

On Being Here to Stay: Treaties and Aboriginal Rights in Canada by Michael Asch

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ronto Purchase, supposedly “confirmed” in 1805, noting that until June 8, 2010, when the land claim by the Mississaugas of the New Credit was settled, “most of the Greater Toronto Area had been developed illegally on land that had not been properly paid for and was still owned by the Mississauga nation” (117).

Turner is a popular writer, not a historian, but he handles contentious historical debates—such as the meaning of the word “Toronto,” whether or not the Mississaugas defeated the Haudenosaunee in the 1690s or came to a negotiated agreement with them over the north shore of Lake Ontario, and whether Etienne Brulé actually travelled the route in 1615—with dexterity. More confusing is his account of the treaties of 1701, in which he foregrounds an agreement between the English and the Mississaugas, but fails to mention the Great Peace of Montreal’s confirmation of Mississauga jurisdiction over the area or the Nanfan Treaty, though his assertion that the Haudenosaunee had given up all rights on the north shore to the British some time earlier is perhaps a misinterpretation of the latter agreement. There are also some outright errors, such as his assertion that the Senecas built ossuaries, or that the archaeological site next to Emery Collegiate was a village

(it is recorded as a campsite).

Occasionally Turner’s efforts to be humorous are in poor taste and may offend First Nations readers in particular; for example, he trivializes clan identity: “I wonder how someone like me might acquire a totem animal?” (34) and sensationalizes Wendat burial practices and beliefs about the dead. Most egregious is his joking about Brulé’s sexual conduct with Indigenous women, “Samuel de Champlain was not always the most enlightened manager of French interests in Canada, but in one thing at least he was inspired: he had his young men live in First Nation communities where they could learn the language and sleep with the girls” (55). While he links this to Champlain’s advocacy of intermarriage to create “one people,” the tone of the remark seems particularly insensitive in light of the current epidemic of missing and murdered Aboriginal women and the colonial construction of Indigenous women as prostitutes.

Despite these faults, Turner is an engaging storyteller and this is an idiosyncratic, vivid, and generally informative introduction to the history of this famous trail.

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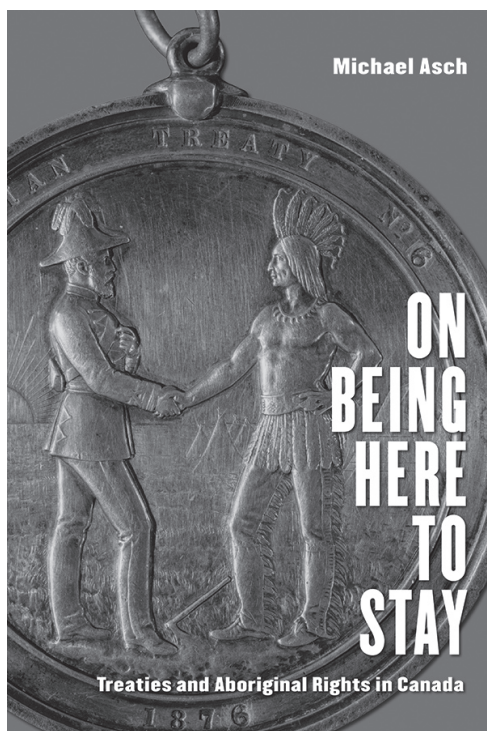
On Being Here to Stay *Treaties and Aboriginal Rights in Canada*

by Michael Asch

University of Toronto Press, 2014. 232 pages. \$24.95 paper ISBN 9781442610026, \$55.00 cloth ISBN 9781442640283, \$24.95 ebook (EPUB format) ISBN 9781442669840. (www.utppublishing.com).

Michael Asch’s *On Being Here to Stay* addresses the question of how to achieve reconciliation between Indigenous and non-Indigenous Canadians, a topic that

has taken on renewed significance since the October 2015 federal election. Asch posits that treaties, which authorized settlers to live on Indigenous lands, are a means of



reconciling the reality that settlers are here to stay with the fact that Indigenous peoples were already living here when settlers arrived. While treaties authorize a settler presence on Indigenous lands, Canadian governments have not fully implemented their treaty promises, meaning that settlement on Indigenous lands is illegitimate. *On Being Here to Stay* discusses the origins of this situation and what needs to be done to achieve reconciliation.

The title of Asch's monograph is derived from Chief Justice Lamer's pronouncement in the 1997 *Delgamuukw* case—"Let's face it, we are all here to stay." Chapters one to four serve as an introduction and explain some of the philosophical bases of Asch's argument. Asch addresses topics such as the political relationship between Canada and Indigenous peoples since 1973, the principle of temporal prior-

ity as the basis of Aboriginal rights, and the connection between Aboriginal rights and self-determination. The meat of the book is found in chapters five through eight, in which Asch focuses on the interpretation of Treaties Four and Six. Asch proceeds on the basis of a precedent established in *R v. Badger* [1996] that we should assume that the Crown's treaty negotiators were truthful and honourable regardless of their original intent. Asch's argument is unique in not relying on the idea that the Crown negotiated in bad faith or that Indigenous peoples did not understand certain concepts included in the treaties.

Asch concludes that Indigenous perspectives of treaties more accurately reflect what was agreed to than the written text or legal interpretations. Asch suggests that there was not a common intention to cede or surrender lands, but to share the land and ensure well-being for both treaty parties (88, 95). Two principles, the Two Row Wampum and linking principle, are presented to conceptualize the treaty relationship that Asch believes the parties intended to form. Many readers are likely familiar with the Two Row Wampum, which the Haudenosaunee use to symbolize a nation-to-nation relationship and political non-interference. The linking principle is based on the Mohawk Chief Kiotseaeton's comparison of a treaty to "the knot that binds us inseparably" during treaty negotiations with the French in 1645. Extrapolating Kiotseaeton's words, Asch argues that we should conceptualize treaty relationships like marriages—both join two families together, yet each family also remains distinct (130).

While Asch's reframing of the treaty relationship is particularly insightful, his historical analysis of the treaty negotiations is lacking at times. Asch's analysis re-

lies upon published primary sources and a number of excellent secondary sources, which include in-depth analyses of Treaties Four and Six. Readers might have expected to see more of Asch's insights considering his background in anthropology, particularly a discussion of the larger political and cultural context of negotiations, or a deeper interrogation of some of the oral histories of treaties, but it is absent.

More of Asch's unique insights come through in chapter nine, which is by far the most thought-provoking and original contribution of *On Being Here to Stay*. Taking direction from Pierre Elliott Trudeau who said that governments are only persuaded to act when they are pressured by the public, Asch argues that the way to achieve reconciliation is to change how the public understands treaties (163). In the traditional colony-to-nation narrative of Canadian history, treaties are presented as a momentary event in the nation's westward and northward expansion (155). Asch proposes that treaties be reframed as a settler Magna Carta which legitimizes a settler presence on Indigenous lands and are the foundation upon which Canada was built (8). The implication of this narrative is that violations of treaty promises de-legitimize the presence of settlers on Indigenous lands (164). An important part of Asch's counter-narrative is the story of treaty negotiators, such as Alexander Morris, who negotiated honourably and expected that their promises and commitments would be kept. These treaty promises were not fully honoured because of what Asch terms "the disjuncture between those who negotiated and those who implemented treaties..." (162). Asch argues that treaty implementers viewed the Crown's commitments as policy options rather than legal obligations, although he does not fully explain

how or why this disjuncture occurred.

A point of interest throughout *On Being Here to Stay* is Asch's choice of language. He consistently employs 'Indigenous' rather than 'Aboriginal' (except when referring to s. 35 of the Constitution) and also prefers the term 'Settler' with a capital 'S' to 'non-Indigenous' because he believes that it more accurately reflects their identity than the idea of not belonging to Indigenous societies. Asch also uses the terms 'us and them' and 'we and they', which while necessary to explain his argument draw distinctions between the two groups he is attempting to reconcile. The use of these terms also reveals that Asch's intended audience is primarily non-Indigenous. While it is largely non-Indigenous Canadians who have failed to properly understand and honour treaties, do not Indigenous Canadians have a role to play in determining the solution?

On Being Here to Stay offers an insightful narrative for re-framing Canadian history and will prove useful for educators at all levels, as well as governments engaged in public consultation and education campaigns. Asch's work is timely considering the recent release of the final report of the Truth and Reconciliation Commission (TRC), and the election of a federal Liberal government that has publicly committed to implementing the TRC's recommendations and building a nation-to-nation relationship with Indigenous peoples. Hopefully Prime Minister Trudeau ignores his father's advice and does not wait for public opinion to shift before beginning the important work highlighted in *On Being Here to Stay*.

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