and non-Aboriginal people. Over the next several centuries, treaties were signed to define, among other things, the respective rights of Aboriginal people and governments to use and enjoy lands that Aboriginal people traditionally occupied.

Treaties include historic treaties made between 1701 and 1923 and modern-day treaties known as comprehensive land claim settlements.

Treaty rights already in existence in 1982 (the year the Constitution Act was passed) those that came afterwards, are recognized and affirmed by Canada’s Constitution.”

(Government of Canada, 2015).

One of the earliest treaties is the *Two Row Wampum Treaty Belt* of 1613, negotiated between the Haudenosaunee (People of the Longhouse) and the Dutch.

This belt symbolizes the agreement and conditions under which the Iroquois welcomed the white peoples to this land. “You say that you are our Father and I am your son.” We say, “We will not be like Father and Son, but like Brothers.” This wampum belt confirms our words. These two rows will symbolize two paths or two vessels, travelling down the same river together. One, a birch bark canoe, will be for the Indian People, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs and their ways. We shall each travel the river [of life] together, side by side, but in our own boat. Neither of us will make compulsory laws or interfere in the internal affairs of the other. Neither of us will try to steer the other’s vessel

(Tehanetorens, 1993).

Starting in 1701, in what was to eventually become Canada, the British Crown entered into treaties with various First Nations and Inuit. Over the next several centuries, historic treaties were signed to define the respective rights of Indigenous Peoples and governments to use the lands that Indigenous Peoples traditionally occupied.

The Royal Proclamation of 1763 was a treaty that prohibited the purchase of First Nations lands by any party other than the Crown. The Crown could purchase land from a First Nations group that had agreed to the sale at a public meeting of the group.



Between 1725 and 1779, the British made a series of “Peace and Friendship” treaties with the Mi’kmaq and Maliseet Nations. The Upper Canada Treaties (1764-1862) involved the surrender of interests in lands by First Nations in Ontario. The Vancouver Island Treaties (1850-1854) involved the surrender of interests in lands by First Nations in British Columbia.

The historic *British-Inuit Treaty* of 1765 concluded only after one week of talks. The treaty was negotiated to ensure a relationship of “peace and friendship” between the Inuit and the British and to help support British interests against encroachment from American colonials and France. The treaty between the British and Inuit guaranteed that Inuit would have the protection of the British Crown and have *Treaty Rights*, including those of self-government, harvesting rights and natural resources and trade rights (NunatuKavut, 2013).

After Confederation, between 1871 and 1921, the Crown entered into treaties with various First Nations that enabled the Canadian government to actively pursue resource development, settlement and agriculture in areas of the Canadian West and North. These

treaties are referred to as the *Numbered Treaties* because they are numbered between 1 and 11. Under these treaties, the First Nations gave up large areas of land in exchange for such things as reserve lands, farm equipment, animals, annual payments, ammunition, clothing and certain rights to hunt and fish. The Crown also promised to maintain schools located on reserve.

Indigenous Peoples respect, value and honour the spoken word and oral negotiations. Some of these contracts were discussed and negotiated orally. Despite having translators during negotiations, Indigenous Peoples and the Europeans still faced significant language barriers that may have affected their understanding of the terms of these oral agreements. In fact, each had a different understanding of the concept of treaty. For Indigenous Peoples, a treaty was about sharing the land and for Europeans, it was a legal way to take over the land and own it (Canada’s First Peoples, 2007).

Recently, there was new information revealed about the negotiations that took place in 1905 with Treaty 9. In a 2014 interview with CBC, renowned Indigenous filmmaker Alanis Obomsawin talks of the research for her documentary, *Trick or Treaty*. Obomsawin notes:

“The Treaty says that it’s written on paper – that the people give up their land and the government becomes the people who can make regulations and say you cannot hunt or fish at this time of year. On the paper, it says that they surrender all their lands, all their rights in perpetuity forever to the King and its descendants. That’s not what they were told. Of course, those people could not speak English. Supposedly, it was explained what was written on the actual document but that’s not what they were told at all. They said things to get them to sign... They were promised they could hunt and fish as usual as always. Twenty-five years later they learned that what was written on the paper was very different. A few years ago, a student who was doing research and by chance found a diary of one of the commissioners, MacMartin, who was representing the province of Ontario. He was writing in his diary of everything that was happening every day. There was another proof and he says that the way that it was explained was not at all that was written. I realized how unjust this was to tricking the people into signing something that was not at all what they were told” (CBC Player, 2014).



“COMPREHENSIVE LAND CLAIMS ARE BASED ON THE ASSERTION OF CONTINUING ABORIGINAL RIGHTS AND CLAIMS TO LAND THAT HAVE NOT BEEN DEALT WITH BY A TREATY. THESE CLAIMS ADDRESS CONCERNS ABOUT WHO HAS THE LEGAL RIGHT TO OWN OR USE THE LANDS AND THE RESOURCES IN AREAS UNDER CLAIM. SPECIFIC LAND CLAIMS RELATE TO THE HISTORY OF CANADA’S RELATIONS WITH FIRST NATIONS AND DEAL MAINLY WITH LAND OR ASSETS OF INDIGENOUS PEOPLES. LAND CLAIMS ARE THE RESULT OF THE FAILURE OF THE GOVERNMENT OF CANADA TO HONOUR ITS LEGAL OBLIGATIONS IN TREATIES.”

The diary of Treaty Commissioner Daniel George MacMartin (1844-1923) sheds new light on what was actually negotiated – and what was not. *Trick or Treaty* is an informative film that provides insight into perspectives and oral testimonies. The agreements that were made between distinct nations with Canada do not have an expiry date and are living legal documents that bind us in our relationship. The obligations and agreements that were made between these nations is an important part of history that all learners in Canada should be informed about.

MODERN LAND CLAIMS AGREEMENT

Modern treaties are known as comprehensive land claim settlements. *Treaty Rights* already in existence at the time of the *1982 Constitution Act* and rights that came after this date are recognized and affirmed by Canada’s *Constitution*. Modern treaties address parks and conservation, access to natural resources, economic development, harvesting, fish and wildlife and much more. The Government of Canada negotiates two types of land claims with Indigenous groups: comprehensive land claims and specific land claims.

Section 35 of the *Constitution Act*, recognizes and affirms *Aboriginal* and *Treaty Rights* that now exist or that may be acquired by way of land claim agreements. Comprehensive land

claims are based on the assertion of continuing Aboriginal rights and claims to land that have not been dealt with by a treaty. These claims address concerns about who has the legal right to own or use the lands and the resources in areas under claim. Specific land claims relate to the history of Canada’s relations with First Nations and deal mainly with land or assets of Indigenous Peoples. Land claims are the result of the failure of the Government of Canada to honour its legal obligations in treaties. Land claims can be initiated on the basis of four issues: non-fulfillment of a treaty or other agreement between First Nations and the Crown; a breach of an *Indian Act* or other statutory responsibility; a breach of an obligation arising out of government administration of First Nations funds or other assets; and an illegal sale or other disposition of First Nations land by government.

The *Land Claims Agreements Coalition* includes 26 modern land claims agreements between 1975 and 2016. These include: *James Bay and Northern Quebec* (1975), *Inuvialuit Final Agreement* (1984), *Nunavut Land Claim Agreement* (1993), *Gwich’in Comprehensive Land Claim Agreement* (1993), *Nisga’s Final Agreement* (2000) and *Tla’amin Final Agreement* (2016), to name but a few.



When the Inuit of Nunavut signed the *Nunavut Land Claim Agreement (NLCA)* with Canada in 1993, certainty in land ownership was obtained. The Inuit of Nunavut became the largest Indigenous landowners in the world. The NLCA paved the way for the creation of the territory of Nunavut in 1999.

The country of Canada is shaped by its history of relationships and agreements, captured orally or through traditional practices, with Indigenous Peoples. For many years, the education system did not include any or sufficient information about treaties and the legal obligations that tie us together as *Treaty People*. You are encouraged to continue your learning about this history and infuse your learning and new knowledge into your instructional practice.

To learn more about treaties and land claim agreements, visit the Indigenous and Northern Affairs Canada website at www.ainc-inac.gc.ca. There is also a detailed timeline of treaties and a series of maps illustrating the historical evolution of Canada through treaty making between 1867 and 1999. A good resource on treaties and land claims can be found at www.firstpeoplesofcanada.com.

READY, SET, PLAY: BODY PICTURES

KEY LEARNING

- Co-operative and communicative skills that connect to experiences during the formation of treaties.

WHAT YOU NEED

- No special equipment is required.

INSTRUCTIONS

1. Explain and demonstrate:
 - You will select a simple word that represents different concepts related to the formation of treaties (for example, “negotiation,” “power,” “agreement,” etc.).
 - Each group is to use their bodies to create a tableau that represents that word.
2. Remind students that everyone in the group must be included and that they can be creative in developing their group tableau.
3. Give students a few minutes to think about their word and create a tableau that involves everyone in their group.

4. Once all groups are ready, ask the students to present their tableau one at a time.
5. The remaining students can guess what each tableau represents or the presenting group can explain their word and what their tableau displays.

DISCUSSION

Reflect

- What do you like about working in groups?
- What were some of the difficulties (hard parts) when working with each other?

Connect

- What types of difficulties might Indigenous Peoples have encountered when treaties were negotiated?
- What do you think was helpful to the government when negotiating treaties?

Apply

- How do you think the government can be better at honouring the treaties?