

Graham White

## And Now For Something Completely Northern: Institutions of Governance in the Territorial North

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This essay examines some of the distinctive or unique institutions of governance in the territorial North. The purpose of so doing is two-fold: first, to draw to wider attention the unusual and innovative structures and processes of government operating in the North and second, to demonstrate that alternatives beyond the status quo exist for national and provincial political institutions, provided that they reflect the values and experiences of the societies in which they are embedded.

The influence of Aboriginal peoples on political institutions and processes is a prominent theme. In addition, variations between and among the three territories (due in substantial measure to the different positions and approaches of their Aboriginal peoples) are highlighted. Northern institutions are treated not as exotic curiosities, but as responses to particular political needs and social contexts.

Cet article examine le caractère exceptionnel ou distinctif de certaines institutions gouvernementales des territoires du Nord. L'objectif de cet examen est double : d'abord attirer notre attention sur les structures et les processus de gouvernement, inhabituels et novateurs, mis en place dans le Nord; ensuite, démontrer qu'il existe des options au-delà du statu quo pour les institutions politiques nationales et provinciales, à la condition qu'elles reflètent les valeurs et exigences des sociétés dans lesquelles elles s'enchâssent.

L'influence des peuples autochtones sur les institutions et les processus politiques est ici un thème central. De plus, on souligne les variations qui existent entre les trois territoires et sur ceux-ci, lesquelles ont pour cause, dans une large mesure, les différentes orientations et approches préconisées par chacun des peuples autochtones. Les institutions du Nord sont abordées non comme des curiosités exotiques, mais comme le résultat de besoins politiques et de contextes sociaux particuliers.

**T**he North has long stirred the Canadian imagination and shaped the Canadian identity. They may know little of it or harbour highly idealized notions of it, but for Canadians the North looms large in ways tangible and intangible: artistic inspiration, definition of nationhood, wealth from its bountiful resources and romantic (if usually unfulfilled) ideas of personal adventure. In the realm of politics and political institutions, however, the North scarcely registers for most Canadians. Beyond a vague awareness of the creation of Nunavut in 1999, they know almost nothing of northern governance and would likely be dismissive of any suggestion

that they have anything to learn from how northern government and politics are organized.

This essay argues that much of interest and value is to be learned from the political and governmental institutions of northern Canada – defined here as the Territorial North – which are in important ways qualitatively different from those in Ottawa and the provinces. Not, of course, that Canada “south of 60” is likely to adopt the institutional arrangements found in the territories or that they would perform in the South as they do in the North, save perhaps in the realm of Aboriginal self-government. Rather, the northern experience is important because it demonstrates, first, that options beyond the status quo exist for the structuring and operation of the central institutions of governance, and second, that the effectiveness of these institutions depends in substantial measure on the extent to which they are meaningfully rooted in their societies.

None of this is to suggest that territorial institutions are ideal. Indeed, as the analysis shows, they can be problematic in conception, deeply flawed in operation and highly uncertain in durability. In addition, the essay cites innovative ideas for structuring governance that came to naught, as well as unimaginative adoption of institutional arrangements from elsewhere. All told, however, an examination of northern political institutions offers important insights into such fundamental issues as the linkage between society and governance and the organization of government so as to render it at once effective and legitimate.

Questions about the underlying nature of northern institutions are raised, if not definitively answered. These include whether the institutional differences between North and South are essentially cosmetic or are indeed substantial; the extent to which northern institutions are rooted in the distinctive elements of northern society and, in particular, whether they reflect Aboriginal influences; and whether the distinctive features of northern institutions are simply a function of the small scale or the political immaturity of territorial politics.

The prime emphasis of the essay is on governmental rather than political institutions, so that enormously important Aboriginal organizations receive little attention. Most of the analysis is devoted to the so-called “consensus government” system in Nunavut and the Northwest Territories, the co-management boards established under the settled comprehensive land claims, the attempts at melding “public” and Aboriginal self-government regimes and the Nunavut government’s commitment to decentralize its structure radically and to imbue its operations with *Inuit Qaujimajatuqangit* (roughly, “Inuit traditional knowledge”).

## The Territorial North: A Social and Political Overview

Only the briefest outline of territorial society and politics can be offered here.<sup>1</sup> For many Canadians, the North is a largely undifferentiated mass: cold, remote and beautiful, inhabited principally by Aboriginal peoples living in desolate conditions. To be sure, the territories share important commonalities of climate, geography, demography, economy and identity. They are sparsely populated – in the three territories barely 100,000 people are spread across nearly four million square kilometres; their economies all depend heavily on natural resources and on government and are hampered by difficult communications, distance from markets and lack of diversity; winters are indeed long and harsh; the proportion of Aboriginal peoples is far higher than in any province; and a strong sense of being northern – and distinctive – pervades the three territories.

At the same time, the three territories differ substantially on important dimensions. Geographic and climatic variations are significant. Most notably, Nunavut lies entirely north of the tree line whereas most of Yukon and the NWT are moderately to heavily forested, and winters are perceptibly harsher in Nunavut. Though air travel is essential throughout, the three territories' transportation systems differ a good deal: all but one Yukon community is on the all-weather road system; several NWT communities are not accessible by road at all or only by winter ice-roads or exceedingly roundabout routes; Nunavut has no roads linking communities. As well, important differences exist in the economic bases of the three territories. Transportation, economic and cultural links to other places also distinguish the territories. Yukon's primary links are with British Columbia and Alaska; the NWT's main connections are with Nunavut and Alberta; Nunavut has links with NWT, Manitoba, Quebec (especially Nunavik, the Inuit region of northern Quebec), Newfoundland and Greenland. Most significantly, the territories are vastly different in social composition. The Aboriginal population of Yukon is about 20 per cent, in the NWT it is 50 per cent and in Nunavut it is 85 per cent. Even these figures understate the differences: the Aboriginal population of Nunavut is virtually all Inuit; in Yukon, the Aboriginal population is primarily Dene, in some 14 separate First Nations; in the NWT, the Aboriginal population is quite diverse, comprised of Inuvialuit (Inuit of the Beaufort area), Métis and Dene, with significant linguistic and other divisions fragmenting the Dene. Even the degree of urbanization – and thus the domination of the territorial capital – ranges widely: seven of ten Yukoners live in Whitehorse, Yellowknife contains about 40 per cent of the NWT population and less than 20 per cent of Nunavummiut live in Iqaluit.

Politically, the pattern is similar: common basic features overlaid with significant cross-territory variations. The territories are something of "proto-provinces"; in all substantive ways they are autonomous self-governing entities exercising a

wide range of jurisdictional powers, but they lack formal constitutional status. Their "constitutions" are federal statutes and Ottawa retains nominal authority to set aside territorial legislation, though this power is likely as much a dead letter as the federal government's disallowance power over provincial legislation. Very high proportions – up to 90 per cent in the case of Nunavut – of territorial government revenues come as transfers from Ottawa, but virtually all such funding takes the form of unconditional grants, so that federal influence over territorial expenditure decisions is minimal. The territories exercise almost all important province-like powers: education, health, welfare, municipal government, local transportation and so on; the principal – and in the North, critical – exception is lands and resources. As was the case with Alberta, Saskatchewan and Manitoba prior to 1930, Ottawa retains ownership (and primary though not complete control) of Crown lands and the non-renewable resources on and under them. Federal policy aims at complete devolution of land and resources to the territories (jurisdiction over oil and gas was transferred to Yukon in 1998), though progress has been slow.

Territorial autonomy is of recent provenance. Until the 1970s, the territories were little more than internal colonies of the federal government. For example, until 1967 Ottawa was the capital of the Northwest Territories while its "government" consisted of a committee of federal bureaucrats under the direction of an all-powerful commissioner. Through the 1970s and early 1980s, however, Ottawa devolved – sometimes willingly, sometimes grudgingly – most of its powers, plus funding for them, to the territories. In classic colonial fashion, the federal bureaucrats who oversaw the transfer of effective power to the territories unquestioningly assumed that territorial governance should follow the British cabinet-parliamentary model of executive-legislative relations, and acted accordingly. As good neutral public servants, they did nothing to promote the emergence of political parties, though they doubtless expected this to follow in the wake of responsible government, as it had elsewhere in Canada. In Yukon, parties did indeed come to the fore in the 1970s and have dominated politics since; no independent MLA has been elected in Yukon since the mid-1980s. Not so in the NWT or Nunavut.

### **Consensus Government**

The best-known northern departure from southern political models is the consensus government system in the NWT and Nunavut. (Nunavut carried the consensus system over from the pre-division NWT, though not automatically or unreflectively.) In essence the system is a non-partisan Westminster cabinet-parliamentary regime. All the key constitutional principles underlying British-style responsible government exist. The authority of cabinet derives from its capacity to maintain the confidence of the House by winning key votes. Ministers are responsible to the assembly for

policy and administration (thus permitting a politically neutral public service). Cabinet solidarity prevails. Only cabinet can place before the assembly measures for raising taxes and directing expenditures.<sup>2</sup> Political parties, however, play no role in the assembly; members (MLAs) seek election and serve as independents.

From this curious juxtaposition comes a set of parliamentary structures and processes at once strange and beguiling to southern Canadians. The premier and the cabinet are selected by secret ballot of all MLAs; the premier assigns ministers to portfolios and may subsequently shuffle them. Exceptionally, the premier may dismiss a minister (the constraints are political rather than constitutional) but ministers are more likely to be deposed by those who originally put them in office, the "ordinary" or "regular" (i.e., private) members of the assembly. Thus, power relations between the premier, ministers and private members differ substantially from those characterizing the premier-dominated cabinets and cabinet-dominated legislatures of southern Canada.

The premier is truly, as in parliamentary ages past, the "first among equals" since ministers are beholden to the MLAs rather than to the premier for their posts. Cabinet effectively finds itself in a permanent minority, though its numerical weight – six or seven in 19-member houses – requires it to win over only a very few MLAs to carry a vote. Nothing so adversarial or organized as a formal opposition exists but strong committees offer non-ministers opportunities to co-ordinate strategy and seek support for their political concerns.

Ministers are certainly far more powerful than ordinary MLAs, not least because of their control over the bureaucracy, but the private members have opportunities for influence far beyond that enjoyed by their counterparts in other Westminster systems. MLAs exert influence both as individuals and through the legislative committee systems, which engage deeply in issues of policy and administration and have unusually good access to government information and officials.

The tone of debate is civil and respectful – astonishingly civil compared to the "sandbox" mentality of party bickering in southern parliaments – and MLAs' views and proposals are taken seriously by ministers. Moreover, though power is clearly concentrated in cabinet, a unique parliamentary institution plays a key role in government decisions. South of 60 (and in Yukon), each party caucus meets regularly to devise strategy and to discuss party positions; in Nunavut and the NWT, caucus includes *all* MLAs, including the Speaker. Caucus meets at least weekly when the assembly is in session and periodically holds two- or three-day strategic planning sessions outside the capital. It does not usurp cabinet's power but does review key political and policy issues, and its views are often decisive.

The Nunavut legislature is overwhelmingly Inuit and the NWT has had an Aboriginal majority since the mid-1970s. Accordingly, for some participants and observers, the consensus system derives from northern Aboriginal political culture,

which avoids division and confrontation – and voting – through decision-making premised on thorough, respectful discussion of the issues from which a genuine consensus emerges. Others, including Aboriginal MLAs, contend that decision-making in the assembly is nothing like the true consensual style found at the community level. For them, Aboriginal influences on the Westminster system do not go much beyond the cosmetic – members' preference for moosehide jackets and sealskin vests over three-piece suits – with the explanation for the unusual parliamentary structures and processes lying principally in the absence of parties.

Undoubtedly, the absence of parties is critical. But why are there not parties? One answer might be that the NWT and Nunavut remain politically immature: as in the western provinces, which initially did not have party systems, parties will appear once the territories develop sufficiently. This explanation overlooks several key points: the consensus system has endured for the better part of two decades, during which several attempts at instituting a party system (including most recently in the 1999 NWT election) failed; federal politics in the North are entirely organized on a party basis; and Yukon, which is no more sophisticated politically than the other territories, has been dominated by parties since the 1970s. Ultimately, it is not that parties have yet to emerge or coalesce; rather, parties have been consciously rejected by a great many northerners (primarily but not exclusively Aboriginal) as unsuitable to northern needs and conditions.

Some believe party politics are quietly emerging in the NWT. Following the 1999 election, veteran MLA Steve Kakfwi not only secured election as premier, he effectively managed, through adroit backroom politicking, to get his "slate" of ministerial candidates elected as the cabinet. The tight cabinet coherence, strident and well-organized opposition from ordinary members (led by ministers deposed by the Kakfwi slate) and the premier's well-known Liberal ties presage for some the demise of consensus government. Others maintain that nothing fundamental has changed: well-organized factions of MLAs have existed in the past, ministers still hold office at the pleasure of the ordinary members and the tenuous bonds of political association Kakfwi has forged among his team are far removed from those characterizing a genuine party. Reports of the death of consensus government in the NWT seem, at the least, premature.

In Nunavut the threat to consensus government comes not from political manoeuvring but from the possibility of fundamental structural change. The designers of the Nunavut government contemplated grafting a popularly elected premier onto the consensus system. Creating strong, accountable leadership in this way was mooted as a means of overcoming the failings of the consensus system. Uncertainty on key practical issues – should the premier be elected simultaneously with other MLAs; could the assembly remove a premier elected by the public – together with the need to focus on more pressing issues meant that the idea was

put into abeyance. Little has been heard of it since the Nunavut Assembly came into being, doubtless in part because MLAs recognize that it would entail substantial loss of power on their part, but it remains an idea with considerable public appeal. If adopted, of course, it would fundamentally alter the Nunavut political system since a popularly elected first minister is essentially incompatible with the basic tenets of Westminster-style responsible government.

It is easy for southern Canadians, repelled by the mindless partisanship, suffocating party discipline and general ineffectiveness of Parliament, to see only the positive side of consensus government. Inevitably, of course, consensus government has its failings: it can be highly parochial and inclined to behind-the-scenes log-rolling on capital projects, government jobs and the like; factionalism and individualism in the legislature and the premier's limited control over cabinet can undercut policy coherence and make it difficult to address important but potentially divisive issues; it depends heavily on moderation and accommodation on MLAs' part, so that it is vulnerable to instability and disruption if only a few members refuse to play by the unspoken rules; while cabinet accountability to MLAs is very strong, government accountability to the public is weak since voters can only pass judgement on their MLAs, not on past or prospective governments.<sup>3</sup>

Northerners, well aware of these shortcomings, often sound as cynical about their elected representatives as any other Canadians. And parties may well supplant the consensus system. Yet northerners have clearly crafted practical adaptations to the British cabinet-parliamentary model that have endured because the adaptations meet peculiarly northern needs and are congruent with, if not necessarily derived from, central elements of northern society and culture.

Curiously, one area in which northerners have shown a singular lack of imagination in modifying southern models is electoral representation and voting regimes. All MLAs in the three territories are, as in southern Canada, elected through single-member plurality electoral systems. The vigorously contested concepts of representation that suffuse northern politics might have been expected to lead to departures from southern electoral orthodoxy but this has not occurred; indeed, the overwhelming acceptance of single-member plurality is remarkable. A noteworthy, though ultimately unsuccessful, exception was the imaginative proposal of the Nunavut Implementation Commission, the body charged with designing Nunavut's political-governmental system, to establish a "gender-equal" legislature. The idea, which generated great interest not only in Canada but abroad, was to create dual-member ridings in which all voters would cast two votes: one for a candidate on the male list and one for a candidate on the female list. Though most of Nunavut's political élite came to support the proposal, it was decisively rejected in a referendum.

## Linking Aboriginal Self-Government to Public Government

Southern Canadians often presume that the numerical preponderance of Aboriginal MLAs and ministers, together with Aboriginal influences on consensus government, means that the NWT government constitutes "Aboriginal government." Many Aboriginal organizations in the NWT, however, take a very different view. They reject the territorial government as fundamentally illegitimate – having been imposed by Ottawa on Aboriginal peoples without their consent or involvement – and in no way embodying their inherent right to self-government. Along with Yukon First Nations, they have been vigorously pursuing far-reaching self-government regimes. (The Inuit, by virtue of their overwhelming numbers in Nunavut, are satisfied with "public government."<sup>4</sup>)

Each of the settled comprehensive claims in Yukon and the NWT includes government commitments to negotiate self-government across a wide range of areas.<sup>5</sup> Seven of Yukon's 14 First Nations have finalized self-government agreements. In the NWT, no agreements have been finalized, but regional negotiations have been under way for several years; some are close to completion.

The emerging self-government regimes constitute a third order of government in Canada – the Yukon self-government agreements, for example, explicitly employ such terms as "citizen" and "constitution." Moreover, these self-government agreements entail extensive jurisdictional sweep, with First Nations laws replacing territorial laws in areas where the First Nations decide to exercise their powers. In terms of power and authority, Yukon First Nation governments more closely resemble provinces than municipalities. Some of the most interesting and critical questions arising from the establishment of self-government relate to the linkages between public and self-government regimes.

Differing demographic patterns and political contexts have resulted in different linkage issues coming to the fore in Yukon and the NWT. With the typical Yukon First Nation numbering only a few hundred, the capacity of their governments to provide services in all areas in which they possess jurisdiction is a concern. In the realm of land and resource management, Yukon First Nation governments are moving towards extensive and sophisticated structures. In other areas, such as health, which depend on expensive technical expertise, practical realities require arrangements with the Yukon Territorial Government (YTG) for delivery of certain services and programmes. This could entail either contracting the YTG to deliver services or joint YTG-First Nation government processes.

The finalized self-government agreements establish principles and frameworks and also set out the wide range of jurisdictions that the First Nations governments can exercise as they see fit, with specific arrangements in particular policy fields to follow. Some detailed Programme and Service Transfer Agreements (PSTAs) have



been completed for the transfer of federal responsibilities to First Nations, though on-the-ground changes have been limited since band governments had already been delivering, on Ottawa's behalf, many of the transferred programmes and services. More substantial change will emerge from the negotiation of PSTAs covering activities performed by the Yukon government. Each First Nation will ultimately sign a series of agreements with the territorial government for transfer of programmes and services. The possibility thus exists for substantial variation in the provisions of different First Nation governments' PSTAs, as well as in the specific policy areas over which individual First Nations choose to exercise their jurisdiction. Negotiations to date, however, reflect a common approach from the First Nations involved (and, indeed, a single negotiating table), so that the initial sets of PSTAs may not vary significantly from one First Nation to the next.

A central feature of the Yukon self-government agreements is the authority of each First Nation government to legislate in a wide range of areas, including language, culture, health, education and social services, for all its citizens regardless of where they live in the territory. The arrangements between individual First Nations and the YTG will take the form of highly detailed protocols and contracts guaranteed to make the eyes of all but the most dedicated bureaucrats and accountants glaze over. Mundane and picayune as these agreements may be, however, they are crucially important (and thus more difficult to negotiate than might be thought) because they embody the practical realization of fundamental and often contentious principles: Who really sets policy? What are the political and bureaucratic accountability relationships? How are Aboriginal values and interests accommodated in policy implementation and programme delivery?

Similar issues arise in self-government negotiations in the NWT. Capacity problems are generally less acute since the First Nations are larger (most claims groups number between 2,000 and 3,000). Some claims do provide the possibility of self-government regimes for individual communities, so that the community of Déline (population 600), for example, commenced formal self-government negotiations several years ago. In the NWT, unlike in Yukon, tremendous effort has been expended on the "macro-politics" of linking public and self-government institutions. With the non-Aboriginal population and the territorial government so dominant in Yukon, the primary links between the YTG and the First Nations governments take the form of a multilateral intergovernmental process; they are not played out within the YTG. By contrast, the role of Aboriginal organizations and governments within the central institutions of the territorial government is a primary issue in the NWT.

Since the mid-1980s enormous time and effort have been expended in attempts at developing a constitution for the NWT to satisfy the aspirations and interests of both Aboriginal and non-Aboriginal residents. Institutional mechanisms were clearly

needed, *within the territorial government*, to co-ordinate, reconcile and possibly meld Aboriginal interests (as embodied in self-government regimes) with territory-wide interests (primarily, but not exclusively, non-Aboriginal). Establishing a widely acceptable design for the composition, powers and decision rules of the legislature and the executive has proven especially difficult.

As well, the question of how to structure the relationship between the NWT government and community governments generates highly divergent views. Aboriginal views of governance give pride of place to community institutions, but while the territorial government has for many years proclaimed a strong commitment to empowering communities and regions, its failures outweigh its successes. In many communities, band councils, public municipal governments and Métis locals are all involved in governance, so that local government in the NWT raises both practical questions of co-ordination and conceptual issues of public versus self-government. In an imaginative innovation, the NWT government created the possibility for local people to meld the three governing elements in a "charter community" structure, but few communities have chosen to go that route. If the record of successes at the community level is mixed, attempts to build regional governments in the NWT have uniformly failed. In important ways, of course, the emerging self-government regimes will transform concepts and structures of regional government.

Over the years, several groups have been formed to work out a constitutional accommodation. Typically they have brought together leaders of Aboriginal organizations, NWT politicians and representatives of groups such as the NWT Association of Municipalities and the Native Women's Association of the NWT. The federal government has generally not played a direct role in developing specific constitutional schemas. It certainly takes, however, a strong interest in these processes and powerfully affects them, for example, through its insistence on maintaining the integrity and capacity of the territorial government and its clear preference for implementing the inherent right to self-government in the NWT through public government. Ottawa also funds most of the constitutional processes.

These groups have consulted widely, met endlessly and issued hosts of reports and papers. Though agreement remains elusive and key participants strongly hold to apparently irreconcilable views, discussion has for the most part been amicable and civil. Certainly, fundamental issues of governance have been extensively and publicly debated in ways rarely if ever seen elsewhere in Canada. In 1995, by way of illustration, the closest Canada has come to a constituent assembly took place in Yellowknife to consider constitutional possibilities. Progress, however, has been slow, not least because, with leaders of important Aboriginal organizations disputing the legitimacy and effectiveness of the territorial government for their needs and aspirations, the very existence of what might be termed the "territorial, quasi-provincial public government model" remains deeply problematic for some.

With resolution of mega-constitutional exercises still some distance away, no clear picture of the new institutional framework has emerged. To be sure, as self-government agreements come into play the structure and nature of the NWT government will be significantly affected. At a minimum, in a few years the institutions of governance in the NWT will look quite unlike those anywhere else, reflecting the territory's singular social composition and political imperatives. Not only will there be strong, wide-ranging Aboriginal self-government regimes, but territorial government will be, in effect, an exercise in decidedly asymmetrical federalism. The central institutions of government are likely to contain significant consociational elements (NWT politicians wisely avoid such jargon, preferring the term "partnership"). One model illustrates just how unusual the eventual arrangements may seem to southern Canadians.

In a 1996 draft constitutional package entitled *Partners in a New Beginning*, a broadly based Constitutional Working Group proposed that the territorial legislature consist of two chambers, a 14-member General Assembly (elected by all residents) and an eight-member Aboriginal Peoples Assembly (elected by those belonging to the eight organized Aboriginal groups). Passage of legislation would require majority votes in both chambers or a two-thirds majority of the entire Assembly. Cabinet would be composed of four members from the General Assembly and two from the Aboriginal Peoples Assembly. Responsible government principles would prevail initially, but no clear commitment to them was voiced – indeed, the possibility of moving away from them was evident (Constitutional Working Group). The *Partners* model was quickly scuppered by non-Aboriginal opposition to the departure from conventional liberal principles, most notably the idea of Aboriginal persons having two votes versus one for non-Aboriginals. The point is not that a revamped form of this proposal is likely to find general favour, but to emphasize the distinctiveness of the possible solutions under active discussion.

### **Claims-Mandated Co-Management and Regulatory Boards**

The territorial North is home to a set of unusual institutions of governance in the realm of land, environmental protection and wildlife management. The co-management and regulatory boards deriving from the settled comprehensive claims are neither federal nor territorial, nor are they a form of Aboriginal self-government (indeed, they are explicitly established as "institutions of public government"). Instead, they exist almost as a distinct order of government: independent of territorial and federal governments and of Aboriginal organizations, exercising on occasion substantial governmental authority.

These boards represent political compromises. Aboriginal organizations pushed for control over land and wildlife, which are central to Aboriginal peoples. Government insisted on maintaining its authority over use and management of

public lands. The boards are thus designed to involve Aboriginal peoples in a very direct way in land, environment and wildlife issues without turning full control over to them. The boards have jurisdiction over the entire territory included in the claims; that is, they are not restricted to the (very extensive) lands owned outright by the Aboriginal organizations. Examples of these boards include the Nunavut Wildlife Management Board, the Mackenzie Valley Environmental Impact Review Board, the Inuvialuit Fisheries Joint Management Committee and the Yukon Land Use Planning Council. In terms of scope, legal authority and Aboriginal participation, no similar bodies exist in the provinces.

Structure, formal mandate, membership, procedures and extent of *de jure* and *de facto* decision-making authority vary a good deal across these boards, as does their effectiveness, but they do share important common features. Since, as "modern-day treaties," land-claim agreements are constitutionally protected under section 35 of the Constitution Act 1982, the boards enjoy a similar, constitutionally protected status. This differentiates them – not least by imbuing them with substantial legal authority – from various co-management schemes in the provinces that bring together Aboriginal peoples and their organizations with federal and/or provincial governments. Provincial co-management regimes are typically narrow in scope as well as limited in formal powers.

Boards are tripartite in that members are appointed (or nominated) by the federal government, the territorial government and the Aboriginal organization responsible for overseeing claim implementation. In some, each nominates the same number of members; in others, the Aboriginal organization's appointees equal those of both governments. The formal assumption is that board members act on their own independent judgement rather than as delegates of the entity that appointed them, though the reality is sometimes different. Certainly it would be rare, indeed improper, for governments or Aboriginal organizations to attempt to instruct nominees on specific policy issues or decisions. At the same time, some board members do see themselves as representing the Aboriginal or government perspective. Since the Aboriginal organizations almost invariably appoint Aboriginal persons while territorial governments often and the federal government occasionally do likewise, Aboriginal members form the majority on most boards.

The claims typically require the federal government to fund the boards. For the most part, funding levels and mechanisms have been satisfactory, so that boards have been able to carry out their administrative, regulatory and research functions with adequate financial resources, although some boards have encountered funding problems. One regulatory board threatened to shut down with several months left in the fiscal year unless it received adequate funding. Some boards, especially in Nunavut, strongly objected to Ottawa's policy of applying to them funding mechanisms designed for Indian bands and special projects (which, for example,

required the return of unspent monies at the end of the fiscal year). A recent change towards more flexible funding arrangements specifically designed for claims boards has resolved most such complaints. The boards enjoy complete independence in hiring and other internal administrative matters.

Basic policy directions are set by the elected governments, territorial and federal, and are implemented by the bureaucracies directly accountable to them. The boards lack the authority and legitimacy of governments, but they can play a pivotal role in certain decisions and in policy development; they have minimal involvement in policy implementation. The tasks they perform range from the mundane and routine, such as assigning polar bear quotas to communities, to exceptional and crucial, for example, reviewing the environmental impact of proposed diamond mines or pipelines (the Mackenzie Valley Environmental Impact Review Board carries out the functions the Canadian Environmental Assessment Agency performs elsewhere in Canada). Some boards have the capacity to issue binding decisions, but board decisions for the most part only have the status of advice to government, and the responsible minister can overrule board decisions. In reality, however, the boards are much more than simply advisory bodies whose recommendations government may or may not accept. In most instances, ministers are faced with negative options: unless they formally overturn a board decision within a specified time period, the decision stands. This effectively reverses the political onus: rather than the boards expending political capital to convince government to accept their decisions, government faces political difficulty should it wish to veto a board recommendation. And indeed, fewer than a handful of important board decisions have been overturned.

A noteworthy illustration of the boards' influence occurred in 1996 when, on the basis of studies confirming the sustainability of a limited harvest, the Nunavut Wildlife Management Board issued the first permit in decades for the legal harvest of a bowhead whale. The federal minister came under substantial domestic and international pressure to cancel the hunt, but in the end did not do so. Subsequent licences for additional bowhead harvests were issued in 1999 and 2000.

As this example confirms, elected government, rather than the boards, makes the final decisions on major policy issues, yet the boards are powerful players in matters relating to wildlife, environment and land use in the North. Were their influence put to a stark test, it is unlikely that they would have the legal authority to prevent a major development project such as a mine or road, yet politically it would be very difficult for a government to allow such a project to proceed over strong board objections.

The boards have been generally successful at incorporating Aboriginal peoples and their perspectives into government decisions affecting critically important land, wildlife and environment issues. Not all boards have risen effectively to the

challenges before them; some are essentially reactive, largely limiting themselves to processing requests for permits and approvals, and thus failing to take advantage of substantial opportunities to develop and influence policy. Moreover, while the boards certainly involve Aboriginal peoples in important governance questions, they typically do so by way of structures and processes that are little influenced by Aboriginal culture and sensibilities and that are overwhelmingly Euro-Canadian in orientation and outlook. Formal processes, sometimes highly legalistic, adversarial and heavily scientific, dominate. Also problematic is the extent to which land and wildlife issues, in subtle but important ways, come to be defined in Western rather than in Aboriginal terms. One close observer has remarked that "co-management arrangements oppress traditional Inuit forms of management. 'Wildlife' provisions within most land claims agreements are infused with the biases, concepts and procedures of western science and the conservation bureaucracy, many of which are alien to Inuit hunters and their traditional management practices" (Stevenson 4).

### *Inuit Qaujimajatuqangit*

As this last point suggests, methods of operating and the values they embody are defining issues for Aboriginal governments and for governments of jurisdictions with large Aboriginal populations. How governments do things can be as important as what they do. Truly Aboriginal governance thus entails not simply control of governmental institutions but Aboriginal modes of thought and action. In Nunavut, the objective of establishing an Inuit government meant not just creating a government numerically dominated by Inuit, but also a government operating according to Inuit norms and culture.

Central to the realization of an Inuit government is the success of establishing Inuktitut as the working language of the government of Nunavut. Not only would this ensure that unilingual Inuktitut residents were adequately served by their government, it would also represent a key step towards the goal of a government rooted in Inuit culture. Yet ensuring that all or most Nunavut officials worked in Inuktitut – at best, an uncertain prospect – would be no guarantee that the government functioned in a genuinely Inuit fashion. A bureaucracy suffused with Euro-Canadian precepts and processes is not an Inuit institution, whatever the language of memos and meetings.

Hence the creators of Nunavut were concerned to imbue their government with Inuit values. This abstract goal has found somewhat more explicit form in the government's commitment to *Inuit Qaujimajatuqangit*. *Inuit Qaujimajatuqangit* (IQ) is roughly translated as "the Inuit way of thinking and living." The Nunavut Social Development Council described it as "the very foundation of governance in our

new Territory ... [which] encompasses all aspects of traditional Inuit culture including values, world-view, language, social organization, knowledge, life-skills, perceptions and expectations" (Nunavut Social Development 1).

The Nunavut government has sponsored conferences, established working groups and continually reaffirmed its support for IQ. Not surprisingly, however, concrete manifestations of precisely how IQ is to inform governance have been slow to emerge. Specific proposals include suggestions that the experience and insights of elders be explicitly sought and incorporated into policy development (all policy, not just that relating to wildlife, the environment and related topics for which traditional Inuit knowledge has obvious relevance); that government working hours and conditions be made more conducive to Inuit lifestyles, for example, through a flexible leave policy to accommodate the unpredictable opportunities for hunting; that IQ orientation programmes be developed for new and non-Inuit employees; and, of course, that language training be provided with the goal of making Inuktitut the working language of government. Given the huge task of building governmental capacity, together with the financial and logistical barriers to extensive language training and cultural orientation, only limited progress has been registered on these proposals.

At the same time, the government commitment to IQ is more than noble rhetoric. An essential step in promoting value-change in a large organization is recognition of the deep-seated nature of values and the importance of constant reflection on how the desired values might be put into practice. In other words, awareness of IQ is part and parcel of implementing it. Beyond that, however, serious attempts are being made at embedding policy development in IQ. A noteworthy example is Maligarnit Qimirrujiit, the Nunavut Law Reform Commission. Established as one of the first acts of the new government, Maligarnit Qimirrujiit is charged with reviewing the laws Nunavut inherited from the NWT, to, in the words of Premier Paul Okalik, "identify laws that are inconsistent with the vision and goals of Nunavummiut: laws that are not in keeping with Inuit Qaujimajatuqangit" (Legislative Assembly 77). Commissioners have no legal training, and may not speak English; their task is not to submit existing laws to close textual analysis but to consider them from a cultural point of view. Their first report made recommendations pertaining to vital statistics and official name policy, official languages and "custom adoption" practices. Not all of their proposals reflected a distinctive IQ perspective – suggestions to provide important government forms in Inuktitut and to review the pay and training of Custom Adoption Commissioners hardly required an Inuit sensibility – but some certainly did. For example, the Commission pointed out that the non-Inuit practice of naming buildings for deceased persons is contrary to traditional Inuit culture and offensive to Inuit elders (Maligarnit Qimirrujiit).

The work of Maligarnit Qimirrujiit demonstrates in a concrete way how IQ can be incorporated into public policy. Quite different and decidedly more problematic is the question of how IQ might influence the structure, processes and operating principles of the Nunavut government. Even if the Nunavut bureaucracy were to give pride of place to Inuktitut, provide cultural training to non-Inuit, offer flexible leaves and regularly consult with elders, it would still be a large, bureaucratic organization profoundly shaped by the powerful values implicit in the Euro-Canadian bureaucratic model. The central features of this model are largely incompatible with the principles of IQ: rigid hierarchy, formal processes, concentrated power, professional specialization, political neutrality, inflexible rules, separation of private and public domains and the like.

Other efforts at instituting IQ range from the highly abstract to the decidedly practical. At the one extreme, for example, an official involved in the IQ initiative argues that the traditional Inuit family-kinship model can provide a workable basis for government management (Arnkak 11). At the other, the Languages Commissioner of Nunavut observes that "the process of launching formal complaints against a large institution like the government is completely foreign to the Inuit way of life" and thus has developed plans for community-based exercises in soliciting and responding to Inuit concerns about language rights (Languages Commissioner 3).

Embedding the policies and operations of the government of Nunavut in IQ is a long-term undertaking; few organizational changes are as slow or as difficult as fundamental value shifts. Typically, though, the objectives of the IQ commitment are at once sweeping and distinctively northern. Value change has been a prominent, if imperfectly realized, goal in southern bureaucracies for some time, but the objective has largely been to imbue government with such private-sector values and approaches as "customer service," entrepreneurship and business planning, which may have been uncommon in traditional public administration but were hardly alien to it. The cultural transformation sought for government in Nunavut is rooted in a fundamentally different world view.

### **Decentralizing the Nunavut Government**

Though IQ is primarily about values, the notion of rendering the Nunavut government an Inuit organization also has structural implications. On the surface, the design of the government seems quite conventional, and in many ways it is: the basic administrative structure consists of a largely unexceptional set of central agencies and line departments. The number of departments is relatively small (11), but the overall array of departments – Education, Justice, Health and Social Services, Finance and the like – as well as the typical departmental organization – a politically neutral



deputy minister, supported by one or more assistant deputy ministers with staff organized into a fixed hierarchy – would seem decidedly orthodox to anyone familiar with provincial governments.

To be sure, pragmatism – often cited as an Inuit trait – inclined the designers of the Nunavut government towards the conventional in establishing bureaucratic structures. And yet, in one elemental respect the organization of government in Nunavut is to be boldly innovative. Once fully realized, it will be perhaps the most decentralized government in the world, certainly far more decentralized than any other Canadian jurisdiction.

Every modern government is decentralized in the sense of having networks of regional offices to deliver services and co-ordinate activities. In this regard Nunavut is already highly decentralized, with field offices in virtually all communities. Decentralization in Nunavut, however, entails much beyond this: a very high proportion of the departmental “headquarters” functions, which in other governments are almost invariably situated in the capital city, are being located in communities throughout the territory. Thus, while the deputy minister and some departmental staff will remain in Iqaluit, whole units – policy development, finance and other specialized operational and departmental offices, as well as government boards – are being relocated to the communities, the largest of which has barely 2,000 residents. When decentralization is complete, by way of illustration, the Department of Sustainable Development will have divisions and corporate functions, as well as associated boards, in six communities beyond Iqaluit.

All this – indeed, the entire operation of the Nunavut government – is made possible by state-of-the-art electronic communications networks. Inevitably, in a project as large and technology-dependent as this, initial operations have been uneven: bandwidth limitations and reliability of service in some communities have been recurrent problems. Glitches have caused inconvenience but have not occasioned fundamental impediments to government operations.

Decentralization has several objectives. Spreading government functions throughout the territory was seen by some as in keeping with Inuit political culture, which prizes government close to the people. On a more tangible level, decentralization entails sharing the economic benefits of government – stable, well-paid jobs and valuable infrastructure – widely. With employment and economic development opportunities so limited in Nunavut, the direct and spinoff jobs and the facilities associated with the government presence are critically important. Finally, locating middle-rank and senior bureaucratic posts in small communities is an integral component of a key strategic aim of the Nunavut project: ensuring the Inuit character of the Nunavut government through strong Inuit participation throughout the bureaucracy. Potential Inuit recruits would not face the barriers and disincentives of

leaving their home communities either in initially taking up government jobs or in seeking advancement to more senior levels.

The decentralization initiative has its critics and sceptics. Some argue that the costs – both start-up and operating – are far out of proportion to the potential benefits. Others worry that decentralization will produce an administrative nightmare, rendering routine processes hopelessly cumbersome and inefficient. Still others doubt that distributing jobs to the communities will contribute much to Inuit hiring and retention in the bureaucracy, on the premise that few Inuit in small communities will be qualified for the available jobs. Moreover, critics warn, decentralization will render recruitment of non-Inuit (primarily from southern Canada) difficult and costly.

Decentralization will not be complete for several years and even then a good deal of time will have to elapse before a thorough reckoning of its success will be possible. At that, it will not be easy to weigh identifiable costs and shortcomings against the intangible benefits deriving from the fundamentally different government that decentralization will create. None the less, one conclusion about the consequences of this bold initiative seems inescapable: decentralization will fundamentally shape the nature of governance in Nunavut.

## Conclusion

This essay has highlighted unique and unfamiliar aspects of northern governance institutions. And while other examples could be cited of distinctive northern governmental and political institutions – Nunavut's unique unified court system and the remarkable relationships emerging between the public governments of the territories and the Aboriginal land-claim organizations, to mention just two – many institutional features of northern governance are commonplace and unexceptional.

Still, it should be clear that central elements of government in the territorial North differ substantially from those of the provinces and the federal government. It would be easy to dismiss such differences as simply exotic curiosities, as irrelevant to southern governance as the life experiences of northern Aboriginal hunters are to the everyday concerns of suburban commuters. Yet this would be a mistake. Not that southern legislators are about to renounce their party ties and adopt a system of consensus government or that provincial governments should contemplate imbuing IQ principles into their operations. Rather, the relevance of northern institutions lies in their implicit message that governmental structures and processes can, within the confines of Westminster principles and the exigencies of the modern bureaucratic state, be organized in ways quite different from those dominant – indeed all but invariable – in Ottawa and the provinces. The key lies not in adopting specific organizational and cultural forms of governance but rather in developing institutions that reflect and advance the jurisdiction's social organization and values.

The pathologies impairing Canadian governmental institutions are often traced to the rigidities and anachronisms of the Westminster cabinet-parliamentary system. And to be sure, institutions that emerged in the context of mid-nineteenth-century British and Canadian social and political conditions can seem highly unsuitable to current needs. The northern experience, however, suggests that the Westminster system is far more flexible and adaptable than is usually thought. Indeed, its strength lies in its compatibility with a wide range of political-institutional arrangements. The problem may not be that the basic precepts of the Westminster system are hidebound and restrictive, but that the one variation that has become entrenched in Ottawa and the provinces is seen so widely as definitive and immutable and thus impervious to challenge or reform.

Finally, if the extent to which northern governmental institutions are truly rooted in Aboriginal political culture is a matter of debate, the influence of the North's Aboriginal peoples – their interests, aspirations and political ideas – is indisputable. Gilles Paquet has written that “our evolving arrangements with the First Nations are likely ... to act as an important catalyst in the transformation of our *weltanschauung* and of our philosophy of governance” (Paquet 103). The unique constellation of northern governmental institutions offers powerful support for this view.

## Notes

1. For a recent overview of society and politics in the territorial North, see the chapters by Floyd McCormick (Yukon), Peter Clancy (NWT) and Jack Hicks and Graham White (Nunavut) in *The Provincial State in Canada: Politics in the Provinces and Territories*, eds. Keith Brownsey and Michael Howlett (Peterborough: Broadview Press, 2001).
2. One minor exception: elsewhere it is the first minister who advises the sovereign or her representative to dissolve the elected House (i.e., call an election); in the NWT and Nunavut this prerogative is effectively in the hands of the Assembly.
3. For a discussion of the strengths and weaknesses of the consensus system *vis-à-vis* the party system, see the exchanges between Frances Widdowson and Albert Howard and me in *Policy Options* (January-February, May, September and November 1999).
4. “Public government” extends to all residents of a jurisdiction (including the right to vote and hold elected office); Aboriginal self-government represents and serves Aboriginal peoples, who are the only ones entitled to vote or hold office.
5. All of Nunavut and all of Yukon are covered by single claims; although the Yukon claim is an umbrella agreement, under which the various First Nations negotiate specific arrangements. Three claims – those of the Inuvialuit, the Gwich'in and the Sahtu Dene and Métis – cover the northern half of the NWT; the Dogrib claim in the central NWT is close to finalization, but in the Deh Cho and Akitcho regions (essentially south and west of Great Slave Lake) quite different processes are unfolding.

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