



Understanding Aboriginal and Treaty Rights in the Northwest Territories: An Introduction

Whether you and your grandparents were born here, or whether you came from somewhere else, you know the two main things that make the Northwest Territories special are the people and the spectacular landscapes. Those whose ancestry here stretches back thousands of years – Aboriginal people – have always governed themselves in a way that reflects their unique history and relationship to the land. The 17th Legislative Assembly believes it's in everyone's interests to work more closely together, so we can build on the strengths of all Northerners.

“Respect, Recognition and Responsibility” – You'll be hearing those three words a lot in the coming months. They are the guiding principles for the GNWT's commitment to engage with Aboriginal governments, which Premier McLeod publicly announced in the Legislative Assembly on June 8, 2012. By engage, we mean build and maintain government-to-government relationships that are based on mutual respect, recognition of Aboriginal and treaty rights, and shared responsibilities. Both the GNWT and Aboriginal governments have essential roles to play and services to deliver to people throughout our vast territory. Because we all share so many interests and depend on one another, it makes sense for the GNWT and Aboriginal governments to cooperate as strong partners.

Learning About One Another

The first step toward working effectively together is to understand why Aboriginal people in the NWT – the Dene, Métis and Inuvialuit – have special rights. The GNWT believes it's important for all territorial residents to understand what Aboriginal and treaty rights are, where they come from, and who in the NWT has these rights. By broadening our understanding of the history of the NWT's indigenous peoples, we gain a better appreciation for the rich diversity of cultures and traditions, as well as a clearer understanding of why Aboriginal governments exist and how their roles and responsibilities relate to the GNWT today.

So the GNWT, through its Department of Aboriginal Affairs and Intergovernmental Relations (DAAIR), invites you to read on. This document is meant to be a starting point towards deepening our understanding of one another – a basic overview of how the special status of the Dene, Métis and Inuvialuit came to be recognized by Canada and the GNWT, and protected in the Canadian Constitution.

What are Aboriginal Rights?

Aboriginal peoples were living in North America for thousands of years before the first contact with Europeans. This is where Aboriginal rights come from. Aboriginal rights are an ever-evolving area, but they include (at least) an Aboriginal people's right to use and live in their traditional territory for traditional purposes. Hunting, fishing and gathering traditional foods and medicines are examples of Aboriginal rights that relate to land and resources.

Before the arrival of Europeans, Aboriginal peoples also governed their own communities. This is where the Aboriginal right of self-government comes from, which is often referred to as *the inherent right of self-government*. Aboriginal peoples, the federal government and the GNWT recognize self-government to be an existing Aboriginal right. Here's how the federal government describes it:

Federal Inherent Right Policy

"Recognition of the inherent right is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions, and with respect to their special relationship to their land and their resources."

Source:

The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government, available online at <http://www.aadnc-aandc.gc.ca/eng/1100100031843>

What are Treaty Rights?

In many parts of Canada, Aboriginal rights are expressed in written treaties. A treaty is a formal agreement signed between governments and Aboriginal peoples. Some examples of older treaties are the historic "numbered" treaties that were signed in the late 1800s and early 1900s, including Treaty 8 and Treaty 11, which cover parts of the NWT.

Treaty No. 8: The first of the northern treaties covered an area of 324,900 square miles and represents the most geographically extensive treaty activity undertaken. It comprises what is now the northern half of Alberta, the northeast quarter of British Columbia, the northwest corner of Saskatchewan, and the area south of Hay River and Great Slave Lake in the Northwest Territories.

Source:

Treaty Guide to Treaty No. 8 (1899), available online at <http://www.aadnc-aandc.gc.ca/eng/1100100028805>

Treaty No. 11: The last of the numbered treaties covers most of the Mackenzie District. The land in the area was deemed unsuitable for agriculture, so the federal government was reluctant to conclude treaties. Immediately following the discovery of oil at Fort Norman in 1920, however, the government moved to begin treaty negotiations.

Source:

Treaty Guide to Treaty No. 11 (1921), available online at <http://www.aadnc-aandc.gc.ca/eng/1100100028908>

There has been disagreement between the federal government and the Dene over the basic nature of the historic treaties. The Dene interpretation of Treaties 8 and 11 is based on the testimony of elders rather than upon the written texts. The Dene viewed the treaties as agreements of "peace and friendship".

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The federal government has viewed the treaties as agreements that gave up Aboriginal rights or title in exchange for the benefits and promises made in the treaties.

There are also modern agreements and modern treaties in the NWT today that are sometimes called *comprehensive agreements*. Some are still being negotiated between Aboriginal peoples, the federal government and the GNWT.

To date, four modern treaties have been concluded and are being implemented. They are:

1. The Western Arctic Claim: The Inuvialuit Final Agreement
2. Gwich'in Comprehensive Land Claim Agreement
3. Sahtu Dene and Métis Comprehensive Land Claim Agreement
4. Tłıchǫ Agreement

All of the historic treaties, modern treaties and Aboriginal rights mentioned above are protected by Canada's Constitution. The Constitution guides how the country will be governed. Here's what the *Constitution Act, 1982* says about Aboriginal and treaty rights:

Section 35 of the *Constitution Act, 1982*:

- (1) The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.
- (2) In this Act, "Aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
- (3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
- (4) Notwithstanding any other provision of this Act, the Aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

What are Aboriginal Governments?

We know that Aboriginal peoples in the NWT governed themselves long before Europeans arrived. Today, new forms of Aboriginal governments are being established under modern agreements. These are known as *self-government agreements*. They can also be protected by the Canadian Constitution as modern treaties. These Aboriginal governments have, or will have, their own roles and responsibilities and are governments in their own right. They also come in several different forms – some serve only their own Aboriginal people, while others deliver programs and services to all residents. Some cover a whole region of the NWT, while others cover just a single community. These self-government agreements are signed by the Aboriginal group, the GNWT and the federal government. Each level of government has obligations to fulfill that are described in the agreement.

Why Should Aboriginal Governments and the GNWT Work Together?

The GNWT recognizes that it is important to have productive and effective relationships with Aboriginal governments that are built on mutual respect and trust. Aboriginal governments and the GNWT share many areas of authority that are described in self-government agreements. These complementary roles and responsibilities mean that Aboriginal governments and the GNWT will always need to work closely together. Because the GNWT has obligations under land, resources, and self-government agreements, this relationship will be lasting and will evolve over time.

This is particularly important as land, resources and self-government agreements are implemented and Aboriginal governments apply their own laws to their citizens. Cooperation will be essential. Programs and services are more effectively delivered if there is coordination and strong alliances between governments.

Aboriginal governments and the GNWT also need to work together because of the kind of communities that exist in the NWT. Most of our communities have a mixture of Aboriginal peoples and non-Aboriginal people living together, and we have very few *Indian Act* reserves. This means Aboriginal and non-Aboriginal residents live side-by-side, rather than separate from one another. This is one of the things that makes the NWT a special place in Canada.

Who does the GNWT Represent?

In a word – everyone. The GNWT is an inclusive public government that represents and speaks on behalf of all residents of the NWT. As the GNWT engages with Aboriginal governments, it will continue to advocate for territory-wide interests.

The GNWT believes that recognizing and respecting the special rights of Aboriginal peoples in the NWT is fully compatible with the individual rights and freedoms that all territorial residents share.

The NWT is an excellent example of what all people can accomplish when we focus on what brings us together. We should be proud of the diversity of our territory and people, and our unique history.

What Happens Next?

So now you have a basic understanding of Aboriginal and treaty rights in the NWT. In the months ahead, you'll have a chance to expand your knowledge further as the GNWT provides more detailed information about the treaty-making process in the NWT, both past and present.

We invite you to explore the Department of Aboriginal Affairs and Intergovernmental Relations' website at www.daair.gov.nt.ca, which contains many useful and informative documents and links about Aboriginal and treaty rights in the NWT.

Understanding more about each other will help explain the importance of strong relationships between the GNWT and Aboriginal governments, and why the GNWT works to build and maintain productive and effective government-to-government relations based on those three important words: **Respect, Recognition and Responsibility.**