LCAC: Making Treaties Work

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Implementation Overviews and Case Studies

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Gains and Losses in Canada's Modern Treaties: A Proposal for a Regular Scholarly Update to Indigenous Communities (potentials and pitfalls)

Rationale

- Pre-AIP Groups often cannot afford time and resources to assess and compare the merits and demerits of various components of modern land claims
- Thus they may not know what elements to pursue and what to avoid in a treaty
- Pre-AIP Groups likely not aware of history of nearly negotiated elements in modern treaties (that may still be worth pursuing)

Proposal

- Event (workshop/conf) or publication/online site to combine academic effort to assess and compare modern treaties and track related legal precedents
- 2 target groups to benefit:
  - Modern Treaty Groups (seeking to amend their treaties; invoke precedents)
  - Pre-AIP groups

Format?

- **Workshop**
- **Conference**
- **Journal**
- **“Report Card”**
- **Online ‘review’ site (with open/FN, Inuit, Metis-only sides)**
- **Other?**

Categories?

GOVERNMENT:

- **Self-government**
- **New Public government arrangements**
- **International Agreements and Relations**

Categories?

FINANCE:

- **Ownership of land, air, waters and natural resources**
- **Subsurface rights**
- **Resource development royalties**
- **Impact benefit agreements;**
- **Capital transfer**
- **Fiscal Financing**
- **Consultation on Formula Financing**
- **Continuing application of general programming and funding**

Categories?

ENVIRONMENT/WILDLIFE:

- **Management of land, waters, and natural resources, including fish and wildlife;**
- **Harvesting rights and support**
- **Environmental protection, monitoring and assessment;**
- **Parks and conservation areas**

Categories?

SOCIAL AND CULTURAL

- Social and cultural support
- Social program design
- Consultation on State social and cultural programming
- Language
- Education
- Health
- Social Work
- Elders
- Childcare and Midwifery
- Adoption (custom)

Categories?

ECONOMIC & RESOURCE DEVELOPMENT

- **Economic development**
- **Employment**
- **Government Employment**
- **Government contracting**

Categories?

DISPUTE RESOLUTION

- **Conciliation**
- **Arbitration (consensus/unilateral; financial/non-financial)**
- **Litigation**
- **Customary law**

Nunavut Case Study (NLCA attained)

- **Article 23: representative employment of Inuit in all government positions**
- **Arbitration (revised: precedent)**
- **Legal Precedents: Disgorgement, and use of land claim as contract to seek damages**

Nunavut Case Study (NLCA not attained)

- **Social Rights Provisions (1981-1989 under negotiation) included:**
- **Housing, Health, Language, Education, Social Work**
- **Communications & "Inuit CRTC"**

Annual (?) Survey of Modern treaties

- Rewards
  - For Pre-AIP groups
  - For LCAC
- Risks
  - Government counter-efforts