



**EXPERT SEMINAR ON TREATIES, AGREEMENTS AND OTHER CONSTRUCTIVE  
ARRANGEMENTS BETWEEN STATES AND INDIGENOUS PEOPLES**

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**Organized by the Office of the United Nations High  
Commissioner for Human Rights**

**Background and Recommendations**

**Background paper prepared and presented by  
Mr. George Wes  
on behalf of the Ochapowace and Cowessess First Nations,  
the South East Treaty 4 Tribal Council  
and the Federation of Saskatchewan Indian Nations**

## A. Introduction

1. Thank you to the United Nations High Commissioner on Human Rights for organizing this Seminar on Treaties. Indeed it is a welcomed breath of fresh air that the decisions of the General Assembly, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission were immediately implemented. We welcome this opportunity to share with the participants our perspectives, opinions, positions and expectations of this; the Expert Seminar on Treaties.

2. At the outset, it is important for the Seminar participants and indeed the parties to Treaties to commit to seeking solutions, solutions that, wholly includes and fully applies the International Treaty Study observations, conclusions, and recommendations. Along with recommendations of international, national and regional importance, we anticipate results that mirror International Standards, and Indigenous Treaty Nation's standards.

3. This paper is prepared on behalf of the Treaty First Nations of North America who are signatories to the Treaties with the Crown of Great Britain in Right of Canada. This paper is also intended for advancing our basic positions and understandings of the Treaty itself and the encompassing issues that the Treaty confirms. Complete with recommendations of International National and Regional concern and action.

4. Our participation here is to ensure that the Seminar process, deliberations, records, and outcome reflects our requirements, as it is our Treaty that is under discussion and it is our Treaty that requires implementation.

## B. Background

5. Since the days, when treaty was signed, we have been told through our historians; the Elders, that the Treaty was a Nation-to-Nation agreement, and that the discussions, negotiations and promises made at Treaty time were understood to form a part of the Treaty. It was understood amongst ourselves, that the Treaty was about the sharing of our lands and territories with the foreigners in exchange for rights and promises, it was about maintaining Peace and Friendship between Nations, and it was to last forever.

6. Our Forefathers who had limited contact and experience with the foreigners way of doing business, relied fully on the Queen's Representatives; the Treaty Commissioners "*spoken words*", and the images which the words projected, as the binding articles of the Treaty. We trusted the Treaty Commissioners when they spoke of the equality of all peoples, of the respect and admiration for our Nations, of the promises to provide us with the necessary means that would enable us to live on an equal footing and to live as we always have lived.

7. Our Treaty with the Crown of Great Britain, and now in Right of Canada provided for sharing and co-existence. Our Elders have always told us that we did not give up any jurisdiction over our people, or land. What the Treaty was to provide us was in addition to what we already possessed. In the presence of the Creator, the Treaty was and continues to be a sacred pact between Nations and the promises contained therein symbolize our living commitments to each other. The Treaty Commissioners pledged before us, that the Treaty was "*for as long as the sun shines the grass grows and the rivers flow*".

8. Almost immediately, we realized that the Crown's record of it's commitments did not contain nor reflect our understandings of the agreement. The written text of Treaty included many concepts that we did not understand; such as extinguishment of rights to land, plus it did not include the many issues we agreed to, and certainly did not include the many promises made.

9. Our Treaty partner, the successor and representative of the Crown; Canada, argues and maintains flawed opinions; that the Treaty is not a Nation-to-Nation agreement, that only the written version is what applies and was intended, that Canada's Courts of Law will define the Treaty and Treaty Rights, that the legislative capacity and supremacy Canada possesses provides them with the wherewithal to continue the non-recognition, non-observance and non-compliance of our sacred pact. That International Law does not apply and certainly does not have any bearing on the internal interpretation of a <sup>1</sup>*Domestic Treaty*.

10. The understandings we possess as one party of the Treaty, are supported by the International Treaty Study - Special Rapporteur's findings, which also confirms those basic positions we maintain. Several other notable International Law Documents and Standards attest to the facts we put forward, this is not news to the many assembled here.

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<sup>1</sup> Canadian Governments official categorization of all Treaties in Canada. A categorization that is not accepted by the Treaty First Nations of North America - Canada

11. The abridged version of Treaty history we have provided herein, is not the full history of the Indigenous Treaty Nations, it is meant to contrast the inequalities of interpretation of the Treaty and intent of the Treaty partners. We are continually required to maintain our end of the bargain and in many instances past and present, forced to conform.

12. We have no recourse nor opportunities domestically to have Canada conform to it's obligations and responsibilities as Treaty partners. We are in many instances penalized for not complying with the Treaty, our monies appropriated by the State are withheld, our territories and lands are being taxed, our jurisdictions and territorial integrity is overrun, our water and land rights are not considered and denied, the natural resources that are rightfully ours are being harvested, mined, gathered, blocked and used in Trade and Sale to benefit the other Treaty partner. Our rights are unlawfully challenged in their laws and courts. Decisions of their courts are not intended to benefit the original peoples. Exact and True histories of the Original Owners and Peoples of the land are denied to all.

13. We can, continue to state all that is wrong in our country. We can also state that those wrongs are reinforced by racism, prejudice, intolerance, ignorance, indifference and denial. We need to collectively address those barriers and stumbling blocks in an aggressive manner, and seek lasting commitments to live side-by-side in a coexisting fashion. Our Treaty is intended as such.

14. We can share in all the bounties of the land, and all of us can benefit equally. All we ask is to be treated fairly. We want to be recognized and appreciated as who we are: the Original Peoples, and Original Nations. We can live in harmony. What we are here for is solutions, and Treaty Implementation according to the original <sup>2</sup>"spirit and intent" is such a solution.

### C. Treaty Implementation

15. The United Nations "Study on Treaties Agreements and Other Constructive Arrangements Between States and Indigenous Populations" Final Report E/CN.4/Sub.2/1999/20, 22 June 1999 was heralded as a significant milestone in achievement of identification and confirmation of one critically important aspect of our being. Stating several observations and recommendations, the Special Rapporteur identified major advancements and conclusions that lent significantly to the efforts of Treaty implementation sought by many.

16. There is no doubt, that exact and true Treaty implementation continues to be the efforts and demands of the intended beneficiaries; the Indigenous First Nations of Canada. It should be noted that, national and regional efforts and processes continue to be exercised, with little advancement.

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"Spirit and Intent"...refers to the entire package of hopes, promises, understandings and perceptions which each of the Indian signators had with them as they touched the treaty pen to mark their agreement with the Crown. (Maguire, FSIN Mock Trial, Regina, September 1992). Today, in addition, it includes the sacredness of the process that produced the Treaty Document and Relationships it created, while confirming the International Status of Treaty.

17. This lack of development is a direct result of the Federal Government of Canada failing to recognize basic principles of Treaty and Treaty making, failure to understand and appreciate the role they possess as a Treaty partner, and not to mention that International standards and law supports the basic contentions of the Indigenous Treaty Nations which is denied. This is identified to indicate the current status of the Canada, Federation of Saskatchewan Indian Nations, and the Province of Saskatchewan Treaty Governance and Implementation process. As a final note, the Government of Canada has threatened to withdraw itself from the process and withdraw critical funding if the First Nations do not comply with the principles they dictate.

18. Our ancestors and forefathers had forged an international relationship through the exercising of their abilities, capacities and powers as Sovereign Nations, and our Treaty was a result. It is our duty and obligation as decedents to uphold and respect those attributes and principles. Treaty implementation cannot occur without highly evolved principles applied, without appreciation of historical and traditional values to use as guides, without recognition and complying with the Nation-to-Nation relationship, without Treating the other Treaty partner with respect and honour.

19. Treaty, Treaty capacity, Treaty making, Treaty intent, Treaty status, Treaty commitment, Treaty observance, Treaty relationship, Treaty benefit, Treaty Rights, Treaty enforcement, Treaty funding and Treaty fiscal relationships are all elements that are necessary to adhere to and achieve: Treaty implementation.

20. Therefore, in the spirit of our ancestors and conforming to the expectations of our Indigenous First Nations Citizens, do hereby make the following recommendations for implementation:

#### **D. Recommendations**

##### **i. International**

- a. United Nations adopt, endorse, accept and implement the conclusions, recommendations and essence of the Study on Treaties Agreements and Other Constructive Arrangements.
- b. United Nations accept and adopt the Study on Treaties, Agreements and Other Constructive Arrangements as an International Law Standard.
- c. United Nations implement the conclusions, recommendations and outcome results of the Expert Seminar on Treaties immediately.
- d. United Nations Expert Seminar on Treaties accept all written documentation provided by Indigenous Peoples Experts as official documents and be circulated among participants and made available to interested public.
- e. United Nations Expert Seminar on Treaties accept the recommendations provided by Indigenous Peoples Experts for immediate study and implementation.
- f. United Nations ensure that the Declaration on the Rights of Indigenous Peoples as currently drafted, and where Indigenous Peoples and Indigenous Organization recommend changes for improvement, is adopted and implemented immediately.
- g. United Nations sponsoring and convening a Summit of the World's Indigenous Peoples, as

a follow up to the 1<sup>st</sup> Decade of the World's Indigenous Peoples, or in the alternative as a prelude to the proposed 2<sup>nd</sup> Decade of the World's Indigenous Peoples.

ii. **National**

- a. Canadian Federal Government accept, endorse, and implement the Study on Treaties, Agreements and Other Constructive Arrangements according to the documented conclusions and recommendations provided by the Special Rapporteur.
- b. Canadian Federal Government implement immediately the conclusions and recommendations of the Study on Treaties, Agreements and Other Constructive Arrangements nationally.
- c. Canadian Federal Government along with Indigenous Peoples experts, organizations, and authorities; design effective and appropriate educational and promotional efforts that depict the exact and true histories of Indigenous Treaty Nations and Indigenous Peoples.
- d. Canadian Federal Government implement educational and promotional efforts that depict exact and true histories of Indigenous Treaty Nations and Indigenous Peoples of North America.
- e. Canadian Federal Government along with the Federation of Saskatchewan Indian Nations, the Assembly of First Nations plan and hold a National process and seeking best methods of implementing the observations, conclusions and recommendations of the Study on Treaties, Agreements and Other Constructive Arrangements.
- f. Canadian Federal Government along with the Federation of Saskatchewan Indian nations and the Assembly of First Nations plan and hold a Summit of Treaty Nations.
- g. Implement the Nation-to-Nation relationship Treaty confirms and supports.
- h. Implement effective and equal inter-governmental relationships.
- i. Implement appropriate Fiscal Relationships that accurately depicts, supports and maintains the Treaty Nation-to-Nation relationship.
- j. Cease all efforts that undermines the Treaty relationship.
- k. Eliminate those Canadian Federal Government Ministries and Departments that oppress Indigenous Peoples and Indigenous Nations Governments abilities and capacities.
- l. Develop a Canadian Federal Government Ministry that is specific to implementing and maintaining the Treaty, Treaty Relationships and Treaty Rights.
- m. Eliminate/invalidate the 1930 Natural Resource Transfer Act (NRTA).
- n. Commitment by the Canadian Federal Government to the World and Indigenous Peoples affected; to observe, recognize, honour, respect, and implement Treaty according to International Law and Standards.
- o. Commitment by the Canadian Government the World and Indigenous Peoples; to fully and wholly implement the Treaty according to the original and true Spirit and Intent.
- p. Commitment by the Canadian Government to honour it's legal, and moral obligations to fulfill its duties to the Indigenous Peoples of Canada.
- q. Commitment by the Canadian Government to ensure continuous dialogue of improving relationships with Indigenous Treaty Nations.
- r. Commitment by the Canadian Government that legislation and the process that produces legislation is sensitive to, and positively affects Indigenous Peoples Rights.

### iii. Regional

- a. Provincial Government observe and adhere to Treaty Relationships
- b. Provincial Government cease all efforts that deny, oppress, suppress, and violates Treaty and Treaty Rights
- c. Provincial Government ensure that relevant and accurate histories depicting Indigenous Treaty Nations is developed in conjunction with Indigenous Peoples experts and organizations.
- d. Provincial Government ensure that Provincial Curriculum reflects and contains accurate histories depicting Indigenous Treaty Nations issues, and Treaties is implemented and made compulsory throughout the public and private schools.
- e. Provincial Government repeals and invalidates 1930 Natural Resource Transfer Act.
- f. Provincial Government discontinues jurisdictional arguments and positions in relation to reserve lands and territories and rights.
- g. Provincial Government discontinues it's forcible and illegal application of Laws and Legislation on our governments, lands, properties and territories.
- h. Rural Municipalities and the Provincial Government cease the illegal application of Laws and Legislation on our Lands and properties.
- i. Rural Municipalities and Provincial Government return all monies collected that violate our Treaty and Treaty relationship.

### E. End Note

21. Although we have listed numerous recommendations they are all profoundly related to and impacting upon the Treaty, Treaty Rights and Treaty Spirit and Intent. The serious state of affairs that we are presently experiencing is a result of the other Treaty partners not taking their roles seriously, and is a direct result of the perpetuation of colonialist doctrines. For the governments who are listed in this paper, denial is expected and our recommendations will undoubtedly be classified as unrealistic. We are however undaunted in our efforts. We the intended beneficiaries of Treaty possess the answers to the problems that we face on a daily basis. The Nation States of the World, the Nation State of Canada, the Canadian Government and its Provincial Governments must arrive at answers that accompany Treaty. Only through active participation and involvement of the Indigenous Peoples, and Indigenous Treaty Nations will those answers be gained. The generations that will arrive here after us must not be burdened with these outstanding issues and unfinished business. We have a magnificent opportunity to correct the injustices and mistakes of the past. The challenge is to shed our fears, and apprehensions and trust one another. We extend our hand again, as our forefathers did so long ago. We want to walk side-by-side and hand-in-hand. Let us accept and face the challenges together.

Hy Hy, Meegwetch

Wes George is a Niheyawak Citizen of the Kakisiwew-Ochapowace First Nation in Treaty 4 Territory of North America - Canada. A recognized Expert on Indigenous Peoples Rights, he provides ongoing advice to numerous First Nations organizations and governments. Wes can be reached at Box 586 Whitewood, Saskatchewan S0G-5C0. Email: wes-george@hotmail.com