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"We are all Treaty People"
Assessing the Gap between the Dream and the Reality of Treaty-Based Governance in Saskatchewan

Janique Dubois

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Article abstract

In 1996, the Federation of Saskatchewan Indian Nations, the Government of Canada and the Government of Saskatchewan embarked on an ambitious project: they wanted to abandon the colonial legacy of the Indian Act and instead develop a governance framework based on partnerships between self-determining nations. Grounding negotiations in treaties, this "made in Saskatchewan" solution proposed to develop a province-wide system of First Nation governance representing over 115,000 members and seventy communities. Despite efforts to build a novel treaty-based governance framework, negotiations eventually failed. In assessing the gap between the dream and the reality of treaty-based governance in Saskatchewan, this article argues that the failure of the "made in Saskatchewan" solution lies in the parties' inability to break away from Canada's colonial path and fully embrace the reality that "we are all treaty people."

"We are all Treaty People":
Assessing the Gap between the Dream and the Reality of Treaty-Based Governance in Saskatchewan

Janique DUBOIS
Assistant Professor
University of Ottawa

In 1996, the Federation of Saskatchewan Indian Nations, the Government of Canada and the Government of Saskatchewan embarked on an ambitious project: they wanted to abandon the colonial legacy of the Indian Act and instead develop a governance framework based on partnerships between self-determining nations. Grounding negotiations in treaties, this "made in Saskatchewan" solution proposed to develop a province-wide system of First Nation governance representing over 115,000 members and seventy communities. Despite efforts to build a novel treaty-based governance framework, negotiations eventually failed. In assessing the gap between the dream and the reality of treaty-based governance in Saskatchewan, this article argues that the failure of

the "made in Saskatchewan" solution lies in the parties' inability to break away from Canada's colonial path and fully embrace the reality that "we are all treaty people."

En 1996, la Federation of Saskatchewan Indian Nations, le gouvernement du Canada et le gouvernement de la Saskatchewan ont entrepris un projet ambitieux : abandonner l'héritage colonial de la Loi sur les Indiens et développer un cadre de gouvernance fondé sur des partenariats entre nations autonomes. En s'inspirant de l'esprit des traités, les partis ont tenté de négocier un système de gouvernance autochtone représentant plus de 115 000 membres et soixante-dix communautés sur l'ensemble de la province. Cet article se penche sur l'échec de ce projet et l'écart entre le rêve et la réalité d'une gouvernance fondée sur les traités. À partir d'une analyse des négociations en Saskatchewan, il révèle que, malgré les efforts d'établir un nouveau cadre de gouvernance, les partis n'ont pas pu se départir de la logique institutionnelle du colonialisme qui gouverne la relation entre l'État et les peuples autochtones.

The failed negotiations of treaty-based governance in Saskatchewan highlight the difficulty of reconciling treaty principles within a political system that has long viewed Indigenous-state relations through a colonial lens. Relying on historical evidence and perspectives from Elders, the first section tells the story of how Indigenous-state relations were initially conducted through the negotiation of mutually beneficial treaties between self-determining nations. Focusing on the historical use of treaties by First Nations in Saskatchewan, the second section shows that First Nation leaders have remained committed to treaties despite Canada's decision to administer Indigenous-state relations through federal policies after Confederation. The third section discusses the contemporary shift in discourse towards treaty-based governance through an examination of the negotiation of a province-wide First Nation governance framework in Saskatchewan. Through an analysis of this "made in Saskatchewan" solution, the fourth section illustrates how colonial categories overshadowed the dream to implement treaty-based governance. The story of

these negotiations shows that the colonial path established by state policies like the Indian Act ultimately stifled the transformative potential of treaty-based governance.

THE MUTUAL BENEFIT OF TREATIES

In 1996, the Royal Commission on Aboriginal Peoples (RCAP) concluded that, "[t]he main policy direction, pursued for more than 150 years, first by colonial then by Canadian governments, has been wrong" (RCAP, 1996a). In response to the growing recognition that Canada's policy approach has contributed to alarming social, economic and political inequalities between Indigenous and non-Indigenous Canadians, the federal government agreed to embark on a new path with First Nations based on treaties (Canada, 1997). As part of its new action plan, the Canadian government explored the idea of abandoning the Indian Act framework that had governed Indigenous-state relations for over a century and instead build relationships with First Nations according to treaty principles (OTC, 1998). Through historical records and perspectives from Elders, this section highlights the historic and contemporary relevance of treaties as relationships of mutual benefit between self-determining nations.

According to Elder Peter Waskahat, treaties express a lasting relationship of coexistence between First Nations and settlers: "It was decided long before the White man arrived that the First Nations would treat the newcomers as relatives, as brothers and sisters. The First Nations had decided that they would live in peace and that they would share the land with these newcomers" (cited in Cardinal and Hildebrandt, 2000: 31). Described in Cree by concepts like *miyowîcêtowin* (getting along with others) and *wîtaskêwin* (living together on the land), treaties are voluntary agreements that provide for peaceful relations between *iyiniwak* (peoples) (Cardinal and Hildebrandt, 2000: viii). Indigenous peoples have long used treaties to guide relations amongst one another as well as with animal nations (Simpson, 2008; Borrows, 2002). As the RCAP explains in its final report, "[w]hen the Europeans arrived on the shores of North America they were met by Aboriginal nations with well-established diplomatic processes [...]. Nations made treaties with other nations for purposes of trade, peace, neutrality, alliance, the use of territories and resources, and protection" (1996b: 112). In the eighteenth century, colonial governments also began entering into nation-to-nation agreements to ensure the peaceful coexistence of British settlers and Indigenous peoples.

The benefit of entering into such agreements is outlined in one of Canada's oldest constitutional documents, the Royal Proclamation of 1763, which states that, "whereas it is just and reasonable, and *essential to our Interest* [...] that the several Nations or Tribes of Indians with whom We are connected [...] should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories" (Canada, 2013, emphasis added). The Proclamation recognizes Indigenous sovereignty over land and prohibits the use or acquisition of land without the Crown's prior negotiation with Indigenous peoples. In particular, the Crown acknowledges that failing to enter into agreements with Indigenous peoples would be "to the great Prejudice of our [the Crown's] Interest" (Canada, 2013). As John Borrows (1997) demonstrates, the directives of the Proclamation are affirmed in the Treaty of Niagara reached between the Crown and 24 First Nation Chiefs in 1764. Bridging the written traditions (laws) of the Crown and oral traditions (values and common laws) of Indigenous peoples, the promise to coexist on the land was embodied in Wampum belts that were presented at Fort Niagara by First Nations leaders.

The principle of peaceful coexistence outlined in the Royal Proclamation of 1763 and embodied in the 1764 Treaty of Niagara was expressed in a number of treaties concluded from east to west throughout the eighteenth and nineteenth centuries. Given that the British Crown and the subsequent Canadian government needed the assistance of First Nations to pursue their colonial ambitions, the conclusion of nation-to-nation agreements was in their mutual interest (Miller, 2009; Friesen, 2002). While the protections and rights varied, each treaty contained the promise of coexistence between self-determining nations.

In the territory now covered by the province of Saskatchewan, First Nations signed five treaties between 1874 and 1906 that provided socioeconomic provisions as well as the protection of hunting and fishing rights in exchange for the Crown's right to use and access their lands. The written text of Treaties Four, Five, Six, Eight and Ten contain three basic terms: 1) First Nations "surrendered" to the Government of Canada all their rights, titles, and privileges to the lands covered by the treaty; 2) First Nations obtained the right to hunt, trap, and fish throughout the territory covered by treaties except on tracts required for settlement, mining, or other purposes; and 3) the Government of Canada was to provide reserves based on population for those bands desiring them (Whyte, 1984: 106). Other rights provided for in the treaties include annuities, tools, animals, seeds, ammunition, and twine for hunting and fishing as well as schools (Ray *et al.*, 2000). Echoing the tradition of exchanging gifts that embody the treaty relationship, each signatory First

Nation received a medal and a flag as a testament to the parties' commitment to live in peace, friendship and alliance with one another "as long as the sun shines, the grass grows and the rivers flow" (OTC, 1998: 61).

Figure 1
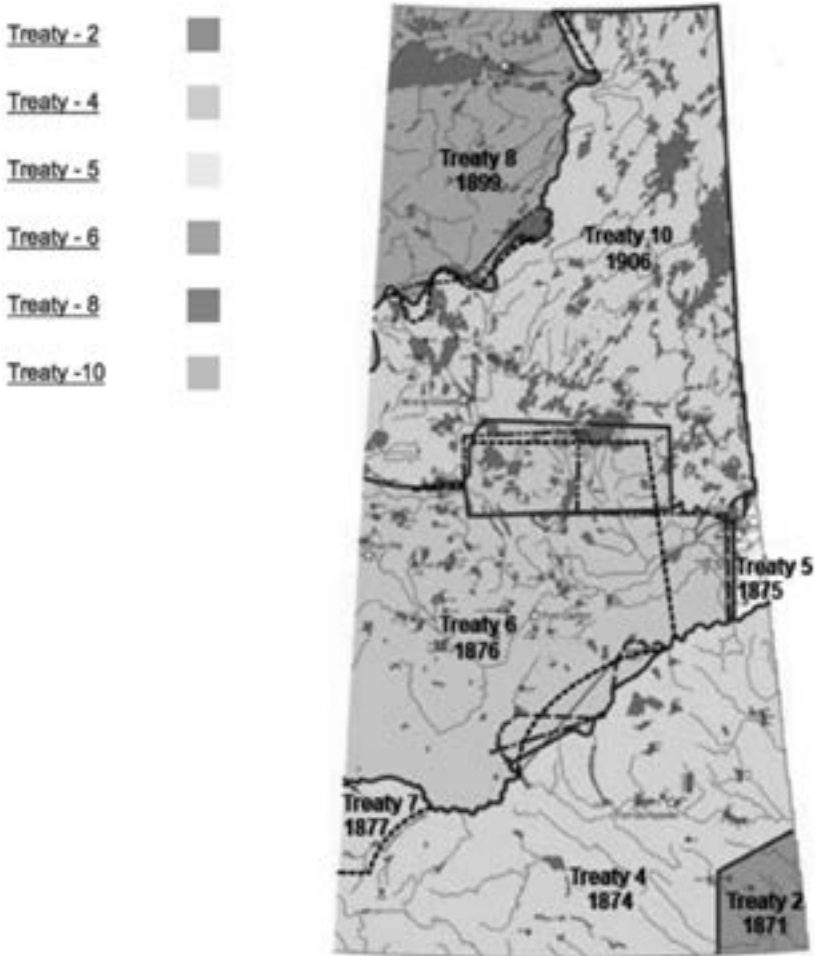**Indian Chiefs Medal (Archives Canada, 2008)**

In many ways, the negotiation of treaties in present-day Saskatchewan was mutually beneficial for the Crown and First Nations. First Nations wanted assurance that they would be protected with the arrival of settlers and took various actions like denying passage to settlers until the Crown agreed to sign treaties. As Gerald Friesen (2002: 137) explains, concluding treaties was also in the Crown's interest:

> Indians were a sufficiently powerful military force in the early 1870s to evoke fears in official circles and, if nothing more, to threaten immigration prospects for a generation. The fact that there were 25-35,000 Indians in the western interior in 1870, and another 10,000 metis, and fewer than 2,000 Europeans or Canadians reinforced the government's concern [that First Nations would threaten settlement in the region].

Lacking the human and financial resources to settle the West without the collaboration of First Nations, treaties were more than a mere formality for the federal government, they were essential to its long-term goals (Miller, 2009: 55-56, 292-296; Ray *et al.*, 2000: 10-11).

MAP 1
Treaty Boundaries of Saskatchewan

Treaty - 2

Treaty - 4

Treaty - 5

Treaty - 6

Treaty - 8

Treaty -10

Treaty 8
1899

Treaty 10
1906

Treaty 5
1875

Treaty 6
1876

Treaty 7
1877

Treaty 4
1874

Treaty 2
1871

(OTC, no date)[1]

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1. This map does not reflect that treaty boundaries in the Southwest corner of the province around Cypress Hills are contested. This area of the province is discussed in Treaties 4, 6 and 7 as well as in treaties in the United States.

Although First Nation-state relations were primarily mediated through treaties during the eighteenth and nineteenth centuries, the Canadian government adopted a new policy agenda to "civilize" Indigenous peoples after Confederation. Through policies like the Indian Act, the federal government – which had given itself the constitutional power to make decisions over "Indians and lands reserved for the Indians" in the Constitution Act, 1867 – began making decisions regarding the political, economic and social organization of First Nations. In contrast with the nation-to-nation approach of treaties, federal policies asserted Canada's power over First Nations.

Despite petitions by First Nation leaders like *Mistahimaskwa* (Big Bear) for the federal government to honour ongoing treaty promises, Canada embarked on a new path defined by policies – as opposed to treaties – as it asserted its power over Indigenous peoples and land through military and political force (Dempsey, 1984; Tobias, 1983; Stonechild and Waiser, 1997). By the time of Canada's Confederation in 1867, there was a tension between two competing approaches to First Nation-state relations: 1) the negotiation of coexistence between self-determining nations embodied in treaties, and 2) the unilateral adoption of federal policies like the Indian Act that sought to "civilize" Indigenous peoples. As the following section illustrates, Indigenous-state relations have been pushed and pulled between these two approaches over the last hundred and fifty years.

FIRST NATIONS' LASTING COMMITMENT TO TREATIES

Today, there are conflicting views regarding the role treaties do or should play in Indigenous-state relations. First Nations argue that the commitments entered into through treaties are ongoing. This is reflected in the stories of Elders like Alma Kytwayhat, Peter Wakahat and Norman Sunchild who note that, "treaties were to last forever… [they] can only be broken through the will of the Creator… these promises were forever" (cited in Cardinal and Hildebrandt, 2000: 20-28). Although representatives of the Crown acknowledge treaties as sacred relationships through handshakes, pipe ceremonies and the exchange of gifts, treaties were – and continue to be – primarily viewed by the federal government in the context of land surrenders. As Canada's position relative to Indigenous peoples shifted from interdependence to dominance, the state chose to legislate its relationship with First Nations rather than negotiate it through treaties (RCAP, 1996a; Tobias, 1986; OTC, 2007). While Canada has primarily sought to interact with First Nations through legislation since Confederation, the discussion below uses snapshots of history to show that First Nations in Saskatchewan have consistently turned to treaties to mediate their relationship with the state.

While First Nation leaders initially insisted on the signing of treaties, many grew critical of these agreements as Ottawa failed to uphold treaty promises in the 1880s. Rather than abandoning treaties, many First Nations in the prairies sought to strengthen them to better guide their relationship with the state. For instance, First Nation Chiefs called a council in 1884 to devise a list of grievances regarding unfulfilled treaty promises that were sent to Ottawa (Stonechild, 1991: 263; Tobias, 1983: 533-540). When Canada refused to respond to these grievances, the Chiefs announced that another council would be held the following summer to collectively renegotiate treaties. The federal government had no interest in renegotiating treaties, but it feared that a First Nation alliance would threaten the settlement of the West.

The 1884 council never took place. Efforts to renegotiate treaties were interrupted by the Battle of Batoche in the spring of 1885, referred to in Cree as *ê-mâyahkamikahk* or "where it all went wrong" (McLeod, 2007: 82). This battle was the culmination of a resistance movement led by the Métis in opposition to colonial policies that denied their right to land and to self-determination. The troops sent by the Canadian government to suppress the Métis uprising in the 1880s were also used to quash First Nation political mobilization (Tobias, 1983; Friesen, 2002; Pettipas, 1994: 102-103). Blair Stonechild goes so far as to suggest that, "[t]he government saw the [Métis uprising] as an opportunity to achieve a goal which had eluded it since 1870 – that of gaining control over Indians" (1991: 273). This is evident in the fact that – even though First Nations made up less than five percent of participants in the Battle of Batoche – the majority of those arrested and convicted in the aftermath of the Battle were Cree leaders, many of whom were critical of Canada's failure to live up to treaty promises.[2] To further establish control over the prairies, the federal government put in place additional restrictions on First Nations such as the pass system, which prevented them from leaving their reserve without permission from a federal Indian agent (Carter, 1991; Jennings, 1986). Through military force and federal policies, Canada overwhelmed Indigenous opposition to British settlement in the prairies.

Despite the severity of state policies that prohibited Indigenous political mobilization in the early twentieth century, First Nation leaders continued to advocate for the respect of treaties. One of the key leaders that carried the dream of fulfilling treaties in the prairies was John Tootoosis. Influenced by the history of his people, especially by the treatment of *Pitikwahanapiwiyin* (Chief Poundmaker) who was imprisoned in the aftermath of the Battle of

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2.   Of the 81 First Nation individuals – all Cree except for two Stoneys – sent to trial for their participation in the Battle, 44 were convicted and eight were hanged. In comparison, only two whites and 46 Métis were taken into custody, 19 of which were convicted and one (Louis Riel) hanged.

Batoche and after whom his reserve is named, Tootoosis travelled to communities across the province to talk to First Nations about treaty rights. To exact better treatment and the respect of treaties from the federal government, Tootoosis encouraged the creation of treaty-based organizations – like the League of Indians of Western Canada established amongst Treaty Six Indians (Goodwill and Sluman, 1984). For Tootoosis, like for many First Nations, treaties constitute ongoing nation-to-nation agreements that protect their inherent right to self-determination.

It is only by understanding First Nations' persistent commitment to treaties and their solemn belief that treaties embody lasting obligations that supersede state policies that we can understand why the "made in Saskatchewan" solution proposed to move away from Canada's colonial policy framework and instead ground negotiations in treaties.

REVIVING THE TREATY RELATIONSHIP THROUGH A "MADE IN SASKATCHEWAN" SOLUTION

By the 1960s, there was a growing recognition of the need to transform Canada's relationship with Indigenous peoples. In 1967, the federally-commissioned Hawthorn Report concluded that the social disadvantages faced by Indigenous peoples were a consequence of failed government policies (Hawthorn, 1967). As Hawthorn's associate director recalls:

> many Indian leaders expressed their concern over the fact that despite growing capacity for self-government Indian communities were submitted to greater bureaucratic, administrative and economic controls. There were also, on the part of many whites, a growing fear that the "economic burden" of the indigenous communities was to become intolerable on the part of the white taxpayer. (cited in Weaver, 1993: 76)

The conclusion that state policies were not working to the benefit of Indigenous peoples or the Canadian state was echoed in the 1996 report of the Royal Commission on Aboriginal Peoples (RCAP).

In its response to the RCAP, the federal government declared its intent to renew relationships with Indigenous peoples. It acknowledged that, "[a] vision of the future should build on recognition of the rights of Aboriginal peoples and on the *treaty relationship*" (Canada, 1997: 10, emphasis added). It is in the context of what has been described as a "paradigm shift" from paternalism to partnership (OTC, 1998: 1) that the Federation of Saskatchewan Indian Nations (FSIN), the Government of Saskatchewan and the Government of Canada officially launched negotiations to renew their relationship in 1996. Following the recommendation of the RCAP, the

parties agreed that moving forward required looking back to the founding principles on which Indigenous-state relations were originally founded – treaty principles. By looking to treaties – instead of to state policies – provincial, federal and First Nation governments sought to develop a contemporary treaty-based governance framework in Saskatchewan.

To signal their commitment to treaties, the initial work plan signed by the federal government and First Nations had the primary objective, "to build on a forward-looking relationship that began with the signing of the treaties in Saskatchewan" (OTC, 1998: 4). Negotiations of a new relationship were launched with the creation of an exploratory table – later named the treaty table – to guide bilateral discussions between the federal government and the FSIN, the province-wide representative body for First Nations.[3] Much like the negotiations of the numbered treaties, the parties came to the table with their own objectives. Yet, they agreed on the need to work in partnership to find practical solutions that would benefit Indigenous and non-Indigenous peoples alike (OTC, 1998). In order to lay the groundwork for this partnership, discussions at the treaty table aimed to foster a common understanding of the treaty relationship. To this end, the treaty table re-created the conditions of initial treaty making: oral history was valued as much as the written record, prayers were held, and Elders occupied pre-eminent positions alongside lawyers and politicians (Hawkes, 2011; Long, 2011). Treaty Commissioner David Arnot argues that the wisdom and guidance of Elders was of "primary importance" (OTC, 1998: iv). The need to establish a common understanding around shared interests before pursuing negotiations was key to the success of the process given the parties' lack of trust in one another in light of Canada's colonial history (Mitchell, 2011; Hawkes, 2011; Rasmussen, 2011).

Commonly referred to as the "boss table" by Elders such as Alma Kytwayhat, the treaty table was meant to inform a parallel, but distinct, process: the common table. Established by the signing of a Protocol Agreement in 1996, the common table provided a trilateral process for regular meetings between the chief of the FSIN, the federal minister of Indian Affairs and Northern Development (INAC, now Aboriginal Affairs and Northern Development) and the provincial minister of Intergovernmental and Aboriginal Affairs (now First Nations and Métis Relations) (Protocol, 1996). The common table aimed to clarify what governance would look like in the day-to-day life of people living in Saskatchewan. Discussions revolved

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3.   The provincial government holds observer status. These discussions were overseen by the Office of the Treaty Commissioner, which was established for this purpose in 1996.

around potential models and partnerships on a sector-by-sector basis starting with two key areas of common interest that were agreed upon by all parties: education and child and family services.[4]

After years of discussions, negotiators jointly proposed an Agreement-In-Principle (AIP) in 2003. Founded on the inherent right to self-determination on which the parties agreed at the treaty table, the AIP recognizes that First Nations hold jurisdictional and law-making powers over education, membership, financial management, and child and family services (AIP, 2003). One of the key proposals of the AIP is to build governance from the bottom up; the AIP recognizes that each First Nation can decide whether and how to participate in a province-wide governance system through a process of "delegating forward." As the AIP (2003: 8.4) explains:

> First Nations shall delegate Jurisdiction to the Province-wide First Nation Government so that legislation in relation to the matters for which Jurisdiction is provided in this Chapter may be enacted and First Nation Laws will apply on a province-wide basis, while providing for implementation by Community First Nation Governments, Regional First Nation Governments or the Province-wide First Nation Government, as First Nations may determine.

By "delegating forward," First Nations determine the level at which to aggregate (or not) their interests to more effectively and democratically serve their members.

In recognizing that each First Nation can choose whether or not to delegate authority to regional, tribal, treaty or other type of governments, the AIP lays the groundwork for the development of a multi-tiered treaty-based governance framework (AIP, 2003: chapter six; Hawkes, 2002). In practice, this means that First Nations could choose to develop a treaty-wide First Nation education system such as the one being discussed by Treaty Four bands, to create regional school boards like the Northern Lights School Division #113 in northern Saskatchewan, or to develop their own educational system as has been done by the Onion Lake First Nation. The implication of this bottom-up approach is that various levels of decision-making would coexist within a province-wide framework. By deriving legitimacy from consenting self-determining nations, the governance framework proposed by the AIP embraces treaty principles.

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4. To this end, the work of the common table was divided between two tripartite entities: the governance table and the fiscal relations table. The former focused on the implementation of treaty governance by outlining the parties' roles and responsibilities with respect to governance, jurisdiction and programming, whereas the latter developed a socioeconomic strategy to support treaty governance in these sectors (FSIN, 2009; OTC, 1998; Rasmussen, 2011).

The timeline in the diagram below projected the course of treaty-based governance in Saskatchewan following the proposed AIP.

FIGURE 2
Timeline of treaty-based governance
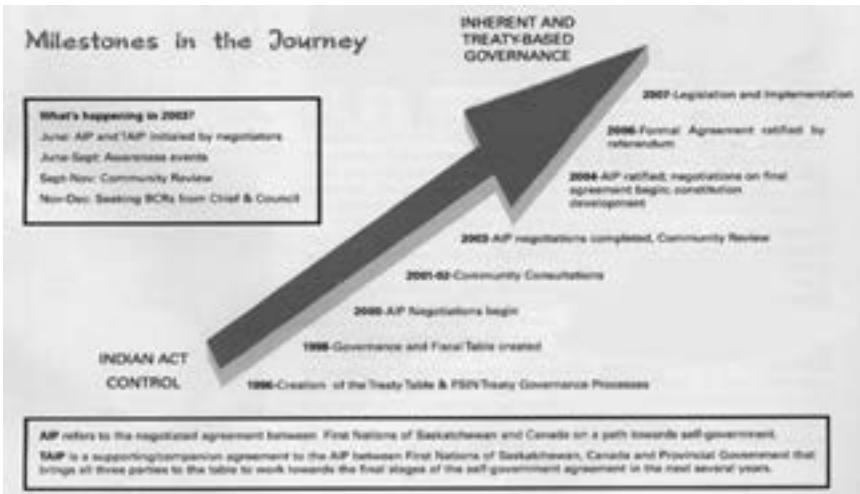
(Leask *et al*., 2003 : 25)

Although it would not be a quick process, negotiators believed that the "made in Saskatchewan" model could replace the Indian Act system governing First Nation communities and be implemented throughout the province. Despite the transformative promise of the AIP and the work of the negotiation teams, the latter was never ratified by any of the parties. For all intents and purposes, the "made in Saskatchewan" process was put in abeyance in 2003 and was officially terminated in 2008.[5]

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5.   The intention to have the AIP ratified by all parties after 2003 was put into question by a number of events – such as changes in political leadership in Ottawa, divisions amongst First Nation leaders and a number of other factors, some of which are addressed in the following section. While the "made in Saskatchewan" process was not terminated until 2008, little happened between 2003 and 2008 when the treaty table was revived to discuss education but the common table and negotiations officially ended.

WHY DID THE "MADE IN SASKATCHEWAN" SOLUTION FAIL?

By founding negotiations in treaties, the "made in Saskatchewan" solution proposed to imagine self-determination outside of state-constructed categories. Despite efforts of negotiators to jointly articulate a vision of treaty-based governance, they were ultimately unable to deviate from the path set out by colonial policies like the Indian Act. As negotiations progressed, it became increasingly difficult for the parties to let go of the colonial vocabulary that has informed Canada's relationship with First Nations for over a century. As the analysis below suggests, Canada's colonial legacy overshadowed the transformative potential of treaty-based governance.

Despite the use of treaty language in the initial stages of negotiations, discussions about implementation revealed a tension in the way in which parties understood the nature of Indigenous-state relations. On the surface, the parties agreed that treaties are political covenants between self-determining peoples (OTC, 1998). By extension, they agreed that the rights that flow from treaties apply to peoples; they are not restricted to a particular territory, but span across bands and reserves to areas currently covered by First Nation, provincial and federal jurisdictions (OTC, 1998). Despite the acknowledgement that the treaty relationship and the obligations it contains extend to members of each treaty party as peoples, discussions were often framed by colonial vocabulary according to which rights are distributed to individuals on the basis of residence (on/off reserve) and cultural/family lineage (status or non-status). Lost in these discussions was the idea that First Nations and settlers are bound and protected by the treaty relationship regardless of where they live or what band, tribal, treaty or linguistic group to which they belong.

The discrepancy between the language used at the treaty table and at the governance and fiscal accountability table became especially evident around issues of jurisdiction. At the treaty table, the parties agreed in principle that treaties were mutually beneficial agreements between self-determining peoples and acknowledged that treaty-based governance would be multi-tiered across band, treaty, tribal and linguistic groups, but they did not fully embrace what this entailed in practice. For instance, the FSIN insisted that on- and off-reserve populations be included in discussions insofar as First Nation peoples are entitled to treaty rights regardless of where they reside. Although federal and provincial governments eventually agreed, they originally maintained that the governance framework should be applied to reserves first as a pilot project that could later be extended off reserve (Rasmussen, 2006). However, excluding individuals on the basis of residency – even if only as a pilot project – clashes with the view that treaty rights extend to peoples rather than territorially-based groups. Despite efforts to

build a common understanding of the treaty relationship, discussions about implementation revealed that the parties did not fully commit to the treaty view that jurisdiction extends to peoples as opposed to land (on/off-reserve).

The provincial and federal governments' initial reluctance to recognize First Nation jurisdiction beyond the boundaries of reserves was ironically compounded by their insistence that education as well as child and family services be aggregated at the province-wide level (Peach, 2009: note 547). Invoking their inherent rights as self-determining peoples, First Nation leaders objected to the idea that the federal or provincial government could mandate the way in which to organize and structure governance in these sectors; they sought the authority to decide how and at what level to aggregate (or not) their communities to provide adequate services to their members (Mitchell, 2011). While the parties agreed on the principle of "delegating forward" in the text of the AIP, it became evident as discussions progressed that federal and provincial governments favoured a model that fit well with existing policy boundaries and wanted to avoid what could become a complex multi-tiered governance system. At the end of the day, the parties had difficulty accepting the uncertainty that came with letting treaties – as opposed to state policies – guide governance. As Paul Pierson argues, "[o]nce actors have ventured far down a particular path, they may find it very difficult to reverse course" (2004: 10-11).

Despite the intention to negotiate treaty-based governance, representatives from all three parties admit that the importance of treaty principles waned in the face of concerns about structure and feasibility that were more easily understood within the context of existing policy. Moreover, negotiators from all parties recalled that, at different stages of the process, the "made in Saskatchewan" vision being proposed clashed with the priorities of their respective political leadership and departmental directives. For instance, government officials who were more comfortably versed in the land claims policy discourse that routinely guided First Nation-state negotiations often overlooked the intent, spirit and content of treaties. The existing policy vocabulary within which negotiators were accustomed to work – notably the land claims policy built on the idea that land will generate economic revenues and delineate the territory over which First Nation jurisdiction will apply – was at odds with treaty understandings of governance that view power as exercised by self-determining peoples, rather than over a territory. By privileging territorial over political claims, the "made in Saskatchewan" solution ultimately failed to break away from existing policy frameworks (OTC, 1998).

In an honest evaluation of the difficulty of implementing treaties, a report released by the Office of the Treaty Commissioner states that:

> There is no longer a real debate as to whether the treaties in Saskatchewan *should* be implemented, nor should there be any debate over the statement that they *have not* been implemented. But there is great uncertainty about how the process of implementing them can be mandated and achieved and, of course, what the end result of such a process should mean for the Parties and for Canadian society (OTC, 2007: 10).

The simple truth is that meaningfully implementing treaties is complex. The multi-tiered bottom-up treaty governance model proposed in Saskatchewan is so different from existing practices that representatives from all parties expressed concerns about their ability to implement it. Negotiators from all sides concede that they repeatedly had to contend with the intimidation of the grandeur and ambition of the "made in Saskatchewan" dream (Bellegarde, 2011; Mitchell, 2011). Rallying behind this vision became increasingly difficult with changes in political leadership and internal divisions (within all parties) throughout the period of negotiations. Overcoming such challenges – which were also present, albeit in a different form, at the time of initial treaty making – required what the former provincial minister and FSIN negotiator Robert Mitchell referred to as a "leap of faith" with which the parties were not (yet) comfortable.

Despite the failure of negotiations, the parties agree that the original intent to reorient governance in terms of treaties remains vital to the future of Indigenous-state relations and to the peaceful coexistence of First Nation, provincial and federal governments in Saskatchewan. To this end, the parties have worked together – through the Office of the Treaty Commissioner – to promote one key message: "we are all treaty people" (OTC, 2011). By promoting this message on billboards, in classrooms and in public discourse, the parties hope to provide First Nation and non-First Nation individuals alike with a common understanding from which to imagine what treaty-based governance might look like in the future.

BUILDING A COMMON VISION OF THE TREATY RELATIONSHIP

The "made in Saskatchewan" dream proposed to build Indigenous-state partnerships within a renewed understanding of the treaty relationship. Many of those who sat at the negotiation tables dreamed big. They wanted to transform a colonially-imposed governance structure and develop a bottom-up governance framework based on the principles and the spirit of treaties. Despite the best intentions of negotiators, the parties were unable to abandon the colonial vocabulary and categories that have guided

Indigenous-state relations for over a century. Ultimately, they were unable to agree on a common vision of the treaty relationship and to embrace the promise of treaty-based governance.

During a keynote address at a conference in Saskatchewan on First Nation self-government entitled "Preparing for Tomorrow: The New Relationship," Taiaiake Alfred spoke about the importance of having a vision before building up the mechanics of a governance system (FSIN *et al.*, 2000). At this same event, Chief Rico Merasty from the Flying Dust Cree Nation further emphasized the importance of identifying a core vision to carry First Nations forward. The existence of a vision that embodies goals and values around which individuals come together as a people has emerged as a precondition for the development of a viable treaty-based governance framework in Saskatchewan. As the "made in Saskatchewan" experience reveals, giving life to this vision will require acknowledging the complexity of relationships between First Nations and across governments, and finding viable models that accommodate historical promises as well as contemporary realities. As Neal McLeod (1998) argues, fulfilling the promise of treaties requires looking beyond colonial ideas of self-interest and taking political action in the spirit of *manacitôwin*, a Cree word that means doing something for its own sake, not because it is expedient but because it is right.

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