Reconsidering Treaty 8 Negotiations: The Canadian Government’s Purposeful Exploitation of a Disadvantaged Population

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ABSTRACT

Abstract: Treaty 8 was signed on June 21, 1899, between the Government of Canada and Indigenous Peoples living in the northern Alberta, northeastern British Columbia, southwestern Northwest Territories, and northwestern Saskatchewan region. Calls for the treaty began in the 1870s, but negotiations only began one day before the treaty was signed, raising questions about the fairness and professionalism of the negotiation process. Issues involving the mistreatment of Indigenous Peoples, both historically and contemporarily, have been on the front pages of media increasingly since the discovery of unmarked graves at a Kamloops former residential school in 2021. Each case of the Canadian government’s mistreatment of Indigenous Peoples, or enabling of it, is different and needs to be examined individually with consideration of the different sources relevant to each event or case. This research sought to uncover if injustice or mistreatment of Indigenous groups occurred during the Treaty 8 negotiations, and if so, how. The research reveals that the government took advantage of the poor economic conditions affecting Indigenous Peoples in Northern Alberta and created Treaty 8 to unfairly benefit itself on the premise that Indigenous Peoples are less worthy of respect from the government. Negotiations were unfair and Indigenous Peoples were mocked and exploited, calling into question the ethics of Treaty 8 and the need to not only reconcile, but to completely re-examine Treaty 8 and other historical treaties and laws concerning Indigenous groups.

Treaty 8 territory is home to thirty-nine First Nations communities and covers approximately 840,000 kilometres of land spanning across northern Alberta, northeastern British Columbia, southwestern Northwest Territories, and northwestern Saskatchewan. Calls for this treaty began in the 1870s and 1880s by Indigenous Peoples when settlers began exploring and interfering with Indigenous lands, but the government was unprepared to negotiate at that time. Miners, prospectors, and settlers raised development interests in the Mackenzie River, leading to increased calls from the Northwest Mounted Police (NWMP), Hudson’s Bay Company (HBC), and other local settlers to reduce the conflict between the newcomers and Indigenous Peoples. Nearly twenty years later, the government began a negotiation process, and on June 21, 1899, Treaty 8 was signed between the Government of Canada and First Nations located on the territory.

Indigenous Peoples were well-versed in treaty-making before the arrival of Europeans, as Indigenous nations often made treaties with one another. Treaty-making, according to many Indigenous nations, was never a definitive ever-lasting agreement; instead, when necessary, it was based on a renewing relationship when parties’ needs changed with time. When Europeans brought their own protocols to treaty-making, treaty-
making processes blended Indigenous and European traditions, introducing to Indigenous Peoples the written treaty document. This introduction did not mean that unwritten treaties were invalid forms of treaty-making, as these had been an integral aspect of Indigenous treaty-making prior to the Europeans’ arrival. Chelsea Vowel notes how, in the early years of European settlement on Turtle Island, “Europeans desperately needed help to survive these climes” and through treaties, they relied on Indigenous Peoples because “securing alliances among the Indigenous nations was vital” for European nations in conflict with one another. Treaty-making then “took a definite turn once the British had established supremacy in North America” and no longer faced the same struggles or relied as heavily on the Indigenous Peoples for support, to establish power, and familiarize themselves with the land.

Since the end of the 1990s, calls to reconsider the treaty negotiation processes for the numbered treaties, such as Treaty 8, were made and became a prominent issue for the Canadian public and its politics. Speculation has since risen about the fairness and power imbalance in the negotiation process. In 2000, scholars Arthur J. Ray, Jim Miller, and Frank Tough published *Bounty and Benevolence: A History of Saskatchewan Treaties*, wherein they examine archival evidence from the HBC and the Government of Canada, with personal letters and journals of key players such as Sir John A. MacDonald and Treaty Commissioner David Laird, to show the role of First Nations in the process of some of the numbered treaties, such as Treaty 8.

In 2017, Jessie Hohmann wrote about the typewriter that was used by negotiators in 1899 to type Treaty 8. Hohmann explains how the material object can help answer “questions about the Canadian government’s sovereignty, authority, and control of the territory covered by the Treaty [that] remain in contention, while Indigenous Peoples continue to contest the government’s authority.” Hohmann offers a unique and relevant perspective that seeks to answer the question about the power imbalance in Treaty 8 negotiations. Treaty 8 archival files, oral histories, and secondary research such as *Bounty and Benevolence* add to this conversation and help reveal that the federal government took advantage of the deprived Indigenous stakeholders of Treaty 8, wrongfully neglecting their troubles and exploiting them during the negotiations while preserving its own reputation through illusory negotiation tactics. This is demonstrated through the government’s actions prior to the treaty, which can be understood as a pattern of circumventing the responsibility of relief by contradicting its commitments to the Indigenous Peoples. This inaction increased pressures for treaty-making by the Indigenous Peoples and placed them in a position where they were dependent on the government for economic relief. The increased calls for treaty-making on behalf of the Indigenous Peoples allowed the government to dominate the negotiations and incite a mockery of the Indigenous Peoples by the press and government officials.

Government reports and letters from the decades leading up to Treaty 8 reveal a pattern of neglect of Treaty 8 Indigenous stakeholders who faced poverty-induced struggles. These struggles provided the government an opportunity to exploit and capitalize on the community’s helpless misfortune. First, the Government of Canada evaded the responsibility of providing any form of assistance to Indigenous Peoples’ livelihood, except “only when agricultural settlement or government works projects undermined it.” Despite this, the government made empty promises to help starving Indigenous Peoples, failing to act on that obligation because of its perceived standards of hardships. Lawrence Vankoughnet, deputy superintendent-general of the Department of Indian Affairs, acknowledged that it is “the obligation resting upon the government, to come to the relief of Indians who are in a state of starvation, and with whom no Treaty relations exist, the undersigned is of opinion, that the Government should act towards them.” In the Annual Report of the Commissioner of the NWMP, calls for assistance were reportedly made by Father Breynat of Fond Du Lac, near Treaty 8 territory. He said that “dogs died of hunger, and people had no more transportation. Some people walked to the village for three days without food … Some arrived with hands and nose frozen … Influenza followed famine.” Interestingly, it was Vankoughnet who denied assistance to the
Indigenous Peoples who lived on what would become Treaty 8 territory. Vankoughnet noted that “games and furs were plenty again,” their suffering was short-lived, their economy was recovering, and there was no need for assistance from the government. It is unclear where Vankoughnet received this information because inspection reports from the HBC “indicate that northern Aboriginal Peoples continued to face hardships.” Ray, Miller, and Tough conclude that Vankoughnet was either overly optimistic, or greatly exaggerated his statement. Either way, he acted contradictorily in policy and in practice, ignoring the many calls for help from Indigenous Peoples and demonstrating how the government could evade its own policies and preserve power through practice.

The hardships faced by these Indigenous Peoples were not isolated incidents, as it became clear that their economic struggles were chronic, and the government ignored further calls to intervene and provide support. In 1890, the HBC informed the government that “the fur in the country is getting scarcer each year and the Indians poorer. Those in Peace River are starving every winter and need assistance very much. The traders and missionaries assist them as much as they can, but they cannot afford to do it all the time. The government should begin to do something.” These calls for action were part of an ongoing argument about who was responsible for providing relief to Indigenous Peoples. The conflict between the HBC and the government reveals that these institutions either could not or did not want to help them. In the case of the government, Vankoughnet made it clear in 1887 that the department did not want to take responsibility, noting that “the undersigned does not, however, see that the Hudson Bay Company can have any equitable claim to be relieved of the care of the sick and aged Indians.” This deflection of responsibility reveals the hypocrisy of the Department of Indian Affairs, which had later declared in 1890 that the government would provide assistance to those in a state of starvation, whether they were “white or red.” This highlights that the government either did not believe the extent of the suffering of Indigenous Peoples, or there was a severe disconnect between the department’s policy and practice.

The HBC was the only institution physically present to witness the suffering of the Indigenous Peoples, and there was a demonstrated attempt to help them until the company was unable to do so because of its own financial challenges resulting from increased competition and lower profit margins. Despite its inability to help the Indigenous Peoples, the HBC still appeared to be more concerned about their well-being than the government, which did not verify claims of the suffering of Indigenous Peoples and thus refused to offer support. There is proof that the government was made aware of the social issues faced by Indigenous Peoples. The HBC wrote to the government that “some of the so-called Miners do not treat the Indians with kindness or civility; shoot their dogs, steal their traps...stealing fur animals out of the traps, burning the Country, and roaming all over it destroying and frightening game, etc.” But the HBC’s outlook on issues that the Indigenous Peoples were facing strongly contrasted against the opinions of some members of the NWMP, and this contrast affected the government’s understanding of the conflict occurring on Indigenous Peoples’ lands. J. D. Moodie, a NWMP inspector visiting the region to evaluate the conflict, described in his personal journal how the Indigenous Peoples “are very likely to take what they consider a just revenge on the white men who have come”. The fact that he added “what they consider” implies that he thought their revenge was undue. This language evokes the stereotype that Indigenous Peoples are uncivilized, creating an ‘us versus them,’ ‘civilized versus non-civilized’ perspective between the white settlers and the Indigenous Peoples. This perspective is unsurprising given the era and prejudice that existed toward the Indigenous Peoples, but this highlights that Moodie favoured increased government presence on what would become Treaty 8 lands - not for the benefit of these Indigenous Peoples, but for the protection of white settlers. Thus, Moodie can be added to the growing list of governmental and authority figures who saw the Indigenous Peoples as an obstacle that needed to be confronted because of the ‘problem’ they posed for white settlers.
The government’s neglect of the needs of the Indigenous Peoples, and focus on protecting the needs and interests of white settlers, created a power imbalance prior to the treaty negotiation at Lesser Slave Lake in June 1899, which allowed the government to exploit the Indigenous Peoples. The biased correspondence by government officials such as J.D. Moodie demonstrates how the government failed to protect Indigenous groups from the harmful presence of white travellers, miners, and prospectors seeking to economically benefit from Indigenous Peoples’ lands. Just as the HBC had informed the government, “miners and prospectors headed to [the klondike] ...They scoured the country along the way, hoping to find new gold deposits.” The increased presence of white settlers and travellers was detrimental to the Indigenous Peoples, and the government failed to protect them. The government’s neglect to solve these problems allowed the conflict to escalate because of the increased settler traffic on Indigenous Peoples’ lands. A piece of NWMP correspondence describes how, “One of a party of prospectors...shot two stallions belonging to Chief Montaignee.” Even worse, the NWMP were biased against the Indigenous Peoples in these cases of injustice, and they used that bias and prejudice to cast the Indigenous Peoples unfavourably in the eyes of the government: “F. White, comptroller of the NWMP, forwarded to the superintendent-general of Indian Affairs a patrol report from Fort Smith that said, ‘The Indians in this locality are very jealous of Whitemen, Trappers and Miners coming in their country’.” This letter uses language that is biased and uninformed—White provides no evidence to explain why he found the Indigenous inhabitants to be jealous, leading me to think that this was an impression he created with little or no evidence, supplemented by his own personal bias. He also portrays the Indigenous Peoples in a negative light by withholding the fact that they had valid reasons for not wanting the settlers travelling through their lands, such as when the Chief’s stallion was killed by the settlers. As well, White informs David Laird, Treaty Commissioner with the Department of Indian Affairs and negotiator for Treaty 8, that this letter is “an extract respecting Indians.” One can surmise that White had an agenda in sending this extract: he only expresses how the Indigenous inhabitants are behaving with difficulty without providing the important explanation of why. No doubt a letter such as this was sent with the intention of generating a narrative that portrays to the government how ‘bad’ the situation was between the Indigenous Peoples and white travellers.

The government tried to capitalize on its upper hand – the Indigenous Peoples were facing conflict with settlers that they wanted to solve, but the government seemed to have no obligation to intervene for the benefit of the Indigenous Peoples. This exploitation of the social climate was partly influenced by the government’s lack of awareness regarding severity of the social problem, demonstrating the paradox that worked in the government’s favour: the Indigenous Peoples were facing circumstances that increased their pressure for a treaty settlement, but the government was unresponsive to these issues and gained a position of authority over them. Indicative of the government’s purposeful ignorance of the social problems, J. A. J. McKenna, one of the Treaty 8 Commissioners from the Department of Indian Affairs, described how “economic development would not interfere significantly with the existing livelihoods of the Indians... mineral exploitation would not be as land-extensive as the expanding agricultural frontier had been on the prairies in the 1870s.” Unaware the Indigenous Peoples were already in conflict with prospectors, the government believed that increasing activity in the region would not result in any meaningful changes for the Indigenous Peoples. He suggested that “half the amount we agreed to pay under the former treaties would be ample compensation.” Now, Bounty and Benevolence describes how, “the purchasing power of treaty annuities was actually increasing during these deflationary times.” So although the economic circumstances were in the favour of the Indigenous Peoples when it was decided that they would only receive half the amount in payments that former treaties did, it remains clear that the government had the intention to take advantage of the Indigenous Peoples. It was the government’s objective to “secure the relinquishment of the Indians
title at as small a cost as possible.”24 The government realized that it could achieve this. Major James Walker of the NWMP informed the government that “they [Indigenous Peoples] will be more easily dealt with now than they would be when their country is overrun with prospectors and valuable mines be discovered. They would then place a higher value on their rights than they would before these discoveries are made”25. Acting on the suggestion of Walker saved the government money, and although one could be skeptical over what motive the NWMP might have had for saying this, it is likely the case that the NWMP wanted the treaty to end the conflict between the Indigenous Peoples and white travellers—not for the sake and protection of the Indigenous population, but for the travellers.

Like the NWMP, the government was unconcerned about the protection of the Indigenous population, but it hid its lack of concern through the negotiation process. The government appeared to be willing to negotiate, but it disguised its disregard for the concerns of Indigenous stakeholders and demonstrated how political and social authorities, such as the media, prejudicially satirized Indigenous Peoples. The role that the government played was to silence the Indigenous Peoples in pursuit of a treaty that merely removed the Indigenous Peoples as an obstacle to the economic potential of the Treaty 8 region. This dynamic is largely indicated by examining the government’s efforts to silence the Indigenous negotiators, demonstrating that it was not a two-way negotiation process. First, only one Indigenous group was provided an opportunity to ‘negotiate’ before the physical typing of Treaty 8 occurred: Laird states in his letter to the superintendent of Indian Affairs that on their first day meeting with the Indigenous Peoples of Lesser Slave Lake, he explained the terms of the treaty to them at 11:00 a.m., the Indigenous Peoples accepted the terms, and the treaty was to be typed before their 3:00 p.m. signing the following day.26 The fact that only the inhabitants of Lesser Slave Lake were given the chance to negotiate before the typing of Treaty 8 evokes wonder as to why the other Indigenous groups had to sign the ‘adhesions,’ meaning they agreed to the negotiations made by Lesser Slave Lake and were not provided an opportunity to propose their own stipulations in the treaty.

This makes sense, however, when understanding the government’s willingness to negotiate was only an illusion. The government denied the objections that were raised by the Indigenous negotiators. First-hand Indigenous oral histories, government correspondence, and the Edmonton Journal all highlight the fact that attempts were made on behalf of the inhabitants of Lesser Slave Lake to object to the terms or to make amendments to the treaty, including adding health care for the sick, and all sources corroborate that the Indigenous inhabitants were denied their requests. First-hand accounts from treaty witnesses describe how the commissioners made some promises to them: “nothing would be allowed to interfere with their way of making a living...the old and destitute would always be taken care of...they were guaranteed protection in their way of living as hunters and trappers.”27 But Laird sought to strictly adhere to the treaty precedent that existed from the former treaties. He informed the Indigenous Peoples that, “they [the commissioners] had no authority to write it into the treaty.”28 But he told the superintendent, one of his superiors, that the “terms of the treaty are similar in nature to those of the treaties formerly negotiated in the southern portion of the Northwest Territories.”29 The fact that he informed his superior that the “terms of the treaty are similar” to the past treaties indicates that he likely had some freedom in its contents—otherwise, why would he need to inform the superintendent on the terms of the treaty? Surely the superintendent of Indian Affairs would have been aware of the terms of the treaty if they were set in stone and unnegotiable, but since Laird was unwilling to yield to the objections of the Indigenous Peoples, it seems plausible that he was provided with some freedom by his superiors to determine the exact terms and refused to do so because he sought to please them, keeping the terms of the treaty aligned with previously approved treaties.

Further to this, comparing Richard Price’s Spirit of the Alberta Indian Treaties against Laird’s letter to the superintendent reveals the contrasting perspectives of what I would consider three separate parties involved in the negotiation of Treaty 8: the Indigenous Peoples, the
government in Ottawa, and the treaty commissioners led by Laird. Interestingly, Laird’s motives are unaligned with that of the government in Ottawa. He does not include in his letter to the superintendent in Ottawa the fact that he had provided unwritten promises to the Indigenous Peoples of Treaty 8. What motivated Laird to lie about his negotiating power to the Indigenous Peoples and to withhold information from the government in Ottawa about his promises to the Indigenous Peoples? If it is accurate to surmise that Laird’s goal was to please his superiors, then that explains why he threads the needle between satiating the concerns of the Chiefs at Lesser Slave Lake to get their signature while also trying to please the authorities in Ottawa. His unwritten promises were the key to both gaining the signatures he needed and showing his superiors that he was successful in achieving a standardized treaty, which overlooks the distinct and varying needs of the diverse Indigenous groups involved.

Price’s Spirit is the only source that provides an oral history, a form of history that carries legal significance, of the treaties from Indigenous Peoples’ perspective. While most of the source demonstrates that Laird was apprehensive to properly and fairly negotiating, only doing so to a small, secretive extent, the witness account of ‘Peace River Jim,’ a local Indigenous Man who was present at the Treaty 8 negotiation and signing, could be used to argue that Laird was in fact willing to negotiate. ‘Peace River Jim’ recalled, after hearing the objections of the Indigenous Peoples, that “the commissioners finally decided... that what the Indians suggested was only fair and right.”

To Peace River Jim, it may have seemed as though the commissioners were compromising in the negotiations by acknowledging that the Indigenous Peoples’ objections were fair. But this should not be considered a willingness of Laird to negotiate. The commissioners still refused to write further stipulations into the treaty, therefore Peace River Jim’s observation should be viewed as merely a negotiation tactic to appear sympathetic to the requests of the Indigenous Peoples. If the treaty commissioners were truly sympathetic toward the concerns of Indigenous Peoples, they likely would have been more willing to negotiate.

The objections by the Indigenous Peoples are not noted or listed in historical records, but the treaty commissioners presented the proposed treaty to the Indigenous Peoples using language that deterred objection and resistance, keeping the government in control of the treaty terms. The Edmonton Journal describes how, “through his speech, a firmness was noticeable, and it had a good effect.” In fact, it prompted the question by Kinosayoo, Chief of Lesser Slave Lake at the time of the negotiations: “do you not allow the Indians to make their own conditions, so that they may benefit as much as possible?” The mere fact that the journal remarked on his ‘firmness’ of speech implies that Laird ‘put on a show’ and was not usually so firm in speech. Laird had a purpose to his firmness, and it was to present the treaty as non-negotiable to quash potential objections so that he could appear to be an asset in negotiating on behalf of the government to his supervisor. It was not lost on the Indigenous leaders that they had little voice, but the Edmonton Journal, on the other hand, hid the power imbalance in the negotiations in its publications about the treaty-making process. The journal took a mocking tone toward the Indigenous Peoples, leaving out the valid arguments and objections they presented, and instead only covering the aspects of the negotiations that portray Indigeneity as intellectually inferior. Rather than describe Kinosayoo’s objections, the journal transcribed his questions about the clothing that the chief was to receive as part of the treaty settlement.

The journal made a joke of many speeches provided by the Indigenous Peoples. In particular, it noted how “some of the objections were funny... Puasiquam.wanted to know if he could not come to some arrangement...to act as the ‘medicine man’...they managed to put him on the shelf after some sparing, but the future will hear from Puasiquam or I miss my guess.” The phrase ‘put someone on the shelf’ in this context meant that no one wants them, and by noting that the ‘future will hear from Puasiquam’, the journal implies that he is relentless or annoying in his persistence. The journal’s treatment of the Indigenous Peoples aligns with how
the government treated them: a group of people to be taken advantage of economically, territorially, and intellectually.

The government took authority over the Indigenous Peoples when it became clear that they had something the government wanted; it took advantage of the destitution and low social position of the Indigenous Peoples who were wrongfully treated by white travellers and NWMP officers to save itself money in the treaty settlement. During the treaty signing process, the treaty commissioners demonstrated that they were aware of their power over the suffering Indigenous Peoples and used it to silence their objections and requests in an attempt to please governmental superiors and maintain a standardized treaty despite the specific requests and objections by the Indigenous Peoples. These facts allude to the government’s vision for the dominion and its perception of the Indigenous Peoples as mere obstacles to land conquest who were unable to stand up for themselves. The government’s awareness of this power imbalance and use of it to achieve its own motives is only one facet of the historical pattern of mistreatment of Indigenous Peoples. It continues to develop today through new discoveries of historical mistreatment, such as the 2021 locating of unmarked graves at the former Kamloops residential school site; and through modern neglect, such as the slow action of the government to build the Grassy Narrows Mercury Spill Treatment Centre that was promised to the Grassy Narrows First Nation.\textsuperscript{35}
Notes


2 Ray, Miller, and Tough, 148-166.


4 Vowel, 247.

5 Ray, Miller, and Tough, *Bounty and Benevolence*, xv.


7 Ray, Miller, and Tough, *Bounty and Benevolence*, 151.

8 Ray, Miller, and Tough, 154.

9 Ray, Miller, and Tough, 154.

10 Ray, Miller, and Tough, 154.

11 Ray, Miller, and Tough, 154.

12 Ray, Miller, and Tough, 153.

13 Ray, Miller, and Tough, 151.

14 Ray, Miller, and Tough, 154.

15 Ray, Miller, and Tough, 154.

16 Ray, Miller, and Tough, 161.

17 Ray, Miller, and Tough, 156.

18 Ray, Miller, and Tough, 156.


20 An extract respecting Indians, 6 February 1899, RG10, vol. 3848, file 75236-1, Treaty 8 – Treaty Negotiations Between the Indian Affairs Department and the Native People.


22 Ray, Miller, and Tough, 154.

23 Ray, Miller, and Tough, 152.

24 Ray, Miller, and Tough, 160.

25 Ray, Miller, and Tough, 158.

26 Letter to the superintendent of Indian Affairs, 23 June 1899, RG10, vol. 3848, file 75236-1, Treaty 8 – Treaty Negotiations Between the Indian Affairs Department and the Native People.


28 Price, 83.


Negotiations Between the Indian Affairs Department and the Native People.


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