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**Treaty talk  
missed  
the mark**

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FOR THE CALGARY HERALD

Jeffrey W.R. Rath on Monday published in The Public Square an op-ed piece entitled "Constitutional talk should include First Nations." His column includes a list of rights that, he claims, Indians enjoy as a result of the treaties they signed. Readers of the Herald should be aware that every item in this list is either completely incorrect or, as expressed by Rath, seriously misleading. Below I compare his list to the actual wording of the treaties.

1. Freedom from any form of tax anywhere within the treaty area. The treaties say nothing about taxation.

Parliament, through the Indian Act, has granted immunity from taxation on Indian reserves; but this is a privilege, not a treaty right.

2. Freedom to carry on their traditional mode and way of life anywhere throughout the treaty territory (on or off reserve) as they had always done prior to entering into treaty. None of the treaties says anything about freedom to carry on a traditional way of life. The closest reference is to hunting; see the next point.

3. Freedom to hunt, fish and trap throughout the entire treaty territory with government only making laws as to fish and game which were in the Indians' interest. Treaty 7 says that Indians "shall have the right to pursue their vocations of hunting" in the treaty territory "subject to such regulations" as the government may make, also "saving and excepting such tracts as may be required or taken up from time to time for settlement, mining, trading, or other purposes." The wording of the other treaties is similar. What is obviously meant is that Indians can continue to hunt until the land is required for other purposes. No treaty says that the government can regulate only "in the Indians' interest."

4. Health care. Treaty 6 says that "a medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians, at the discretion of such Agent." No other treaty refers to health care at all. In practice, the Department of Indian Affairs pays for almost all medical services for Indians from the grace and favor of the Crown, not as a treaty right.

5. Education. Treaties 1 through 6 require the federal government to maintain schools on reserves. Treaty 7, with slightly different wording, requires the government "to pay the salary" of teachers once the Indians "are settled on their reserves and shall desire teachers." The Department of Indian Affairs also spends a great deal of money assisting Indians to attend colleges and universities, but that is not a treaty right.

6. Social assistance. All the treaties provide for agricultural assistance in starting up the reserves, but those provisions were long ago fulfilled. Only Treaty 6 mentions anything like social assistance in the modern sense, and that is a very limited right to relief in case of "pestilence" or a "general famine." The Department of Indian Affairs pays for a separate welfare system for Indians, but that is a mixed blessing at best, considering the resulting nepotism, abuse of rules, and welfare dependency.

7. A collective and an individual right to land as required for First Nations' population in the present or the future, as required. Treaties 1 and 2, which extinguished Indian title in southern Manitoba and a small piece of south-eastern Saskatchewan, authorize reserves of 160 acres per family of five — in effect, 32 acres per person. The other treaties provide 640 acres per family of five (128 acres per person). Because none of the treaties sets a date for taking the official count of band population, disputes about the size of reserves have often arisen, and some reserves have been enlarged as a result of negotiation or litigation. But there is no open-ended treaty right to ever-growing reserves, as Rath seems to imply. By giving such a distorted view of the treaties, Rath does great harm to Indian people.

The treaties were meant to give temporary assistance to Indians as they made the transition from being hunters, whose way of life was no longer viable, to becoming self-supporting farmers. The treaties worked reasonably well for that purpose, but over the years a new challenge has arisen. Indians now have to become self-supporting in an industrial, indeed post-industrial economy. Mythologizing the treaties will do nothing but hold them back.

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