



Creative Sovereignties and Fiscal Relations

How 'A New Fiscal Relationship' Between Canada and First Nations Might Take Treaty 6 Seriously

L. JAVED SOMMERS

Independent Scholar, Canada

Abstract

This article contributes to conversations about creative sovereignties by exploring what truly 'nation-to-nation' fiscal relationships might look like between Canada and Treaty 6 First Nations if Treaty 6 were taken seriously. Since fiscal relations between Indigenous peoples and settler colonial states often perpetuate colonial sovereignty, reimagining fiscal relations in a historical treaty context offers creative opportunities for decolonization. The article first examines the history of the 1876 Treaty 6 and the relationships Treaty 6 created. It is established that Treaty 6 created nation-to-nation relationships that were based on the desire for mutually beneficial relations in a shared space, and that treaty included fiscal obligations for Canada. Since 1876, including today, fiscal relations between Canada and First Nations have generally been inconsistent with the spirit and intent of treaty. The article proceeds to offer examples of changes that could be made to create fiscal relationships consistent with treaty. Some of these recommendations are relatively pragmatic and would come at little political, fiscal, or constitutional cost to Canada, while others are more dramatic, and would involve a fundamental reshaping of Canada as we know it.

Keywords: Treaty 6, Canada-First Nations relationships, fiscal relations, funding agreements

In 2019 I completed my Master of Arts degree at the Faculty of Native Studies, University of Alberta, exploring the topic of fiscal relations between Canada and Treaty 6 First Nations in Alberta: historically; contemporaneously; and what, optimistically, they might look like in the future. I am merely a ‘part-time’ academic, and my interest in this topic stems from my professional engagement with the contemporary realities of these fiscal relationships on a day-to-day basis as a bureaucrat working for what-is-now-known as Indigenous Services Canada (ISC), the federal government department primarily responsible for relations with Indigenous peoples.¹ All of us, settler or Indigenous, working in or otherwise familiar with this space have little doubt that these relationships as currently structured are flawed—that is the easy part. The more challenging piece is to imagine what they might look like. It is this—imagining the optimistic future—that fits nicely into conversations about creative sovereignties.

In many ways, one of the shortcomings of fiscal relationships between Canada and Treaty 6 First Nations, historically and currently, is a *lack of creativity* (at least on the settler side) when it comes to envisioning relationships outside of the narrow, colonial, paternalistic, bureaucratic ‘box’ imposed by the Canadian state, the *Indian Act*, jurisdictional and constitutional ‘realities’ of federalism, and so on: ‘the implementation of the treaties requires a commitment to envisioning a fundamentally alternate form of relationship, one which evidently lies outside of Canada’s current political imaginary’ (Starblanket and Dallas 2020, p. 6). In contrast, Treaty 6 (and most historical treaties), not only stems from a more creative, less restrictive way of understanding settler-Indigenous relationships, but also, even today, nearly 150 years later, offers us creative possibilities: Treaty 6 (and treaties in general, historical and modern) should be seen as an opportunity to *recreate* Canada

and relationships between Canada and First Nations in a nation-to-nation, mutually beneficial way. Settlers—whether academics, bureaucrats, politicians, and so on—need to take responsibility for doing this creative work in all the various forms it will take. We, collectively, have set up these colonial systems, and we must work to tear them down and build anew. It is in this spirit that my article is particularly addressed to fellow settlers.

On the surface, the significance of funding and fiscal relationships appears obvious: in Canada today, money is essential for First Nations governments to hire employees to deliver services, fund transfers to individual recipients, pay contractors and consultants to design, build, and study, and so on—and generally most of that money takes the form of fiscal transfers from the Government of Canada. Those functions of fiscal relations are clearly important, materially and otherwise; but Shiri Pasternak goes further, commenting that:

fiscal relations have long played a key role in the disciplinary management of Indigenous populations, particularly since the institutionalization of individual welfare distributions on reserve and formalized “contribution agreements” from the federal government to band councils. Although it remains a relatively unexamined technique of governance, the use of government transfer funds increasingly forms part of a core strategy to consolidate state control over Indigenous peoples in Canada. (2017, p. 191)

Or, more bluntly: ‘Fiscal relations between the state and Indigenous peoples in Canada are a matter of life and death’ (Pasternak, 2016, p. 318). If Pasternak is right, and I believe she is, then if ‘government transfer funds’ were to be made within a context of fiscal relationships consistent with Treaty 6, ‘state control’ over First Nations would necessarily be eroded (if not eliminated). In other words, my contention is that fiscal relationships are not only significant on the surface level of material livelihood, but that they can and do impact the larger, existential relationship between Canada and First Nations as well (Neu & Therrien 2003; Starblanket & Hunt 2020; Willmott 2020).

In this article, I will present some of my research² as a contribution to imagining an optimistic, creative future that respects both settler and Indigenous sovereignties, rooted in the creative possibilities Treaty 6 represents.

Necessarily, I will begin by presenting my research on the history of the relationships Treaty 6 created, since it is only with a good understanding of that foundation that imagining the future can be relevant. I will also briefly comment on the current state of these relationships, before presenting suggestions for changes. This research and my suggestions should, of course, be of use to those professionally or academically interested in the specific focus of my research, but I believe it has wider applicability to anyone—from university students to bureaucrats to academics—who are thinking about new ways Indigenous peoples and settler-colonial governments around the world might relate, and particularly how fiscal relations between them might be improved.

The History of Treaty 6

Nation-to-nation relationships in what-is-now Treaty 6 territory began long before the Treaty 6 negotiations—with Cree, Blackfoot, Stoney, Dene, Metis, and even the Hudson's Bay Company sharing this territory (Dion 1993; Erasmus 1999; Ward 1995). Relying on both primary and secondary written sources (Binnema 2001; Carter 1999; Craft 2013; Jobin 2013; Mandelbaum n.d., 1979; Milloy 1988; Treaty 7 Elders and Tribal Council 1996), I conclude that prior to Canada's arrival here in the 1870s, First Nations were sovereign nations living together in a shared space with negotiated jurisdictional and geographical boundaries, engaging in political and economic relations, and resolving inevitable conflicts bilaterally, sometimes diplomatically and sometimes violently, as equals. This was the context into which Canada came in the 1870s to negotiate Treaty 6 and the other numbered treaties.

Numbered treaty negotiations began almost immediately following Canada's 'purchase' from the Hudson's Bay Company of Rupert's Land and the Northwest Territory in 1870. Despite the legality of Canada's purchase of this territory from a British and Canadian perspective (Tough 1992), this land was not, of course, *de facto* Canada's, any more than it had been the Hudson Bay Company's, and Canada's negotiation of treaties was an implicit acknowledgement of this fact (Craft 2013). In other words, whatever *de jure* sovereignty Canada believed itself to have, Canada recognized that it was only through treaties that the west could be opened to settlers.

In 1876, Treaty 6 negotiations took place at Fort Carlton and Fort Pitt (in contemporary Saskatchewan), and additional First Nations (including many around Fort Edmonton) adhered in 1877 and later. While primarily a treaty with Cree First Nations, Treaty 6 is also adhered to by Saulteaux/Ojibwe, Assiniboine/Stoney, and Dene First Nations—all of which seem to have been represented at Forts Carlton and Pitt (Erasmus 1999; Ray, Miller, Tough 2000).

Despite the desire of both Canada and most of the First Nations chiefs to negotiate a treaty, successful negotiations were far from certain (Ray, Miller, Tough 2000). These were genuine negotiations—the First Nations were not simply going to accept the terms lead negotiator Lieutenant-Governor Alexander Morris came with, and Morris was not going to simply concede whatever the First Nations demanded (Jobin 2018). The negotiating chiefs were aware of the terms of prior numbered treaties (especially Treaty 4 [Ray, Miller, Tough 2000]) and expected to improve upon them, just as Morris was careful to not promise too much. So, for example, the chiefs insisted on provision of food, which, according to Morris, ultimately resulted in the limited promise that Canada would provide food in cases of ‘a national famine’ (Morris 1991, p. 186). Treaty 6 also included promises of farming assistance that were superior to those of Treaty 4, as well, famously, as the ‘medicine chest’ clause, which had not appeared in any of the prior numbered treaties (Starblanket & Hunt 2020; Ray, Miller, Tough 2000). Both sides took the negotiations seriously, and neither side appeared particularly desperate to conclude the treaty unless it was at least to some extent in line with their demands. To put this another way, whatever miscommunications and misunderstandings may have resulted due to differences in worldview and language—and these were likely significant—Treaty 6 represents at minimum a legitimate attempt at a nation-to-nation agreement.

After what seem to have been several tense days, Treaty 6 was concluded at Fort Carlton on August 23, 1876, and according to Morris a document was prepared that was agreed to by both Canadian and First Nations representatives. From there, the Canadian negotiators carried on to Fort Pitt where most of the chiefs agreed to the treaty as negotiated at Fort Carlton.

Treaty 6 text versus verbal agreement

Even if we ignore for now First Nations' oral tradition regarding Treaty 6, there appears to be tension between the Canadian text of Treaty 6 and the negotiations that Morris and other settler observers recount. While much of what was discussed is reflected in the text of Treaty 6, there are important elements of the Canadian text that none of the Canadian observers mention in their accounts of the negotiations. In other words, there are serious gaps between what is related in the primary source written accounts of the negotiations and the text of Treaty 6 itself. Most significantly, according to the written accounts of the verbal negotiations, nothing appears to have been said about First Nations agreeing to 'cede, release, surrender and yield up to' Canada their land (Craft 2013; Miller 2009; St. Germain 2009; Taylor 1999), although this language features prominently in the treaty text (and, of course, in Canada's interpretation of what the numbered treaties represent). Sheldon Krasowski is adamant on this point: 'There is no evidence that Alexander Morris or his fellow treaty commissioners discussed the surrender clause during any of the treaty negotiations' (2019, p. 272). Given that almost certainly none of the First Nations chiefs present at Forts Carlton and Pitt could actually read the text (and may not have even had the opportunity to do so even if they were literate), it seems highly problematic that Canada's claim to exclusive sovereignty in this land rests on a text that was never part of the negotiations, and probably not explained (Hildebrandt 2008; Krasowski 2019). Treaty 6, then, should be properly understood as the agreement reached verbally in 1876, not exclusively the Canadian text.

Treaty 6 relationships

Based on my reading of the Treaty 6 negotiations, I come to the following conclusion regarding the relationships Treaty 6 created. Consistent with nation-to-nation relationships in the territory for generations prior, Treaty 6 created ongoing, dynamic, nation-to-nation relationships between Canada and adherent First Nations that were intended to ensure mutually beneficial relations in a shared space. While this statement is not exhaustive in terms of the motivations for entering into Treaty 6, I consider the establishment of these relationships to be foundational. Given the importance of my conclusion, I will

put some effort into breaking it down.

The statement's first clause, 'consistent with nation-to-nation relationships in the territory for generations prior', is an attempt once again to emphasize the political context of Treaty 6 territory prior to Treaty 6. Interestingly, while Treaty 6 certainly *created* formal relationships that did not previously exist, from an Indigenous perspective these relationships were not particularly *creative* in the sense of unique: as noted, they recognized respective sovereignties in ways relationships between Indigenous nations had for centuries. The relationships Treaty 6 created must be understood within this context.

The 'ongoing' nature of the Treaty 6 relationships, while perhaps forgotten or ignored by Canada and Canadians for generations, appears to be well-understood today. The endurance of treaty relations is beautifully captured in the well-known 'as long as' metaphors used at the Treaty 6 negotiations (and since) by both First Nations and Canadian representatives: as long as the grass grows, the river runs, the sun shines, the waters flow, and so on (Johnson 2007; Macdonald 2017; Morris 1991; Price 1999; Ray, Miller, Tough 2000; Venne 1997; Venne 2007) (although none of these phrases actually appear in the Canadian text). The family and kin metaphors (H. Cardinal & Hildebrandt 2000; Johnson 2007; Morris 1991) that occurred throughout the negotiations and in the Treaty 6 text also speak to the lasting nature of relations.

'Dynamic' is an aspect of Treaty 6 relations that perhaps has not received enough attention, but it logically arises out of the 'ongoing': all relationships that last must also be able to adapt and change. The Royal Commission on Aboriginal Peoples (RCAP) used the terms 'fresh' and 'living' (1996, Volume 2, p. 37) to describe treaties, and they resonate with this concept of dynamic relations. Gina Starblanket says: 'Treaties were intended to be renewed and revisited over time in order to ensure good relations into the future' (2019a, p. 15). Treaty 6, then, was not (as perhaps some historical treaties were) a static contract of land purchase or a temporary alliance for military purposes, but rather a commitment to ongoing and dynamic relations.

Since today settler politicians use the term 'nation-to-nation' in ways that affirm, rather than undermine or dismantle, Canadian colonialism (King and Pasternak 2018), its use here is somewhat risky. But most readers should have little

difficulty understanding the term at a basic level: the relations Treaty 6 established are relations between nations, not between individuals and a nation, or a nation and a colony, or groups within a single nation (Ladner 2003). In other words, the relations are typical of those created by most treaties throughout time and around the world, as well as specifically in Treaty 6 territory for generations prior to Treaty 6.

In some cases, treaties are arrived at after violent interactions, and may represent one (victorious) side more-or-less unilaterally imposing terms on the other, defeated side. Treaty 6 was not such a treaty, and rather was negotiated with the intention of creating 'mutually-beneficial' relations (H. Cardinal & Hildebrandt 2000). There were immediate benefits arising from Treaty 6, especially for the First Nations who received annuities immediately, but ultimately the 'mutually-beneficial' aspect was also part of the 'ongoing' nature. In other words, the benefits for both sides were meant to continue into perpetuity. Among other things, for the First Nations, much of the benefit was of a fiscal nature (see next section), and for Canada the benefits included access to land for settlement and avoidance of costly military conflict.

The final term of the argument, 'shared space,' most obviously refers to the geography Treaty 6 covers. But I have intentionally left out the word 'geographic' because I imagine the relationships Treaty 6 created to also allow for mutually beneficial relations in other types of shared space, including fiscal space. While the accounts of the Treaty 6 negotiations make the 'shared' aspect clear, the history of Treaty 6 relations has not, of course, included much sharing. Nonetheless, Treaty 6 was clearly an agreement to share space. Working out what that should look like in a contemporary context will be important.

Fiscal Component of Treaty 6 Relationships

Building on my conclusion about Treaty 6 relationships generally, we can now focus on the fiscal component of these relationships. 'Fiscal', as defined by Merriam-Webster, means 'of or relating to taxation, public revenues, or public debt'. Based on this definition, the nation-to-nation relationships Treaty 6 established had fiscal consequences for both sides. These newly created

relationships included a fiscal component: for Canada, the treaty created fiscal obligations; and, for First Nations, fiscal expectations. Of course, as with any treaty, there were also obligations of First Nations, but these related to sharing of land and loyalty to the Crown, and as far as I read the treaty, do not have a fiscal component (St. Germain 2009). Canada's fiscal obligations for the most part relate to expenditure of public revenues on some type of service delivery, although there are also obligations that require funding or goods purchased by Canada to flow directly to First Nations or First Nations individuals.

It is my position that for the most part the fiscal obligations Canada agreed to as outlined in the Treaty 6 text represent a minimum. This is logical: the text is Canada's version of the treaty, so this is the minimum Canada should be held to. In other words, the fiscal relationships established by Treaty 6 include everything that appears in the Treaty 6 text, and more. It can be easy, especially when limiting treaty to the Canadian text, to view Treaty 6 fiscal relations as merely a checklist of obligations Canada took on; but this would not, of course, be consistent with the idea of ongoing and dynamic relationships. As Stark points out: 'We must not be constrained by the narrow articles ... that too often distract us from the deeper meanings' (2017, p. 276). Nonetheless, this 'checklist' approach is consistent with how Canada has historically understood Treaty 6, and therefore I believe it is a useful starting point. Below, I list the fiscal obligations Canada took on that I understand to be ongoing obligations, more-or-less literally as they appear in the text:

- Maintenance of 'schools for instruction';
- Some type of law enforcement;
- Treaty annuities for all First Nations members (\$5/individual);
- \$1,500 annually to be expended on 'ammunition and twine for nets';
- Annual salaries for chiefs (\$25) and 'subordinate officers' (\$15);
- Triennial suits of clothing for chiefs and 'subordinate officers';
- Assistance in case of 'pestilence . . . or . . . general famine';
- 'A medicine chest . . . at the house of each Indian Agent'; and

- Although not explicitly stated, the references to 'Indian Agents' indicate a commitment to some type of Canadian bureaucracy focused on First Nations affairs.

Fiscal relations as consistent with the spirit and intent of Treaty 6

Outlining the ongoing fiscal obligations as delineated in the text of Treaty 6 was a relatively easy task. But, as First Nations have always understood (Miller 2009), and as more and more Canadians are now understanding, the Canadian text of Treaty 6 has inadequately captured the 'spirit and intent' of Treaty 6. The secondary literature on Treaty 6 and the numbered treaties generally is nearly unanimous on this point. In fact, in some ways (most especially the clauses regarding land surrender), the text of Treaty 6 is inconsistent with the spirit and intent of Treaty 6 as related by First Nations Elders and, arguably, even Canadian accounts of the negotiations. For First Nations Elders interviewed in Saskatchewan, for example, the Cree concept of *pimâcihowin*, roughly 'the ability to make a living' was an important aspect of treaty relationships (H. Cardinal & Hildebrandt 2000). *Pimâcihowin* is a concept inclusive of spirituality, and so is greater than just fiscal relations (or at least fiscal relations as defined by settlers), but there is certainly a fiscal component too, especially relating to 'the right of First Nations to maintain a continuing relationship to the land, and its resources' (H. Cardinal & Hildebrandt 2000, p. 46). In the context of my research, I interpret the Elders' emphasis on *pimâcihowin* as a treaty principle to be an assertion that Treaty 6 fiscal relations do not simply involve fiscal obligations that Canada owes First Nations, but also a respect for First Nations fiscal jurisdiction—sovereignty—over their own people and land. There are, therefore, elements of fiscal relationships established by Treaty 6 that do not appear in the text. To put this another way, fiscal relationships created by Treaty 6 and consistent with the treaty should not be limited to the fiscal obligations/expectations noted in the text. Here I will highlight just two fiscal issues that should rightly be part of Treaty 6 fiscal relationships given the idea of mutually-beneficial relations in a shared space.

As already noted, Treaty 6 First Nations only agreed to share the land as opposed to 'cede, release, surrender, and yield' it (RCAP 1996). While the

treaty text might include this language of surrender, the account of the treaty negotiations—even as represented by Canadian officials—did not include any mention of this transfer of ownership (Hall 2015; Carter 1999). Moreover, given the context of international relations in this land prior to Canada’s arrival here, surely it is far more reasonable to assume that the First Nations understood Treaty 6 to be an agreement allowing settlers to share their land—not take it over entirely. This was consistent with the peaceful coexistence of at least several distinct nations already in this territory (Taylor 1999). Of course, First Nations testimony in this regard seems to be unanimous: they never intended to surrender their land to Canada (Venne 1997). So Treaty 6 represented an agreement for Canada (settlers) to share First Nations’ territory, not take it over.³

An important aspect of any nation-to-nation fiscal relationships consistent with the spirit and intent of Treaty 6 would be reaching an understanding of how natural resources should be managed and how much of the revenues derived from them should belong to the First Nations. First Nations’ participation in natural resource management and entitlement to at least some share of natural resource revenues should have been an aspect of Treaty 6 fiscal relationships right from the beginning, as would be consistent with living in a shared space, both geographic and fiscal.

Another aspect of relations involving shared fiscal space has to do with taxation. If the nation-to-nation relationships created by Treaty 6 were taken seriously, then tax laws would have respected all nations’ jurisdictions over their land and people. How exactly this would work could take many forms—and obviously such tax laws or tax treaties negotiated today would be different than if questions of taxation had been specifically addressed in 1876. Regardless of exactly how taxation should be or could be or will be worked out, there can be no doubt that taxation is an important element of the fiscal relationships between Canada and First Nations, and that Canada’s taxation laws since Treaty 6—which entirely disregard First Nations’ jurisdiction—have been inconsistent with the notions of ‘nation-to-nation’ and ‘shared space’ that are central to Treaty 6 relationships.

The Legacy of Treaty 6

As First Nations have long recognized, and as more and more Canadians are beginning to recognize, Treaty 6 (along with the other numbered treaties) represented an optimistic vision for the future. For First Nations, Treaty 6 represented the health care, food, agricultural support, and cash they would need as they transitioned with Canadian help from one way of life to another. For Canada, Treaty 6 meant peacefully opening land for agricultural settlement. In other words, Treaty 6 should have been mutually beneficial, a true 'win-win.'

As I noted early in this article, international diplomacy already had an extensive and sophisticated history long before Canada's arrival here. Treaty 6 was clearly a continuation, even, perhaps, a culmination of this history, in the sense that it created nation-to-nation relationships not only between nations, but between nations of vastly different heritages and worldviews.

But, despite the optimism of Treaty 6, it was in fact more-or-less immediately after the signing of treaties between Canada and First Nations that nation-to-nation relationships ended in this land. Rather than share land, Canada dispossessed First Nations. Rather than respect First Nations governance, Canada imposed its own system. Rather than recognize First Nations' sovereignty over their own land and people, Canada enforced the *Indian Act*. And rather than remember the history of nation-to-nation relations and Treaty 6 in its optimistic fullness, Canada forgot, perhaps intentionally so.⁴ This history of broken promises and disrespect is well-documented and virtually universally accepted (e.g.: H. Cardinal 1969; H. Cardinal & Hildebrandt 2000; Carter 1990; Craft 2013; Hall 2015; Pasternak 2016; Starblanket & Hunt 2020; Stark 2016; St. Germain 2009; Tait and Ladner 2018; Venne 1997, 2007; Venne et al. 1997).

The Trudeau government and A 'new fiscal relationship'

For decades, successive federal governments have recognized, at least to some extent or another, the inadequacy of Canada's relationships with First Nations, including fiscal relations. But perhaps no government has so radically changed official rhetoric on these issues, nor passed more Indigenous-focused legislation

(Yellowhead Institute 2019), than the 2015 Liberal Government of Justin Trudeau (which was re-elected in October 2019). I am more interested in the future of Treaty 6 fiscal relationships and less on their current reality, but a brief summary of my assessment of the Trudeau government's rhetoric and policies relating to fiscal relationships is helpful context. I am necessarily cautious; after all, it is impossible to know at this point what Trudeau's legacy will be when it comes to Indigenous issues, or what the long term impact will be of what the Trudeau government has done as it relates to fiscal relationships with Treaty 6 First Nations. Still, I am happy to be able to point to some positive changes—both rhetorical and substantive—the Trudeau government has implemented, including \$20 billion in new spending that is undeniably having a direct and tangible impact on the lives of Indigenous people.⁵ Ultimately, however, I conclude that despite rhetorically outlining an ambitious agenda relating to Indigenous peoples, including a 'new fiscal relationship' with First Nations (Assembly of First Nations & Government of Canada 2017; Liberal Party of Canada 2018), the Trudeau government has been either unwilling or unable to make significant substantive change, and those changes they have implemented regarding fiscal relationships appear to continue the history of fiscal relations inconsistent with Treaty 6. A very basic example of this lies in the terminology: the singular 'relationship' is used when discussing the 'new fiscal relationship', apparently perpetuating Canada's failure to recognize the unique nature of the relationships it has with First Nations. More than this, however, is the consistent assumption by the Government of Canada that however relationships between Canada and First Nations are reimagined, they must fit within the 'box' of 'Canada's current constitutional framework' (Crown-Indigenous Relations and Northern Affairs Canada 2018).

The Trudeau government, like so many before it, seems to lack the creativity necessary to break away from the colonial past and restrictive ways of thinking that brought about the *Indian Act* and centuries of settler government policy intent on imposing Canadian sovereignty on First Nations. It was this realization that inspired my research. Since fiscal relations between Canada and Treaty 6 First Nations are currently *not* taking Treaty 6 seriously, I want to know what it would look like if they did.

Pragmatic changes that could happen immediately

Realistic to the tremendous effort and dramatic changes that would be necessary for fiscal relations to take Treaty 6 seriously, I approached this question from two different perspectives. In this section, I am taking a relatively conservative approach that assumes changes to fiscal relationships have to be of minimal financial impact to the Government of Canada; not challenge Canada as currently constituted existentially; and come at little to no cost in terms of Canadian public opinion. I am also limiting myself to thinking about the fiscal obligations in the Canadian text of Treaty 6—in essence, in this section, I accept the ‘checklist’ approach to treaty, which tends to view it more so as a list of obligations and less as a dynamic, fulsome relationship. Clearly, these suggestions will be nowhere near enough to create fiscal relationships entirely consistent with Treaty 6, but they would represent steps in the right direction. My next section will tackle my research question in a more dramatic way, but I have two reasons for the pragmatic approach of this section.

First, the suggestions of this section are examples of changes that could be made *immediately*. Whereas more dramatic changes would require significant investment (financial, political, etc.), the suggestions of this section do not. I should be clear: my suggestions are still ambitious in that they would represent significant change in how Canada engages treaty, but they could be done fairly quickly and require little in terms of the investments I listed above. Moreover, whereas the most important element required for the suggestions of the next section is legitimate negotiation with Treaty 6 First Nations, I propose that the suggestions of this section could be implemented unilaterally by Canada. This is important to me, because my observation of current relations between Canada and (especially historical treaty-adherent) First Nations is that there is so much (understandable) distrust, that a necessary precursor to successful future negotiations of these relationships is likely to be Canada taking unilateral steps to demonstrate its seriousness and good faith. The steps outlined in this section represent a chance for Canada to rebuild the trust it has successfully but tragically eroded since 1876.

Second, it is highly unlikely that any Canadian government would ever take the more drastic steps I propose in the next section without first taking more

pragmatic steps such as I outline in this one. Therefore, more likely than not, if fiscal relationships are ever changed such that they are consistent with Treaty 6, there will need to be starting points, and the suggestions of this section can serve as those.

Inflation-adjusting Treaty annuities

My first pragmatic suggestion is that treaty annuities should be adjusted for inflation. As outlined earlier, the fiscal obligations Canada took on within the text of Treaty 6 included: treaty annuities for all First Nations members (\$5); \$1,500 annually to be expended on 'ammunition and twine for nets'; and annual salaries for chiefs (\$25) and 'subordinate officers' (\$15). If Treaty 6 fiscal relationships are taken seriously as ongoing and dynamic, it should be immediately obvious to everyone that treaty annuities should not remain at 1876 nominal dollar amounts. As we all know, the value of money changes over time due to inflation (Neu and Therrien 2003; RCAP 1996), so five dollars in 1876 had far more purchasing power than five dollars does in 2020. Canada's continued payment of five-dollar treaty annuities is obnoxious.

There are a variety of viable methods for adjusting treaty annuities (e.g., Allard 2002; InFocus 2019), but my preference is a simple one based on Canadian inflation rates. Using the Bank of Canada's inflation calculator and making some basic assumptions, I arrive at an average Canadian inflation rate of 3.04% from 1876 to 2019. Based on average inflation of 3.04%, I estimated the total additional annual cost to Canada in 2019 dollars would be a relatively insignificant \$55 million (or \$370 per person). While this amount would not make Treaty 6 First Nations or their members rich overnight, inflation-adjusting treaty annuities would go a long way symbolically towards making it clear that Canada is intent on taking Treaty 6 seriously.

Treaty-based programs and services

My second pragmatic recommendation incorporates symbolic change with substantive action. This recommendation stems from those fiscal obligations Canada took on in the text of Treaty 6 that involve ongoing delivery or funding of programs and services. From the treaty's fiscal obligations, I identify five as being of this nature: maintenance of 'schools for instruction'; some type of law-

enforcement; assistance in case of 'pestilence' or 'general famine'; 'a medicine chest'; and, although not explicitly stated, the references to 'Indian Agents' indicate a commitment to some type of Canadian bureaucracy focused on First Nations affairs.

At present most Treaty 6 First Nations receive Government of Canada funding for education, social assistance, and health care, which can be understood as more-or-less modern-day equivalents of the promises included in the maintenance of schools, aid in case of pestilence/famine, and medicine chest clauses (Taylor 1985). In terms of what I understand to be the commitment to maintaining a First Nations-focused bureaucracy, Canada has done so since before Treaty 6 was negotiated through today; how that bureaucracy has operated has not generally been consistent with Treaty 6, of course, but it has existed and been engaged with Treaty 6 First Nations, nonetheless. The law enforcement clause receives very little attention, but it is in the treaty text, and policing is a high priority for many Treaty 6 First Nations (as I hear from First Nations I work with regularly). At present very few First Nations in Canada receive direct federal funding for policing, but police do provide services to First Nation reserves. Therefore, however paternalistically or otherwise problematically, Canada is currently engaged in either funding or directly providing programs and services that it committed to in the text of Treaty 6. For the purposes of this recommendation, my concerns regarding Canadian funding and delivery of treaty-related programs and services is twofold.

First, Canada funds and delivers these programs and services *without acknowledging that they are doing so in fulfilment of Treaty 6* (Barnsley 2002; Pasternak 2016; Starblanket & Hunt 2020). So, the first half of my recommendation is that Canada should formally acknowledge that funding and delivery of education, social assistance, health care, policing, and First Nations-focused federal bureaucracy (whatever its iterations) in a Treaty 6 context is done in fulfilment of the fiscal obligations it agreed to in the text of Treaty 6. Canada could go about doing so in many ways, but some basic suggestions would be that this affirmation should be incorporated into funding agreements with Treaty 6 First Nations (see next subsection); be made explicit in Government of Canada communications; and eventually become a simple, accepted part of relationships between Canada and Treaty 6 First Nations such

that bureaucrats (and others) begin talking about these programs and services in this way.

My second concern about treaty-related programs and services is the long-standing insufficiency of the funding provided and inadequacy of the programs and services delivered. These 'gaps' between the government programs and services available to settler Canadians and those available on reserve to First Nations are well known (Palmer 2011). The second half of my recommendation is not necessarily that Canada fund or deliver treaty-related programs and services to whatever levels chiefs and councils ask them to, but rather that Canada commit in a transparent and accountable way to, at minimum, fund and deliver treaty-related programs and services at a level comparable to that which Canadians receive. In many cases, Canada may now (finally) be close to doing this, so this commitment would not necessarily be expensive to fulfill; but Canada could do a much better job of transparently communicating an analysis of how it is doing this and demonstrate its willingness to be held accountable. A formal commitment such as this would also mitigate the risk that recent increases in fiscal transfers to First Nations could be cut in the future.

Like inflation-adjusting treaty annuities, recognizing the treaty basis for treaty-related programs and services and committing to levels of funding and service comparable to Canadians, and corresponding transparency and accountability, would be a significant step by Canada in signaling the centrality of Treaty 6 in its fiscal relationships with Treaty 6 First Nations.

Funding agreement texts

My third and final pragmatic recommendation relates to the texts of the funding agreements Canada has with Treaty 6 First Nations. This recommendation is purely symbolic and would cost Canada nothing financially.

Funding agreements are the legal contracts between Canada and First Nations that facilitate the flow of funding to chiefs and councils for programs and services they take responsibility for delivering on reserve (e.g., usually at minimum education, public works, social assistance, and basic health services). The issue this recommendation attempts to address is the fact that funding

agreements between Canada and First Nations across Canada are all virtually the same in terms of wording. This is consistent with the history of Canadian fiscal relationships with First Nations, where Canadian First Nations policy (and especially fiscal policy) has treated all First Nations the same regardless of treaty-adherence, geography, and so on.

Template texts of funding agreements are publicly available online. There are a few versions, but in all cases the vast majority of the text is non-negotiable (one of many ways fiscal relationships between Canada and First Nations are not consistent with the idea of nation-to-nation). There are optional clauses that relate to treaties, but these clauses are token wording, entirely irrelevant to the content of the agreement itself. Whether the clauses are included or excluded from the agreement does not change the agreement one iota, at least as far as Canada is concerned.

There are other ways the funding agreement wording is inconsistent with Treaty 6 fiscal relationships, but the point is that since the funding agreement template was prepared for use across Canada, it is not designed for fiscal relationships specific to a historical treaty context, let alone a numbered treaty context, let alone a Treaty 6 context. Correcting this, such that funding agreements with Treaty 6 First Nations explicitly acknowledged and incorporated more thorough reference to Treaty 6 would be a relatively simple first step towards Canada taking Treaty 6 seriously. Out of my three pragmatic recommendations, it would likely be the cheapest, and it should in no way threaten Canada as currently constituted, nor have any cost in terms of public opinion. All this recommendation involves is a slight shift in policy that accepts the unique nature of Treaty 6 fiscal relationships.

Dramatic changes to Treaty 6 fiscal relationships

The previous section took a relatively conservative approach towards starting to answer my research question, providing three pragmatic examples of ways fiscal relationships between Canada and Treaty 6 First Nations could change to make them more consistent with Treaty 6. I would not describe any of them as especially 'creative', nor would they substantively change structures of sovereignty in Canada. From there, however, we can move on to the more

dramatic changes that would be necessary for fiscal relations to be entirely consistent with Treaty 6. For these, I am not limiting myself by the constraints I outlined in the previous section, nor confining myself to defining Treaty 6 according to the Canadian text. Instead, I am employing a perspective on Treaty 6 fiscal relationships that more fully appreciates the relationships treaty created. These three suggestions represent much more creative thinking (at least for settlers), and would result in the creation of systems of sovereignty fundamentally different than those currently in place.

There should be no doubt about it: colonialism and in particular Canadian government policy since Treaty 6 have had a profoundly negative impact on Treaty 6 First Nations, including their economies and governance; likewise, decolonizing, or at least attempting to change things going forward such that they are consistent with Treaty 6, will come at a high cost to Canada, including economically and in terms of how Canada is constituted today.⁶ The suggestions in this section are, then, either extremely expensive economically or extremely radical constitutionally, or both. Needless to say, economically expensive and constitutionally radical decisions would almost certainly also be politically unpopular and face considerable public opposition. These recommendations cannot be considered pragmatic or realistic, at least not in the near term.

Another critical point about these recommendations is that they should not be unilaterally implemented by Canada. Given their more fundamental and substantive nature, they are suggestions that can only be appropriately implemented following serious and fulsome negotiations. We need contemporary Treaty 6 negotiations that allow the relationships between Canada and Treaty 6 First Nations to fit the contemporary context in a way consistent with Treaty 6; this is not about negotiating treaty away or repudiating what was negotiated in 1876, but rather ensuring Treaty 6 relationships are contemporarily relevant (RCAP 1996). For me, this is best done through a serious and fulsome negotiation process. While Treaty 6 is clearly an agreement between the federal Crown and First Nations, the reality is that since 1905 and especially since 1930 (when the Alberta Natural Resources Transfer Act [NRTA] 'gave' Alberta control over 'its' natural resources), 'another' Crown has entered the context in which Treaty 6 First Nations in Alberta exist:

The Province of Alberta. Therefore, I think it makes sense that in future Treaty 6 negotiations, the relevant provinces need to take part.

Reframing relations

Currently, relationships between Canada and First Nations are fundamentally based in the *Indian Act*. If Treaty 6 fiscal relationships are going to take Treaty 6 seriously, this must change. While most First Nations and Canadians would agree the *Indian Act* has to go, I am not specifically recommending complete repeal, since there may be other, non-treaty contexts in which the *Indian Act* is the only basis for unique relationships between Canada and First Nations. In terms of a Treaty 6 context, however, the *Indian Act* has to go.

Of course, Canada has wanted to be rid of the *Indian Act* with varying degrees of enthusiasm since the 1969 White Paper, and in many ways it is only still in place because First Nations have opposed its abolishment. But First Nations (especially numbered treaty-adherent First Nations) opposed its abolishment, at least in part, because the White Paper proposed to not only do away with the *Indian Act*, but treaty rights as well. What I am proposing here does not, of course, involve the abolishment of treaty rights—quite the opposite.

In many ways having the *Indian Act* no longer apply to Treaty 6 First Nations is the easy part of this recommendation. What will be the more dramatic piece is what will have to replace the *Indian Act* as the basis for relations between Canada and Treaty 6 First Nations. Clearly, whereas currently the *Indian Act* is the primary framework through which Canada engages with First Nations, a framework (Treaty 6) already exists to guide the relationships between Canada and Treaty 6 First Nations, and this has been obvious to Treaty 6 First Nations since Treaty 6 came into being. Representative officials of Canada signed Treaty 6, of course, and it was ratified through a vote in the Canadian parliament, so additional legislation or a new national ‘framework’ (as Trudeau suggested in February 2018) should not be required; on the other hand, if the federal government feels that for some reason this is desirable, it is not necessarily problematic.

The impacts of implementing this recommendation specific to the fiscal relationships between Canada and Treaty 6 First Nations would include the

(default, if not explicit) acknowledgement (as recommended in the last section) that funding and delivery of treaty-related programs and services are based on Treaty 6 (since now there would be no other framework for these to be based on). Also consistent with a recommendation of the prior section, funding agreements (if these continued as the mechanism through which funding flowed) would have to reference treaty and could obviously no longer include references to the *Indian Act*. Moreover, as part of the future Treaty 6 negotiations, formulae would have to be established to ensure adequate levels of funding are provided (appropriately adjusting for inflation and population growth), and these formulae could no longer be unilaterally imposed by Canada but would need to be negotiated in a truly nation-to-nation way. As part of the negotiations, I would expect mechanisms to be put in place for dispute or issue resolution, and review of these funding formulae would need to happen with some regularity by representatives of both Canada and Treaty 6 First Nations.

Renegotiation of the Natural Resources Transfer Agreement

One of the main reasons Alberta (and other relevant provinces) need to be involved in future Treaty 6 negotiations is that the Alberta NRTA needs to be renegotiated. This need not in any way involve the province ceding back jurisdiction to the federal government over natural resources, but it absolutely does require that the province cede jurisdiction to First Nations. Once again, this is not a suggestion in any way unique to me—First Nations have been quite vocal in raising this issue (S. Cardinal 2001; Desjarlais 2019; Pasternak and King 2019; Venne 1997). Their point has been that Canada had no right to transfer jurisdiction over natural resources to the provinces, since First Nations never transferred this jurisdiction to Canada (at least not exclusively), and I agree. The NRTA is not consistent with Treaty 6, and there is no way fiscal relationships between Canada and First Nations can be consistent with Treaty 6 without the NRTA changing. There has been significant First Nations criticism of Canada for failing to include a discussion around return of lands and resources as part of ‘reconciliation’ (CBC 2018; The Guardian 2018; Turtle Island News 2018), and this recommendation attempts to address at least the latter half of the ‘lands and resources’ issue.

Removing the *Indian Act's* application to Treaty 6 First Nations as previously suggested would restore management and control of natural resources on reserve lands to First Nations. But what has to happen with renegotiations of the NRTA is much more expansive, and I can imagine at least two possibilities for how this might work out. One would involve exclusive First Nations' sovereignty over natural resources on reserve, and shared sovereignty (either with Canada or perhaps more likely with Alberta) over natural resources off reserve. This would be the method most obviously consistent with the idea of treaty relations involving sharing space. This first possibility could also result in what would more-or-less be 'settler reserves'—small spaces that might be considered under exclusive Canadian or Albertan sovereignty. An obvious example might be predominantly settler urban spaces. The second possibility I can imagine would involve more extensive dividing up of territory, so that First Nations would control the resources in, say, half of the Treaty 6 territory in Alberta, and Canada/Alberta the other half. Some combination of these two possibilities could also occur. For example, certain natural resources might be more readily divided than others, so control of natural resources, whether divided or joint, might depend on the type of resource. It might also be the case that those issues more generally relevant to natural resources management (e.g., safety regulations, level of carbon emissions permitted, pollution prevention regimes) might be decided by a joint First Nations-Canada and Alberta board or commission and the specific control of natural resources could be divided.

These 'imaginings' are obviously very hypothetical, preliminary, and tentative, and necessarily so both because we are so far away from future Treaty 6 negotiations and because the details actually require negotiation. But the scope of what I am recommending should be clear: a fundamental and radical rearranging of what natural resource management and control looks like in Alberta, with potentially profound impacts on environmental protections and resource royalty regimes. Ultimately, what we are talking about here, consistent with truly nation-to-nation relationships, is a sacrifice of sovereignty for Canada/Alberta as they recognize the legitimate sovereignty of First Nations over their natural resources.

Like repeal of the *Indian Act*, renegotiation of the NRTA is a requirement of fiscal relationships consistent with Treaty 6 that First Nations have been arguing in favour of for a long time. It would be a step far more consequential and dramatic for Canada (and Alberta) than even repeal of the *Indian Act*, in many ways altering Canada and especially Alberta as we know it. But such dramatic change is what will be required if Canada is to begin relating to Treaty 6 First Nations on the basis of Treaty 6.

Taxation

Taxation was not discussed at Treaty 6's original negotiations, but it is a highly relevant subject for nation-to-nation fiscal relationships between Canada and Treaty 6 First Nations: 'tax policy and sovereignty are intertwined' (Hopkins 2008, p. 2). Again, there is also a provincial component to taxation in Canada, emphasizing once more that Alberta's participation in future Treaty 6 negotiations is important.

There have been several proposals regarding changes to Canadian taxation policy to the benefit of First Nations (e.g., Boldt 1993; RCAP 1996; Sanderson 2017); ultimately, however, I consider them all inadequate in that they do not involve Canada (and provinces) recognizing that they have no authority to tax First Nations people, land, or resources, because First Nations did not concede this sovereignty to Canada in Treaty 6. To what extent and how First Nations choose to tax their own people, land, and resources needs to be up to them, as consistent with the relationships created by Treaty 6. Moreover, to be clear, these taxation powers need to extend beyond reserves, to include whatever other lands and resources are returned to them entirely or jointly controlled/managed. So, assuming First Nations jointly control and manage natural resources with Alberta, then their taxation powers need to extend to these natural resources to the extent they control them (i.e., if split 50/50, then taxation powers should also be 50/50).

Canada/Alberta ceding taxation jurisdiction over First Nations people, land, and resources back to First Nations is a further critical piece to transforming fiscal relationships between Canada and Treaty 6 First Nations such that they are consistent with the relationships Treaty 6 established. Like my first two longer-term suggestions, it will change how Canada is constituted, since

Canada and the provinces will have to recognize that they are not the only entities in this land with taxation powers.

My three recommendations for more fundamental ways fiscal relationships need to change between Canada and Treaty 6 First Nations if they are to be consistent with Treaty 6 are only intended to provide a sense of the scope of the changes necessary, not exhaustively cover all the aspects of the changes required. To most settlers, these suggestions will seem dramatic—and, indeed, they are, given how Canada is currently constituted. Reframing relations away from the *Indian Act* and towards treaty, renegotiating the Alberta Natural Resources Transfer Act, and conceding taxation powers would each on their own be dramatic changes to the Canadian political and economic landscape—never mind all three done simultaneously and along with other changes coming out of future Treaty 6 negotiations.

Conclusion

Driven by the day-to-day realities of my professional experience working within the space of Treaty 6 fiscal relations, and disappointed with the lack of substantive change the Trudeau government's 'New Fiscal Relationship' has implemented, I set out to research what fiscal relationships that took Treaty 6 seriously might actually look like. The answers to this question are not platitudes, token policy changes, and marginal funding increases. Rather, I am convinced that the answers must be rooted in a complete understanding of the relationships Treaty 6 created. Although the Canadian text of Treaty 6 includes a list of fiscal obligations Canada took on, in fact the fiscal relationships Treaty 6 created are much, much more than that. Treaty 6 created ongoing, dynamic, nation-to-nation relationships between Canada and adherent First Nations that were intended to ensure mutually-beneficial relations in a shared space.

As a starting point, I argue that Canada should meaningfully fulfill its fiscal obligations as listed in the text of Treaty 6—including inflation-adjusting treaty annuities; recognizing the treaty-basis for funding for and delivery of certain programs and services and guaranteeing them at levels comparable to Canadians; and recognizing the significance of treaty in the texts of funding agreements. These suggestions are basic and pragmatic—they are relatively

easy, cost little or nothing, and are primarily symbolic rather than substantive. Such pragmatic and symbolic shifts within Treaty 6 relations would, however, be important initial, trust-building steps towards taking Treaty 6 seriously. A Government of Canada that is sincere about pursuing reconciliation, decolonization, and nation-to-nation relationships should take steps like these immediately.

Longer term, Treaty 6 fiscal relations that take treaty seriously will require legitimate, good faith negotiations to ensure the future respects the nation-to-nation relationships Treaty 6 created in all of their fullness. In this article I provided three examples of dramatic changes that will be required in order for this to happen: replacing the *Indian Act* with Treaty 6 as the primary governing framework for relations between Canada and Treaty 6 First Nations; renegotiation of the Natural Resources Transfer Act such that it respects First Nations' jurisdiction over their land and resources; and amending federal and provincial taxation legislation such that it would be consistent with First Nations' taxation jurisdiction over their own land, resources, and people.

Unlike my pragmatic recommendations, a fulsome response to taking Treaty 6 seriously will require expensive, politically unpalatable, and time consuming work. Refusal to take on this work, however, ensures that Canada will continue to be the colonial, paternalistic, racist country we would prefer to think is in our past. I intend this article to be a small contribution towards the much larger conversation that we as settlers must engage in with each other and with Indigenous peoples before Canada is willing to change. As bleak as the state of relationships between Canada and First Nations is today, I nonetheless hope for the optimistic, creative, mutually-beneficial future imagined when Treaty 6 came to be.

L. JAVED SOMMERS is a settler, born and raised in Canada. He is a designated accountant (CPA, CMA), and has been working for Indigenous Services Canada for over six years, mainly in areas relating to funding agreements between Canada and Treaty 6 First Nations. Sommers graduated from the Faculty of Native Studies, University of Alberta with a Master of Arts degree in 2019. His thesis is available at: <https://doi.org/10.7939/r3-q42f-kf47>.

Acknowledgements

My thesis was completed under the supervision of Shalene Jobin, and this article owes much to her advice and guidance; I am also appreciative of discussions with Matt Wildcat and Kyle Willmott, as well as insights provided by my blind reviewer.

References

Allard, J. (2002) *Big Bear's Treaty: the road to freedom* [Online]. Available at: <https://www.thefreelibrary.com/Big+Bear%27s+Treaty%3a+the+road+to+freedom.-a0127013004>

Assembly of First Nations and the Government of Canada. (2017) *A New Approach: Co-development of a New Fiscal Relationship between Canada and First Nations* [Online]. Available at: https://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ-ACH/STAGING/texte-text/reconciliation_new_fiscal_rel_approach_1512565483826_eng.pdf.

Barnsley, P. (April 3, 2002) Treaty chiefs fight for medicine chest protection. *Windspeaker* 19(12). Available at: <https://ammsa.com/publications/windspeaker/treaty-chiefs-fight-medicine-chest-protection>.

Binnema, T. (2001) *Common and Contested Ground: A Human and Environmental History of the Northwestern Plains*. Norman, OK: University of Oklahoma Press.

Boldt, M. (1993) *Surviving as Indians: The Challenge of Self-Government* Toronto: University of Toronto Press.

Cardinal, H. (1969) *The Unjust Society: The Tragedy of Canada's Indians*. Edmonton: M. G. Hurtig Ltd., Publishers.

Cardinal, H. and Hildebrandt, W. (2000) *Treaty Elders of Saskatchewan: Our Dream is that Our People will One Day be Clearly Recognized as Nations* Calgary: University of Calgary Press.

Cardinal, S. (2001) *The Spirit and Intent of Treaty Eight: A Sagaw Eeniw Perspective*. Master's thesis. University of Saskatchewan.

Carter, S. (1999) *Aboriginal People and Colonizers of Western Canada to 1900*. Toronto: University of Toronto Press.

Carter, S. (1990) *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy*. Montreal: McGill-Queen's University Press.

CBC. (2018) First Nations leaders react with caution to Justin Trudeau's Indigenous rights plan. CBC, February 14. Available at: <https://www.cbc.ca/news/indigenous/first-nations-reaction-trudeau-indigenous-rights-plan-1.4536098>.

Craft, Aimee. (2013) *Breathing Life into the Stone Fort Treaty: An Anishinabe Understanding of Treaty One*. Saskatoon: Purich Publishing.

Crown-Indigenous Relations and Northern Affairs Canada. (September 10, 2018) 'Overview of a Recognition and Implementation of Indigenous Rights Framework' [Online]. Available at: <https://www.rcaanc-cirnac.gc.ca/eng/1536350959665/1539959903708?wbdisable=true>.

Desjarlais, C. (2019) *A Critical Look at the New Fiscal Relationship and Contribution Funding Agreements with First Nations*. Yellowhead Institute. Available at: <https://yellowheadinstitute.org/2019/03/04/new-fiscal-relationship-contribution-funding-agreements/>.

Dion, J. (1993) *My Tribe the Crees*. Calgary: Glenbow.

Erasmus, P. (1999) *Buffalo Days and Nights*. Calgary: Fifth House.

Hall, D. J. (2015) *From Treaties to Reserves: The Federal Government and Native Peoples in Territorial Alberta, 1870-1905*. Montreal: McGill-Queen's University Press.

Hildebrandt, W. (2008) *Views from Fort Battleford: Constructed Visions of an Anglo-Canadian West*. Regina: University of Regina.

Hopkins, J. (2008) *Bridging The Gap: Taxation and First Nations Governance*. National Centre for First Nations Governance [Online]. Available at: http://fngovernance.org/ncfng_research/hopkins.pdf.

Creative Sovereignties & Fiscal Relations

Indigenous and Northern Affairs Canada. (2018) *Professional and Institutional Development Program* [Online]. Available at: <https://www.aadnc-aandc.gc.ca/eng/1100100013815/1100100013816>.

InFocus. (2019) Re-direct money from Indigenous affairs departments and into the pockets of status Indians: researcher. APTN News, April 18. Available at: <https://aptnnews.ca/2019/04/18/re-direct-money-from-indigenous-affairs-departments-and-into-the-pockets-of-status-indians-researcher/>

ISC. (2018a) *Kindergarten to Grade 12 Education* [Online]. Available at: <https://www.sac-isc.gc.ca/eng/1100100033676/1531314895090>.

ISC. (2018b) 'New fire hall completed in Frog Lake First Nation in Treaty 6 Territory' [Online]. Available at: <https://www.canada.ca/en/indigenous-services-canada/news/2018/08/new-fire-hall-completed-in-frog-lake-first-nation-in-treaty-6-territory.html>.

Jobin, S. (2013) 'Cree Peoplehood, International Trade, and Diplomacy.' *Revue generale de droit* 43(2): 599-636.

Jobin, S. (2018) *Nehiyawak Narratives: Drawing Out Indigenous Economic Relationships*. Forthcoming.

Johnson, H. (2007) *Two Families: Treaties and Government*. Saskatoon: Purich Publishing.

King, H. and Pasternak, S. (2018) 'Canada's Emerging Indigenous Rights Framework: A Critical Analysis.' Yellowhead Institute. Available at: <https://yellowheadinstitute.org/wp-content/uploads/2018/06/yi-rights-report-june-2018-final-5.4.pdf>.

Krasowski, S. (2019) *No Surrender: The Land Remains Indigenous*. Regina: University of Regina Press.

Ladner, K. (2003) Treaty Federalism. In F. Rocher and M Smith (eds.), *New Trends in Canadian Federalism* (2nd ed.). Peterborough, ON: Broadview Press, pp. 167-195.

Liberal Party of Canada. (2018) *A New Fiscal Relationship* [Online]. Available at: <https://www.liberal.ca/realchange/a-new-fiscal-relationship>.

Mandelbaum, D. (n.d.) Fine Day Interview #21A. University of Regina.

Available at:

<https://ourspace.uregina.ca/bitstream/handle/10294/1838/IH-DM.64A.pdf?sequence=1&isAllowed=y>.

Mandelbaum, D. (1979) *The Plains Cree: An Ethnographic, Historical, and Comparative Study*. Regina: Canadian Plains Research Centre, University of Regina.

Miller, J. (2009) *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada*. Toronto: University of Toronto Press.

Milloy, J. (1988) *The Plains Cree: Trade, Diplomacy and War, 1790 to 1870*. Winnipeg: University of Manitoba Press.

Morris, A. (1991) *The Treaties of Canada with the Indians of Manitoba and the North-West Territories including the Negotiations on which they were based*. Toronto: Belfords, Clarke & Co.

Neu, D. and Therrien, R. (2003) *Accounting for Genocide: Canada's Bureaucratic Assault on Aboriginal People*. Toronto: Fernwood Publishers, 2003.

Palmater, P. (2011) Stretched Beyond Human Limits: Death by Poverty in First Nations. *Canadian Review of Social Policy* 65/66: 112-27

Pasternak, S. (2016) The fiscal body of sovereignty: To 'make live' in Indian country. *Settler Colonial Studies* 6(4): 317-38.

Pasternak, S. (2017) *Grounded Authority: The Algonquins of Barriere Lake Against the State*. Minneapolis: University of Minnesota.

Pasternak, S. and King, H. (2019) Land Back: A Yellowhead Institute Research Paper. Yellowhead Institute.

<https://redpaper.yellowheadinstitute.org/wp-content/uploads/2019/10/red-paper-report-final.pdf>.

Price, R. (ed.). (1999) *The Spirit of the Alberta Indian Treaties* (3rd ed.). Edmonton: University of Alberta Press.

Ray, A., Miller, J., & Tough, F. (2000) *Bounty and Benevolence: A History of Saskatchewan Treaties*. Montreal: McGill-Queen's University Press.

Creative Sovereignties & Fiscal Relations

Royal Commission on Aboriginal Peoples. (1996) *Report of the Royal Commission on Aboriginal Peoples* (five volumes). Ottawa: Canada Communications Group – Publishing.

Sanderson, D. (September 18, 2017) 'The *Indian Act* and the subsidization of the south.' *Policy Options*. Available at: <http://policyoptions.irpp.org/magazines/september-2017/the-indian-act-and-indigenous-subsidization-of-the-south/>.

Starblanket, G. (2019a) 'Constitutionalizing (In)Justice: Treaty Interpretation and the Containment of Indigenous Governance.' *Constitutional Forum constitutionnel* 28(2): 13-24.

Starblanket, G. & Hunt, D. (2020) 'COVID-19, the Numbered Treaties & the Politics of Life.' Yellowhead Institute. <https://yellowheadinstitute.org/wp-content/uploads/2020/06/yi-special-report-covid19-and-treaties.pdf>

Starblanket, G. (2019b) 'The Numbered Treaties and the Politics of Incoherency.' *Canadian Journal of Political Science* 52: 443-59.

Stark, H. K. (2017) Changing the Treaty Question: Remediating the Right(s) Relationship. In J. Borrows and M. Coyle (eds), *The Right Relationship: Reimagining the Implementation of Historical Treaties*. Toronto: University of Toronto Press, pp. 248-276.

Stark, H. K. (2016) Criminal Empire: 'The Making of the Savage in a Lawless Land.' *Theory & Event* 19(4). Available at: <https://www.muse.jhu.edu/article/633282>.

St. Germain, J. (2009) *Broken Treaties: United States and Canadian Relations with the Lakotas and Plains Cree, 1868-1885*. Lincoln: University of Nebraska.

Tait, M. J. & Ladner, K. L. (2018) 'Economic Development through Treaty Reparations in New Zealand and Canada.' *Canadian Journal of Law and Society* 33(1): 61-83.

Taylor, J. L. (1985) 'Treaty Research Report - Treaty Six (1876). Indian and Northern Affairs Canada.' Available at: <https://www.aadnc->

aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/tre6_1100100028707_eng.pdf.

Taylor, J. L. (1999) 'Two Views on Meaning of Treaties Six and Seven. In R. Price' (ed.), *Spirit of the Alberta Indian Treaties*. Edmonton: University of Alberta Press, pp. 9-46.

The Guardian. (February 18, 2018) 'Canada indigenous leaders divided over Trudeau's pledge to put them first.' *The Guardian*, February 18. Available at: <https://www.theguardian.com/world/2018/feb/18/canada-indigenous-first-nations-justin-trudeau-pledge-reaction>.

Tough, F. (Fall 1992) 'Aboriginal Rights versus Deed of Surrender: The Legal Rights of Native Peoples and Canada's Acquisition of the Hudson's Bay Company Territory.' *Prairie Forum* 17(2): 225-50.

Treaty 7 Elders and Tribal Council. (1996) *The True Spirit and Original Intent of Treaty 7*. Montreal: McGill-Queen's University Press.

Venne, S. (2007) 'Treaties Made in Good Faith.' In P. W. DePasquale (ed.), *Natives & Settlers Now & Then: Historical Issues and Current Perspectives on Treaties and Land Claims in Canada*. Edmonton: University of Alberta Press, pp. 1-16.

Venne, S. (1997) 'Understanding Treaty 6: An Indigenous Perspective.' In M. Asch (ed.), *Aboriginal and Treaty Rights in Canada*. Vancouver: UBC Press, pp. 173-207

Venne, S., et al. (1997) *Honour Bound: Onion Lake and the Spirit of Treaty 6*. International Work Group for Indigenous Affairs [IWGIA] Document No 84. Copenhagen: IWGIA.

Ward, D. (1995) *The People: A Historical Guide to the First Nations of Alberta, Saskatchewan, and Manitoba*. Markham, ON: Fifth House Books.

Willmott, Kyle. (2020) From self-government to government of the self: Fiscal subjectivity, Indigenous governance, and the politics of transparency. *Critical Social Policy* 40(3), pp. 471-91.

Yellowhead Institute. (2019) *Legislation Affecting Indigenous People: An Overview of the Liberal Record*. Yellowhead Institute Policy Brief 33.

Available at: <https://yellowheadinstitute.org/wp-content/uploads/2019/06/legislation-affecting-indigenous-people.pdf>

Notes

¹ My research is informed by this professional experience (and conversations with First Nations chiefs and councils, Elders, administration staff, and members), but I have ensured no confidential information is disclosed, and all opinions are my own and do not necessarily reflect those of my employer or others I work with.

² My thesis research question was: 'What might truly 'nation-to-nation' fiscal relationships look like between Canada and Alberta Treaty 6 First Nations if Treaty 6 were taken seriously?' I limited my question to Alberta since that is the context I work in and am most familiar with. Of course, much of my research is applicable to all of Treaty 6, all numbered treaties, and even most fiscal relationships between Canada and First Nations. There are other ways my research question, and my own positionality, limit my inquiry: While I am interested in challenging the status quo and critically questioning the nature of Canada as currently structured, I am also, as a settler, and particularly a settler federal government bureaucrat, writing with other settlers and other bureaucrats in mind, necessarily accepting certain realities uncritically for the sake of this article's argument.

³ Many First Nations Elders even contend that First Nations agreed to share the land solely for agricultural purposes, and that in fact other natural resources were explicitly not part of the negotiations (H. Cardinal & Hildebrandt 2000; Miller 2009; Price 1999; Taylor 1999). While this is an important contention, in my research I assume that the agreement was to generally share the land and all of its resources.

⁴ While Canada certainly 'forgot' the optimistic fullness of the relationships created by Treaty 6, it was not entirely willing to forget treaties, since its selective, 'incoherent' (Starblanket 2019b) interpretation of treaty has at times proven convenient—whether to discursively justify its legal sovereignty, its 'ownership' of land, or the racialization and individualization of First Nations citizens (Starblanket 2019b; Stark 2016).

⁵ In a Treaty 6 context, I witness regularly the new houses, schools, fire halls, roads, and water treatment plants (e.g., ISC 2018b); expanded education programming (ISC 2018a); and capacity development (Indigenous and Northern Affairs Canada 2018) this funding has made possible.

⁶ One constraint/assumption I operate under here is that Canada will continue to exist as a nation-state into the future, even if it would need to change in fundamental ways to be consistent with Treaty 6 and other numbered treaties. Creative optimistic imaginings of future relationships between settlers and Indigenous peoples, including those consistent with what Treaty 6 envisioned could legitimately involve Canada ceasing to exist altogether, or any number of other permutations that I have not imagined.