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## *To Understand Why the Land Remains Indigenous, Look to History*

SHELDON KRASOWSKI | CONTRIBUTED TO THE GLOBE AND MAIL | APRIL 19, 2019

The Canadian government has always taken a narrow view of the treaties with Indigenous peoples. They have focused on the treaty text itself, despite an abundance of oral and written evidence from the treaty negotiation period. Winona Wheeler, an associate professor of Native Studies at the University of Saskatchewan, recently stated that the federal government of Canada is wedded to the written texts of the Treaties, and has reneged on its fiduciary obligations to Indigenous peoples. As the great-great-granddaughter of Askinootow, the interpreter for Treaty 4 – signed in 1874, it encompasses land in what is present-day southern Saskatchewan and a small part of western Manitoba – Dr. Wheeler is someone whose family history states that they never surrendered their traditional territories. Instead, they agreed to share the land, to the depth of a plow, in exchange for gifts, annual payments and assistance when in need.

The most controversial aspect of the treaties is the surrender clause. The treaty text states that the Indigenous peoples “do hereby cede, release, surrender, and yield up” all of their lands to Her Majesty the Queen. However, my research has shown that a close analysis of eyewitness accounts reveals that the surrender of lands was never discussed during the treaty negotiations. After the negotiation of Treaty 1 in 1871, Canada’s treaty commissioners resolved to focus only on the benefits of treaties to Indigenous peoples, including assistance with agriculture and annuity payments, and ignore the liabilities, especially the surrender of lands and resources. This resulted in an Indigenous leadership who believed they had agreed to share the lands with settlers, but never surrendered their rights to their traditional territories.

Canada’s neglecting to mention the surrender clause during the treaty negotiation was not innocent forgetfulness. The surrender of lands was ignored during the negotiation of Treaties 1 through 7, which cover most of Western Canada. This was part of a strategic plan employed by the treaty commissioners to distance the Indigenous leadership from the treaty text. The treaty commissioners focused the negotiations on the verbal promises, including assistance with farming, the payment of annuities and education. They neglected to mention the jurisdiction of reserved lands, or the surrender of rights. The text of treaty was read publicly at each negotiation, but the commissioners carefully selected interpreters who were in favour of treaty, and held the readings only after the close of negotiations. The Indigenous chiefs were not required to sign the treaty or make their mark. They merely touched the pen of the clerk, or shook hands with the commissioners to show their agreement. The government’s approach to the numbered treaties was not naive. They employed former Hudson’s Bay Co. traders who knew the Indigenous communities well. They used this expertise to obfuscate the surrender of

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rights and lands to the point that the Indigenous leadership viewed the treaties as solemn agreements of peace and friendship.

Unfortunately, most historians have chosen to ignore the eyewitness accounts of the treaty negotiations. Instead, they have relied on official government records, and the text of treaty, which presents only a narrow interpretation of the treaties. However, new publications by James Daschuk, Michael Asch and Aimée Craft have created a paradigm shift by questioning the government's role during the treaty negotiations. Prof. Daschuk's *Clearing the Plains* shows that while Canada was opening the country to immigration, it used politics of starvation and neglect to weaken Indigenous communities. Prof. Asch's *On Being Here to Stay* describes the Treaties as non-Indigenous peoples' Magna Carta, and should be the basis of our laws in Canada. Prof. Craft's *Breathing Life into the Stone Fort Treaty* states that to understand a treaty, you have to understand more than the written text. You have to consider the Indigenous perspectives. Indigenous elders have described Treaty 1 as a sharing treaty. Indigenous peoples shared the land with settlers "in a spirit of equality and non interference."

It is in the context of these arguments that I worry about the polarization of society, and whether my research could contribute to divisions between settlers and Indigenous peoples. My grandparents emigrated to Canada in the early 1900s from Germany and Ukraine to farm, and it was early settlers such as them who benefited the most from the treaties. They were allowed to take up homestead lands because Treaty 6 allowed for settlement. But if Indigenous peoples did not surrender their lands, and the land remains Indigenous, what rights do settlers such as me and my family have?

My research into the numbered treaties not only included archival documents, but also listening to and reading many Indigenous oral histories. The oral histories describe the treaties as nation-to-nation agreements that started when the Indigenous leadership were invited by the Canadian government to negotiate treaties. These were first and foremost peace and friendship treaties, and they created a relationship between settlers and Indigenous peoples based on kinship ties. In his *Two Families: Treaties and Government*, Harold Johnson describes these ties as the adoption of settlers by Indigenous peoples, which was forged by the Creator, and cannot be broken.

Even though my research uncovered duplicitous dealings by the Canadian government during the negotiations, the treaty relationship still endures. It is my hope that discussions of treaty lands do not create more divisions between settlers and Indigenous peoples. The guiding principles of mutual respect and sharing can help guide our understanding of treaty-making. The treaties were meant to benefit both settlers and Indigenous peoples equally, and reimagining our relationships to the lands and resources can lead to reconciliation, rather than polarization.

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### *Think Like a Historian:*

Step 1: Read the article.

Step 2: Answer the questions below.

Step 3: Meet with a group of 2-4 students and discuss the group questions.  
Record evidence of your discussion.

1. What is the 'surrender clause'?
2. According to Krasowski, how did the government hide the surrender clause from the First Nations negotiators?
3. What was the Indigenous perspective of the treaty signing process?
4. Is an oral history a primary or secondary source? Explain.

### **Group Discussion:**

5. When the past is documented in written text and oral stories, should we trust one more than another? How do we know which to trust?
6. If Krasowski's thesis is accurate, is the land technically still Indigenous?