

The treaty road doesn't have to lead to 'no'

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Robert Morales leads the Hul'qumi'num Treaty Group at the treaty table.

There are many roads to no. Some are routed there intentionally.

True negotiation occurs between parties that are seeking to gain agreement.

Yet there are situations in which at least one of those parties, while giving the appearance of negotiating, will only accept an agreement on their specific terms.

This often happens in a power imbalance where one party believes they are benefiting from the status quo.

They make offers knowing they will likely be refused, they stall and describe this as "tough negotiating", and characterize the other party as "unreasonable" if that party is not able to swallow all their bottom-line positions.

This allows the party favoured by the power imbalance and the status quo to avoid detection and preserve a credible claim of good faith negotiations. They can then say, "We tried"

The hard line "take it or leave it" positions of government on six key areas identified as fundamental to honorable and viable treaties, has left little or no room for real negotiations.

The picture of what treaties should look like has already been painted by government and First Nations can only do a bit of shading around the edges. This is not negotiation.

As we are witnessing, this pre-determined picture is not consistent with the vision of the First Nations or the new relationship. More than 60 First Nations that have signed the Unity Protocol — supported by an additional 60 First Nations — believe a new relationship should be created by a treaty reached through fair and honourable negotiations.

Treaty negotiations must be based on principles of respect and recognition rather than rejection and refutation. The Supreme Court of Canada has clearly stated the honour of the Crown is at stake in treaty negotiations.

The law of aboriginal title and good faith negotiations has evolved but the governments continue to insist on policies and mandates rooted in old attitudes of prejudice and denial

This translates into a wall of intractable positions being imposed by government treaty negotiators.

All First Nations will hit this wall and it does not matter how hard they run at it, they can not break through it on their own. We cannot accept the unilaterally imposed

one-size-fits-all approach of government. This is the situation that the Unity Protocol is attempting to overcome.

Vaughn Palmer observed (and perhaps complained) in a column dated April 12, that it appears the Unity Protocol Nations are putting treaty negotiations "right back to square one."

Perhaps we need to go back to square one, if that results in placing the parties on a level playing field.

We intend to continue to advocate for an opportunity to collectively engage government decision makers in real negotiations which will of necessity include give-and-take and compromise on all sides.

B.C. First Nations have been waiting for 100-plus years but will not wait forever for a just resolution of the land question and to finally escape the cruel margins of society.

We have not invested over 13 years of time, good faith, energy and financial resources into this process to see it fail.

However, we refuse to allow progress to be measured by how much First Nations are willing to give up.

If the only voice First Nations have is to vote "No" to unjust and unsustainable treaties, uncertainty will increase.

This will result in social unrest, increasing litigation, increasing confrontation and increasing loss of economic opportunities for all British Columbians.

We encourage the governments, the media, business and the public to work with us in supporting fair negotiations leading to just and honourable results.

We look forward to the day when we can all vote "Yes" for fair treaties and a positive future together.

Robert Morales is the chief negotiator for the Hul'qumi'num Treaty group.