

**RESPONSIBLE GOVERNMENT IN NUNAVUT:
THE 'CONSENSUS GOVERNMENT' SYSTEM**

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RESPONSIBLE GOVERNMENT IN NUNAVUT: THE ‘CONSENSUS GOVERNMENT’ SYSTEM

This paper examines the ‘consensus government’ system in the Legislative Assembly of Nunavut as it developed and operated during the First Assembly (1999-2004). In addition to describing some of its central features, such as Full Caucus and the method for selecting ministers, it locates consensus government within the traditions of ‘responsible government’ – the model of legislative-executive relations developed in Britain and adopted throughout Canada. The paper demonstrates that no basic incompatibility exists between the consensus and responsible government models. It further argues that following the principles of responsible government does not impede or distort the practice of consensus government in Nunavut.

The paper does not directly offer an evaluation of consensus government, but does incorporate into the analysis evaluations put forward by MLAs who served in the First Assembly. Comments about the strengths and weaknesses of the system are cited throughout the paper; a long appendix provides more extensive detail on what MLAs said about the operation of the Legislature, MLAs’ relations with ministers, and related topics.

A central theme of the paper involves possible changes or alternative structures and procedures to those which were in place during the First Assembly. Generally speaking, the alternatives discussed would not represent fundamental change – replacing the consensus system with a party system, for example – which would be beyond the scope of this paper. Nonetheless, the point is repeatedly made that there are different ways of doing things from those which were followed in the First Assembly. The purpose is to make it clear to MLAs in the Second Assembly that they have important choices to make in how they want their consensus system to operate.

A related theme is the suitability of the current consensus government system for the needs of Nunavut. This includes consideration of the consensus system’s capacity to facilitate inclusive decision making which involves MLAs and communities as much as possible, and to incorporate Inuit Qaujimatjuqangit (IQ) in a meaningful way.

By and large, the paper does not examine, nor does it discuss possible changes to structural or procedural details, for example the wording of specific rules, or committee terms of reference. Rather, the aim is to look at ‘big picture’ issues such as the overall relations between regular MLAs and ministers, the effectiveness of the ‘mid-term review’, and the organization and effectiveness of the committee system (including the Regular Members Caucus). As well, Nunavut-specific issues are considered, such as the relations of the Assembly to Inuit land claims organizations and to the Institutions of Public Government (IPGs) established under the claim.

The paper is organized into three main sections. The first sketches out the basic ‘responsible government’ model as it has developed in Britain and Canada. In addition to describing the principles of responsible government, this section also emphasizes what responsible government **is not**. The second section describes the characteristics of the ‘consensus government’ model as it developed in the Northwest Territories and has been practiced in Nunavut since 1999. The final section looks at a number of issues arising from the operation of consensus government during the First Assembly which MLAs in the Second Assembly may wish to consider.

Responsible Government

The Origins and Nature of Responsible Government

Before listing and discussing the central principles of responsible government, it is important to highlight one of its most important characteristics. The responsible government model is sometimes thought to be rigid and static and therefore very confining and unresponsive. It is anything but. In fact the history of responsible government is one of adaptation, change and evolution. Most of the basic principles of responsible government set out below are not formally written down in any official constitutional document (either in Britain, Canada or in the many other countries worldwide where it operates). This reflects the origins and development of responsible government: no one ‘designed’ it, it emerged and evolved over literally centuries in Britain. As new political problems and crises arose (often between the King and Parliament) new solutions were tried. Those that didn’t work were abandoned. If over time the solutions were found to be helpful and effective, they gradually became incorporated into the system to the point where they took on the status of accepted principles. Moreover, responsible government continues to evolve and adapt; the whole logic of the system is to be flexible and not overly constrained by formally written rules.

The result is that the responsible government model is compatible with a wide variety of ways of organizing politics and government and that it is highly adaptable to changing circumstances – as the experience of northern consensus government demonstrates. It could be argued that such a system is especially appropriate for Inuit culture, which is marked by adaptability.

Some Westminster systems may have become rigid and unreceptive to change – certainly the Canadian House of Commons and various provincial governments have been accused of this. However, this reflects the choice of the politicians involved; it is not an inherent feature of the system.

The Legal-Constitutional Framework of Responsible Government

In understanding responsible government – or government in Canada generally – it is important to recognize the various levels of laws and rules, how they relate to one another and who has authority to change them.

As far as the Nunavut Legislative Assembly goes, there are essentially five levels of laws and rules: the constitution, statute law, the *Rules of the Legislative Assembly*, temporary practices (both formal and informal) and customs of behaviour. Each is discussed in turn.

The Constitution

As the most basic law of the land, the constitution takes precedence over statute law and the Assembly's rules. A good deal of Canada's constitution is in the form of written documents, such as *The Constitution Act, 1982*, which includes the *Canadian Charter of Rights and Freedoms*. *The Constitution Act, 1982* and the *Charter* apply nationally (including, of course, to Nunavut). Changing these constitutional documents is a difficult, complex process, typically requiring widespread formal agreement from across Canada. In other words, they are beyond the power of the Nunavut Legislative Assembly to change.

Other constitutional documents which directly affect Nunavut are also beyond the power of the Assembly to change, but may be amended without nation-wide approval. For example, the *Nunavut Act* is an act of the federal Parliament, which has authority to amend it without involvement or agreement of provincial governments. The *Nunavut Act* can be seen as the principal document of the Nunavut constitution (people don't usually think of the provinces and territories having "constitutions", but they do). The *Nunavut Land Claims Agreement* is not an actual part of the constitution but does enjoy constitutional protection. The Assembly could be involved in amending the claim, but could not do so on its own.

In none of these constitutional documents, however, can one find anything more than vague references to the principles of responsible government. That's because Canada inherited from Britain an approach which relies heavily on *unwritten constitutional principles*. This approach is based on the recognition that rules do not have to be written down if they are widely understood and accepted. Some argue that unwritten rules are better than written rules since they allow for greater flexibility and can be adapted over time if circumstances requires it.

No list of responsible government principles exists in any official government or constitutional document. However, these principles have been firmly established over many years and, as sketched out below, are quite clear.

Statute Law

"Statutes" (or "acts") are simply the bills that have been passed by the Legislative Assembly (or were inherited from the NWT at the time of division). Most Nunavut statutes, such

as the *Education Act*, the *Wildlife Act* or the *Tobacco Control Act* set out government policies and practices and do not affect the structure or operation of the Assembly.

However, a few Nunavut acts do have a direct bearing on the Assembly. Good examples are the *Legislative Assembly and Executive Council Act* and the *Integrity Act* which, among other things, determine how many seats there are in the Assembly and set rules for MLAs' behaviour. These are within the power of the Assembly to change. Accordingly, if the Assembly so decided, it could increase or decrease the number of MLAs or it could change the conflict of interest provisions which apply to members.

Changing a statute requires a bill to be passed through the Assembly in the usual way – three readings, committee consideration and so on.

The Canadian constitution (and the Nunavut constitution in the form of the *Nunavut Act*) take precedence over Nunavut statute law. In other words, no act of the Assembly could override the *Constitution Act, 1982* or the federal *Nunavut Act*.

Rules of the Legislative Assembly

The *Nunavut Act* gives the Assembly the power (standard in most legislatures) to determine its own procedures. This it does through the rules the Assembly establishes for itself called the *Rules of the Legislative Assembly* (often called *Standing Orders* in other legislatures). These rules do such things as establish the rules of debate, determine the order of business and set time limits on members' statements and speeches. Statute law (for example, the *Legislative Assembly and Executive Council Act*) takes precedence over the *Rules of the Legislative Assembly*.

The *Rules of the Legislative Assembly* are easily changed; this simply requires passage of a motion in the House. Nonetheless, the *Rules* are expected to be relatively durable.

Temporary Practices

A number of important Assembly practices are not specified in the *Rules of the Legislative Assembly* (or in any act or constitutional document). Good examples are the procedures for picking a premier and a cabinet and the existence of and procedure for a mid-term review of cabinet. A formal motion may be passed in the House to set out some aspects of how a mid-term review would work – this happened in the First Assembly – but these things are done on a one-time only basis. In other words, members of the Second Assembly could decide that they don't want to hold a mid-term review at all or they could decide to go about in a different way than occurred in the First Assembly. Similarly, MLAs in the Second Assembly will have to decide how they want to select the premier and the cabinet. They could follow exactly the same process that the First Assembly adopted or they could do something quite different, such as granting the premier the authority to pick his or her own cabinet.

It is possible that MLAs in each Assembly could adopt the same processes for picking cabinet, holding mid-term reviews and other matters that had been used before. However, they would still have to make a decision each time the need arose since none of this is set out in the *Rules of the Legislative Assembly* or any act (although it could be).

Customs of Behaviour

Many of the “rules” that MLAs encounter in the Assembly are unwritten but strongly held codes of behaviour. Perhaps the best example is the importance of maintaining confidentiality in Caucus. That there is no formal, written rule imposing Caucus confidentiality doesn’t lessen the strength and importance of this custom.

The Central Principles of Responsible Government

The term ‘responsible government’ refers to one of the central principles underpinning the system: that the legislature holds the government responsible for its policies and decisions and that the government holds power only so long as the legislature is satisfied with its performance. (The responsible government model is also called the ‘British parliamentary system’ or the ‘Westminster model’ – a reference to the district in London where the British Parliament is located.)

The following are the central principles of responsible government:

- the government – the premier and the cabinet – hold and retain power by maintaining the “confidence” of the House;
- ministers, both as political heads of individual departments and as members of a unified cabinet, are answerable to the legislature for the policies and decisions of government;
- once cabinet reaches a decision, all ministers must publicly support it (the principle of ‘cabinet solidarity’);
- the spending of public money and the raising of public revenue through taxation may only be initiated by cabinet ministers;

Each of these principles is examined in turn.

The government – the premier and the cabinet – hold and retain power by maintaining the “confidence” of the House.

This is perhaps the most fundamental element of responsible government.

“Confidence” in this context has a very specific meaning, which goes beyond the standard dictionary meaning of the word. It means that the government must win all the important votes. This does **not** require – as is often mistakenly thought – that the government must win all votes in order to remain in office. The government may lose votes on details, such as amendments to bills or estimates, or even have an entire bill defeated in the House and still not have lost “the confidence of the House”, though it certainly will suffer political embarrassment and policy reversal. What exactly is an “important vote”? Three categories of votes are considered matters of confidence:

- 1) votes on the motion to accept the Commissioner’s Address (called the ‘Speech from the Throne’ in southern Canada) or the government’s basic budgetary policy (the overall policy, not simply specific budget measures);
- 2) motions which explicitly include the word “confidence”; if passed, such a motion confirms that the House has withdrawn its support from the government;
- 3) motions which the government has explicitly designated, in advance, as matters of confidence; this could involve a relatively minor issue but if the government says it will consider it as a question of confidence, then it becomes a confidence vote.

Though there have been some close calls, no government in the NWT or Nunavut has ever lost a confidence vote. In southern, party-based systems when the government loses a confidence vote (a rare but not unknown occurrence) this usually leads to an election, though the Governor General (in Ottawa) or the Lieutenant Governor (in the provinces) has the option of asking another party leader to form a government (this is an ever rarer occurrence but can and does happen). Were a motion of non-confidence in the government be passed by the Nunavut Assembly, the Commissioner would likely attempt to determine whether it might be possible for a new government to be formed without an election, but an election would certainly be a strong possibility.

In party systems, the strength of party discipline means that for all practical purposes there is no distinction between motions of non-confidence in the government as a whole and in individual ministers. Under consensus government, though, it is possible for MLAs to remove an individual minister by motion without affecting the rest of the cabinet. Just such a motion was passed during the First Assembly. This constitutes an important northern political adaptation to the standard Westminster practice elsewhere in Canada.

The requirement that the premier and the ministers hold office only so long as they retain the support – the ‘confidence’ – of the elected members clearly distinguishes the Westminster

system from other ‘non-responsible’ models of government. In the American congressional system, for example, the President (or the Governor at the state level) remains in office for his full term regardless of whether he wins or loses important votes in the Congress. (In fact, under the US Constitution, neither the President nor members of his cabinet are permitted to hold seats in Congress.) Similarly, in the mayor and council system as found in municipal government throughout Canada, including in Nunavut, the mayor remains in office whether council passes or defeats the motions he or she brings forward.

Ministers, both as political heads of individual departments and as members of a unified cabinet, are answerable to the legislature for the policies and decisions of government.

This is clearly linked to the first principle. The legislature’s continuing support for the government is in important ways determined by the legislature’s satisfaction with how ministers answer to it for policies and decisions. This happens in a number of ways: ministers are regularly called on to answer MLAs’ questions in Question Period; MLAs extensively question ministers before they provide money to run the ministers’ departments; ministers come before legislative committees to explain and defend their policies. And in northern consensus government systems, ‘mid-term reviews’ are held to evaluate ministers’ performances.

The essential idea – and one of the great strengths of the Westminster system – is to ensure that the MLAs, and through them the public, always know who in government to hold responsible – whether for blame or praise – for government policies and decisions. The ministers are responsible.

This principle is also closely tied in with another central feature of the Westminster model. It has long been thought that is crucial for the fair and impartial operation of large modern governments that the public service – the permanent bureaucrats; the appointed government officials – are politically neutral. In other words, while they work for elected politicians, the bureaucrats avoid taking sides politically and treat all citizens equally regardless of their political views or associations. This political neutrality is made possible because it is the ministers – not the bureaucrats – who answer directly to the Assembly. With the ministers taking the credit or the blame, even when the actual work was done or the decisions made by bureaucrats, the public servants are kept out of political disputes and are thus able to maintain their neutrality.

This does not mean that bureaucrats escape accountability but that they are held accountable *through* ministers.

All this is possible because the cabinet has sole control over the public service. MLAs may certainly make suggestions and requests to bureaucrats, but only ministers are empowered to give them direct orders which they are required to carry out.

One strange and sometimes frustrating aspect of the principle of ministerial responsibility requires that the current minister be held responsible. This means that, even if they are still in

cabinet, MLAs cannot be questioned in the Assembly for actions they took in portfolios they no longer hold. For example if an MLA served as Minister of Education but was transferred into another portfolio, questions directed to him or her about decisions taken while he or she was Education Minister would be ruled out of order by the Speaker.

Cabinet solidarity: once cabinet reaches a decision, all ministers must publicly support it.

The Westminster model is very much built around a strong, cohesive government team – the cabinet. In order that there be clear lines of accountability, which among other things requires that cabinet act in a unified manner, all ministers must accept and agree to government policies once they are decided. Behind closed cabinet doors of course, as the decision is being reached, ministers can say whatever they want. But once cabinet has come to a decision – by whatever means – all ministers, regardless of their personal reservations or the arguments they made during cabinet deliberations, must support it in public. Otherwise, if ministers could pick and choose the decisions or policies they were prepared to support in public, the whole system of accountability would break down.

Cabinet solidarity can only work if ministers can speak freely in cabinet when policies are discussed and decisions reached. The logic of the responsible government system would break down if it were known which ministers supported and which opposed a particular decision. This is why *cabinet secrecy* is so important. It is not that ministers are engaged in any improper behaviour in the cabinet room that they want to prevent the MLAs and the public from finding out about. Rather, good decision making requires free and honest discussion among ministers. But – given the importance of cabinet solidarity once the decision is made – such discussion can only take place if cabinet secrecy is in place.

The spending of public money and the raising of public revenue through taxation may only be initiated by cabinet ministers.

This is the so-called ‘money bill rule’. Non-cabinet MLAs often find it restrictive and unfair. In practice it means that only a minister is allowed to bring in a bill which either raises taxes or directly allocates public spending. An example of the latter would be a measure which gave all elders a certain sum of money or directed that a grant or loan be made to a community organization. Even amendments to bills or amendments to estimates (once they have been formally introduced into the House) along these lines are not permitted.

MLAs can vote against – and possibly defeat – tax increases or spending proposals initiated by ministers. They can also bring in bills or introduce amendments to *reduce* taxes or spending.

What is the purpose of this peculiar rule which limits MLAs’ actions?

Its origin in Britain goes back centuries when it was up to the King to bring taxing and spending measures before Parliament (though many of Parliament's key powers stem from the King's need to secure approval for his taxation and expenditure plans). However, this seemingly outdated practice lives on because it fits in logically with other principles of responsible government. In particular, with the emphasis in the Westminster model on clear, strong accountability, on cabinet as a cohesive team of decision makers and on the cabinet's prerogative for controlling the public service, it makes sense that cabinet should retain the power to initiate taxing and spending measures.

What Responsible Government is *Not*

The foregoing discussion outlines the central principles of responsible government. In order to have a clearer picture of what modifications and adaptations are possible to the Westminster model, it is also useful to review what responsible government is *not*. Many of the features of southern Canadian governments, which are often thought to be part of responsible government are in fact quite distinct from it.

Parties and Party Discipline

In almost all political systems organized along responsible government lines, in Canada and elsewhere, political parties reign supreme. It would be impossible to understand how government and politics work in Ottawa or in the provincial capitals without understanding the operation of the party system. However, this does not mean that responsible government requires parties or that the consensus systems in Nunavut and the NWT are not truly responsible governments. In fact all of the central principles of the Westminster system were in place before disciplined political parties emerged in Britain and Canada in the middle of the nineteenth century. Even today, most of the formal rules in Parliament are written as if parties do not exist.

Certainly there are strong debates as to the pros and cons of introducing parties into the consensus system, but it is important to keep in mind that this is a choice under responsible government not a necessity.

The 'Single-Member Plurality' Electoral System

For historical reasons, many – but not all – Westminster systems also employ the 'single-member plurality' electoral system (also called 'first-past-the-post'). It is used throughout Canada, including Nunavut. This is the familiar process in which each geographic constituency elects a single MLA and the candidate receiving the largest number of votes wins. Many other types of electoral system exist – proportional representation, transferrable ballot, and so on – and there are endless debates as to the best system. The point here is that the principles of responsible government only come into play after the members are elected. Accordingly, the Westminster system is compatible with just about any electoral system.

In other words, the consensus variation of the responsible government model could work perfectly well with (say) an electoral system based on a transferrable ballot (in which voters rank candidates and votes are counted in a way that ultimately produces a member who is supported by more than half the voters). Similarly, had the Nunavut Implementation Commission's proposal for a 'gender-equal' legislature been accepted, it would have been entirely compatible with responsible government.

Conflict of Interest, Parliamentary Privilege, etc

Various other facets commonly found in the structure and operation of Canadian legislatures – some ancient, like 'parliamentary privilege'; others, such as conflict of interest regulations, very recent – stand quite apart from the main ideas behind responsible government. There may be good reason behind each of them or they may be worth re-examining and refining, but the main point is that they are not required under the existing form of responsible government operating in Nunavut.

Many of the specific rules of the Assembly are of this kind, for example, the *Rules of the Legislative Assembly* setting out how debates are to proceed, the composition and terms of reference for committees, and so on. Other elements of government organization and Assembly operations are likewise not determined by the principles of responsible government. These include the organization of the public service, formal codes of conduct for MLAs, and the nature and level of staff and resources available to members (research assistance, public funding for constituency offices, availability of Hansard and so on).

Characteristics of Responsible Government

A few final words are in order about some of the political characteristics of responsible government.

Although reference was made to the flexibility and adaptability of responsible government, this should not be taken to mean that 'anything goes'. Nor does it mean that (especially since many key provisions of responsible government, such as the 'confidence convention' are not formally written) the essential principles of responsible government can be easily changed. The flexibility of responsible government was cited to counteract the widely-held but mistaken view that the Westminster system is highly rigid and requires certain prescribed ways for doing everything. As the experience of the Northern consensus systems demonstrates, it is possible to be faithful to responsible government principles in a wide variety of ways.

Responsible makes for an interlocking set of political characteristics. Some of these characteristics may be somewhat diluted in Nunavut owing to the influence of the consensus model but they are nonetheless clearly present. First and foremost, the Westminster system makes for a significant concentration of political power. Private members ("regular members" in

Nunavut) may have significant influence over cabinet, but ultimately the legal authority and political power rests with the ministers.

This points out a second central characteristic of the Westminster system: again, MLAs do have influence over policy – sometimes decisive influence – but a very clear dividing line exists between those who are ‘in government’ (the cabinet) and those who are not (regular MLAs). Only ministers can direct the public service or introduce ‘money bills’ to the Assembly.

Finally, all this is linked in with a very strong emphasis on accountability. Concentrating governmental power in the hands of a relatively few, clearly specified ministers greatly enhances the prospects for government accountability.

Consensus Government in Nunavut: An Outline

As the preceding discussion demonstrated, Nunavut's consensus government system must be understood in terms of the basic Westminster model of responsible government. Important features of consensus government, however, are distinctive if not unique. This section examines the distinctive elements of Nunavut's consensus system.

The existence of these features – all of which would seem highly unusual to members in more orthodox Westminster systems, such as in Southern Canada – is made possible by two key principles. First, as explained above, the Westminster system is highly adaptable and flexible once the basic requirements are met. Second, as set out in the *Nunavut Act*, confirmed in Nunavut's *Legislative Assembly and Executive Council Act* (and in conformity with longstanding parliamentary tradition), the Assembly has extensive, though not unlimited, powers to determine its own procedures and organization.

NWT Origins

The system of 'consensus government' in Nunavut was largely inherited from the Northwest Territories at division. In the years between the finalization of the claim and division in 1999, it was generally presumed (by the Nunavut Implementation Commission and others) that some close variation of the NWT's consensus system would be adopted in Nunavut, since it was familiar and appeared to work reasonably well.

A division of opinion exists as to what extent consensus government in the NWT and Nunavut reflects the influence of traditional Aboriginal decision-making or is mainly a consequence of the lack of organized political parties in the Assembly. In the end, this probably doesn't matter all that much. What matters is how the system actually works.

No great purpose would be served by reviewing in detail the historical development of consensus government in the NWT from the 1970s to the time of division. One point, however, is worth making. Very much in line with the development of responsible government in Britain centuries earlier, consensus government in the NWT was not "designed" by anyone; it simply evolved in response to opportunities and problems. Certainly federal government officials imposed on the NWT a council, headed by the Commissioner, which they likely expected would develop into a southern-style party-dominated legislature operating on standard Westminster lines, as indeed happened in Yukon. However, as politics evolved in the NWT, distinctive structures and processes emerged which gradually built into today's consensus system.

In this process, the system was constantly changing. At one point, the entire cabinet was picked and then from the cabinet one minister was chosen as premier. More recently the premier has been chosen first and then the balance of the cabinet elected. In the first mid-term review, in

1985, all ministers resigned and sought re-election on the basis of their records. No mid term review was held in the Eleventh Assembly (1987-91) and in subsequent Assemblies, ministers were subjected to extensive formal and informal scrutiny through mid-term reviews but on the presumption that ministers would retain their positions unless explicitly removed by the MLAs.

Consensus Government in Nunavut

Selecting the Premier and the Cabinet

Given the power concentrated in the cabinet, the method of selecting the premier and the cabinet is crucial. How this happens is almost entirely up to the elected MLAs. The only legal restriction is that the Premier must be a member of the Assembly. (The perhaps surprising implication is that ministers do not have to be MLAs, though in practical terms it is unlikely that a non-member would serve as a minister). In the First Assembly, MLAs followed the prevailing NWT practice, as follows.

All members convened in a public “Territorial Leadership Committee” which first chose the Speaker, then the Premier, then the cabinet ministers, all by secret ballot. Candidates for these positions gave speeches then answered questions from MLAs. Once elected, the Premier assigned ministers to portfolios.

The actual number of ministerial positions was decided by the MLAs of the First Assembly. While it had been widely presumed that the Nunavut cabinet would contain about half a dozen ministers, the decision as to the precise number lay with the MLAs.

Although the idea had been discussed (and regional considerations doubtless were a factor in MLAs’ voting), no specific regional allocation of ministers was established as had existed in the pre-division NWT (four ministers from the East and four from the West) and as currently exists in the NWT.

Some years ago NWT MLAs debated and came close to approving the practice of authorizing the Premier to choose his or her own cabinet. Nunavut MLAs have thus far shown little enthusiasm for this idea.

Removing the Premier and the Cabinet

The process for removing a minister, or the Premier, from cabinet is also important. As discussed above, the passage of a motion of non-confidence in the government would result in the cabinet’s resignation and/or an election. Although this is certainly a possibility, in the North the question of removing an individual minister is more likely to arise.

It has long been clear that, just as the MLAs vote ministers into office, they can vote ministers out of office. This has occurred in both Nunavut and the NWT. A simple majority on a

motion to remove a minister is all that is required. The same process would apply for the removal of the Premier.

The question of the Premier's powers to discipline ministers has generated more discussion. Nunavut MLAs followed the lead of their predecessors in the NWT and authorized the Premier to assign ministers to portfolios. This power includes the capacity to change ministers' portfolio assignments (in cabinet "shuffles"), including removing all their portfolio responsibilities. This is a very substantial power which has been used by Premiers to discipline to (or reward) ministers. But does the Premier have the power to remove ministers from cabinet altogether?

According to the *Legislative Assembly and Executive Council Act*, ministers "hold office during the pleasure of the Premier". This gives the Premier the legal authority to dismiss ministers from cabinet. Significantly, however, during the First Assembly when the Premier wished to discipline a minister for what he believed to be a serious violation of the principle of cabinet solidarity, he removed the minister's portfolio assignments but stated that he did not have the capacity to remove the minister from cabinet. (The Assembly did remove the minister in a formal vote.)

This issue has come up from time to time in the NWT. One NWT Premier asked for and received signed but undated letters of resignation from some ministers, though others refused the request. On occasion, NWT Premiers have also stated that in very unusual circumstances – serious personal impropriety for example – they have the right to insist on a minister's resignation. There was at least one episode along these lines in the pre-division NWT.

Mid-term Review

The First Assembly held a 'mid-term review' of cabinet in the Fall of 2001. MLAs' views about the effectiveness of this exercise are summarized elsewhere in this paper. This account simply describes the process and some basic options surrounding it.

First and foremost, there is no formal or informal requirement for a mid-term review. Neither the *Legislative Assembly and Executive Council Act* nor the *Rules of the Legislative Assembly* make any reference to mid-term review. The decision on whether to hold a review and how it should proceed is entirely up to the MLAs.

MLAs in the First Assembly decided that they wanted a formal review of ministers' performances beyond the routine review available through Question Period, Committee of the Whole and other House procedures. An elaborate set of procedures for conducting the review were established, which set out for example how many questions MLAs could ask of each minister. The review took place in public, in the Legislative Chamber (though not as an official sitting of the House) after which the regular MLAs met in private to discuss the results and to draft a public statement on their conclusions. Criticisms of varying seriousness were directed against ministers, but no formal motions to remove ministers came forward.

Caucus and Regular Members Caucus

Full Caucus, the regular private meeting of all 19 MLAs is another important, but essentially unofficial feature of consensus government. The *Rules of the Legislative Assembly* are completely silent on Caucus and the *Legislative Assembly and Executive Council Act* makes only very limited reference to it.

How Caucus operates and its powers are thus matters for the MLAs to decide. Its official powers are limited: it cannot, for example, pass a bill, or remove a minister from cabinet since these actions require formal motions in the House. However the real decision about the fate of a bill or a minister could well be made in Caucus, followed by official confirmation through House motion.

Caucus can serve as a forum for the debate and resolution of important policy issues. Or it could be primarily used to decide organizational matters relating to the Assembly, such as when the House will meet and where (and when) to hold sessions outside Iqaluit, and to deal with the occasional sensitive internal matter, such as an MLA's personal difficulties. The scope of Caucus activities is up to the MLAs.

During the First Assembly, Caucus usually met once a week while the House was sitting, with occasional additional meetings. When the Assembly was not in session, meetings were far less frequent, though occasional extended retreats were held. For example, the 'Bathurst Mandate' came out of a Caucus retreat at Bathurst Inlet.

Two important traditions have marked Caucus. First, all MLAs enjoy equal status; no distinction is made between the ministers and the regular MLAs in terms of Caucus participation. Second, Caucus operates with a very strong condition of confidentiality.

The role and activities of the Regular Members Caucus (RMC) are even less clearly defined. RMC and its predecessors in the pre-division NWT have, over the years been many things: a forum for the exchange of ideas and information among MLAs; a vehicle for working out strategies for attacking cabinet; a committee concerned with fostering government accountability; a place where House business is planned and reviewed; a council where critical decisions are made about supporting or replacing ministers.

When its members work together, RMC holds the potential to defeat the government or to fundamentally alter its policies. However, when regular Members are unable to agree or head off in separate directions, its influence is limited.

How often RMC meets, or whether it even exists, is entirely up to the regular MLAs. So too, how it goes about its work – in a spirit of cooperation or confrontation with cabinet – will depend on the MLAs. It can be a central player in the operation of consensus government or it can be little more than a minor irrelevancy.

Legislative Committees

Not much about the structure and organization of the Assembly's committees is unusual or distinctive. Compared to legislative committees in other Canadian jurisdictions, the committees of the First Assembly were small (five or six MLAs with three alternates). Ministers do not normally sit on parliamentary committees, but in the First Assembly ministers served on a special committee (on the Official Languages Act) and on two internal committees (the Rules Committee and the Management and Members Services Board). These minor variations were not especially noteworthy. Nor was there much distinctive about the division of responsibilities among the four sectoral standing committees (Health and Education; Government Operations; Community Empowerment and Sustainable Development; Ajauqtiit [on Assembly matters, CLEY, Justice and land claims issues]).

What set the committees of the First Assembly apart from similar structures in non-consensus systems was not their size, membership or organization but how they went about their business. The committees enjoyed policy influence and access to confidential government information, on both budgetary matters and policy development, far beyond what is usual for most Westminster committees.

Ministers routinely discussed policy plans and draft expenditure budgets with legislative committees and took their views and suggestions seriously into consideration. Not all committee criticisms or suggestions were accepted by the government, but many were. Certainly the government preferred not to take the political risk of ignoring or offending committees. Overall, when MLAs on committees were prepared to put in the necessary work and when they developed cohesive positions, committees could become very significant players in the process of developing and refining policy.

Committees served as a practical mechanism for ministers and MLAs to discuss and resolve specific policy and financial issues. While MLAs generally acknowledged the important, detailed work done by committees, there was some dissatisfaction expressed – both by ministers and regular members – with the capacity of committees to rise above their routine tasks to deal with major issues in innovative and imaginative ways and for MLAs to act in a cohesive fashion in order to assist and direct cabinet.

Committees were generally seen as primarily reactive in nature. They were often effective in offering advice and suggestions for improvement in response to government proposals, but their record in initiating policy ideas or developing alternate approaches to government plans was weak.

Committees also play a crucial role in consulting the public and the communities, through public hearings and community tours. MLAs expressed mixed views about how well the First Assembly's committees performed this function.

Consensus Government Issues

Members of the Second Assembly will have a very full agenda. The voters of Nunavut will expect the members to deal with the wide range of issues, problems and opportunities facing Nunavummiut. In addition, however, MLAs will have to decide what changes – if any – they wish to make in the consensus system as it operated in the First Assembly.

This section sets out some of the issues MLAs will have to confront. MLAs should not make changes simply for the sake of change, but neither should they assume that they have to accept how things were done in the First Assembly.

No recommendations are offered; the purpose of the discussion is to highlight issues and possibilities. However, reference is made to the views of MLAs from the First Assembly on various issues. Certainly many voiced dissatisfaction with aspects of the First Assembly's operations and would like to see some things done differently in the Second Assembly. Many of the changes they suggested, however, had less to do with altering formal rules and structures as with MLAs' attitudes and actions.

Overall Suitability for Nunavut

The ideal political system doesn't exist. While MLAs identified and criticized specific problems and shortcomings of Nunavut's consensus system, none proposed a radical restructuring of the system. No one, for example, proposed instituting a party system or fundamentally changing the existing system by having the Premier directly elected in a territory-wide election.

Specific issue areas considered below include:

- the influence of regular Members and their relations with cabinet;
- the method of selecting and removing ministers;
- the integration of IQ into Assembly operations;
- the effectiveness of Full Caucus and Regular Members Caucus;
- the effectiveness of the committee system;
- the nature of consultation (both with MLAs and with communities)
- the mid-term review;
- Assembly relations with claims organizations and IPGS;

Regular Members' Influence and Relations with Cabinet

The influence of regular MLAs and the relationship they have with cabinet is, of course, closely tied in with the other topics examined in this section. In terms of practical politics, much of the distinctiveness of consensus government lies in the possibilities it offers for private members to exercise influence over government decisions and policy. In most Westminster systems, the strength of parties and party discipline severely restrict private members' influence.

How this issue plays out will depend on structural and procedural matters – will committees continue to receive draft expenditure budgets? will there be a mid-term review? and so on. However, probably more important will be attitudes and activities of regular MLAs and ministers. The willingness of ministers to consult with MLAs and to take their advice seriously into account will be critical. So too, the capacity and determination of regular Members to act cohesively will be crucial in establishing their effectiveness. This will be determined over time by the actions of MLAs and ministers rather than by any formal motion in the House or through creating a specific structure or process.

It may be worthwhile, at the outset of the Second Assembly, for MLAs to make a formal commitment to extensive and genuine consultation and to cooperative relations between Regular Members and ministers. However, the adherence of members to such principles will emerge through the daily, practical interactions between regular MLAs and ministers.

The Method of Selecting and Removing Ministers

In interviews, Members of the First Assembly strongly favoured having MLAs, rather than the Premier, choose the ministers. They were only slightly less opposed to giving the Premier the power to remove ministers, again preferring to retain this power for themselves.

A few members thought that MLAs should be involved in the Premier's exercise of his authority to assign and reassign portfolio responsibilities, though just how this should play out was not very clear.

For the most part, MLAs did not favour allocating cabinet positions by region, though a few did. While members thought it important for cabinet to have representation from the three main regions of Nunavut, there was also a current of opinion holding that ministers should not act as regional representatives but should adopt a Nunavut-wide perspective.

It is probably safe to assume that the approach used in the First Assembly will be retained: all MLAs vote first for the Premier then for ministers with the Assembly having the capability of removing a minister from office. Even under this system, however, variations are possible; these might include:

- conducting the vote for Premier and possibly even for ministers in public; the political dynamics of such a change would be highly uncertain but it would make for greater transparency;
- an explicit decision could be made about the geographic distribution of cabinet posts (with voting for cabinet organized accordingly);
- the Premier could be given power to dismiss a minister guilty of a serious personal impropriety;
- the Premier could request undated letters of resignation from ministers; this would be between the Premier and individual ministers – the Assembly would not be involved;

Integrating IQ into Assembly Operations

As the discussion in the Appendix illustrates, MLAs in the First Assembly held widely diverging views on this subject. Some saw integrating IQ into the workings of the Assembly as a top priority while others thought it such an unlikely and distant goal as to be not worth pursuing. Those who did favour it were usually vague as to how to go about strengthening IQ in the Assembly.

The very nature of IQ strongly suggests that enhancing its influence in the Assembly depends on MLAs' attitudes and actions rather than on formal rules or structures. Nonetheless, to the extent that MLAs in the Second Assembly see this as a high priority, they might wish to set a legislative committee the task of considering how to bring more IQ into the Assembly.

Full Caucus and Regular Members' Caucus

Full Caucus is such an integral part of northern consensus government that it is hard to imagine it without Caucus. Moreover, the relatively informal nature of Caucus operations and its custom of meeting in private seem strongly established and unlikely to change in any substantial way. What is not at all settled, though, is the extent to which important policy issues are discussed and decided in Caucus. Again, no formal resolution of the House – or even of Caucus – will determine this; practices will emerge according to the experiences and preferences of MLAs and of ministers.

Given the divergent views among MLAs as to the value of Regular Members' Caucus, a wide range of possibilities arises for this institution in the Second Assembly. Regular MLAs could well decide that they don't need an RMC because they have sufficient capacity to exchange information and advice, to develop political strategy and to hold the cabinet accountable through a combination of informal discussions and legislative committee activities. Alternatively, MLAs might decide to make more extensive use of RMC and in particular to use it to develop a more

cohesive stand vis-a-vis cabinet on important issues. Yet again, members might retain RMC but only convene it infrequently when regular MLAs felt a need to discuss or establish a position on an especially difficult or important issue.

The Committee System

No matter how well designed, a set of political-governmental organizations such as the committees of the Nunavut Legislative Assembly will not be effective without the commitment and hard work of the people who comprise them: the MLAs. The key factors in determining the effectiveness of the Second Assembly's committees will be the time and energy that MLAs put into them.

Nonetheless, the organization of the committee system – committee terms of reference, the division of labour among committees, their size and number and the like – can significantly influence effectiveness.

There is no single right or obvious way to organize the Assembly's committees. Much will depend on what are seen as the committees' most important functions. Among the possibilities: keeping the cabinet accountable; developing policy ideas; facilitating citizen and community participation in government; reviewing draft legislation; examining government finances; interacting with external institutions such as the claims organizations or the IPGs. Depending on what the MLAs want the committees to do – and it is important to keep in mind that it is unrealistic to expect them to perform all these functions well – the following structural arrangements might be considered:

- RMC could be reconstituted as a formal legislative committee, composed of all regular members, with a focus on government accountability;
- ministers could routinely sit as members of legislative committees, which would in turn become more directly involved in the actual governing process;
- rather than having a series of sectoral (subject-matter) committees which examined bills and estimates falling within their policy fields (for example Health and Education), two committees could be established: a committee on legislation to which all bills were referred for review and a committee on finance which would be review all sets of estimates (this model was used in the NWT for several years);
- an 'external relations' committee could be established which would deal with land claims organizations, IPGs and other governments, including municipal governments in Nunavut and the federal government (this would represent a substantial reworking of the current mandate of the Standing Committee Ajauqtiit);
- greater use could be made of special, ad hoc committees established for single, specific

tasks which would disband once their work was done; such committees might be asked to review draft bills, consult the communities on policy proposals, or conduct enquiries into specific problems or failures on the part of government;

Consultation (with MLAs and with Communities)

As the Appendix setting out MLAs' views about the First Assembly makes clear, everyone agrees that 'consultation' is a key element in the proper operation of consensus government. Moreover, consultation should, in the MLAs' opinion, include both regular MLAs and the communities. There was, however, wide disagreement as to exactly what consultation should entail and as to the adequacy of consultation in the First Assembly.

In terms of ministers consulting MLAs, there are three separate questions. First, are MLAs given adequate information in a timely fashion? Second, do MLAs have adequate formal and informal opportunities to make their views known to ministers? Third, do ministers take the advice and opinions of MLAs seriously?

For the most part, improvements to the extent and quality of consultation will depend on ministers' attitudes and actions (and to a lesser extent on those of regular MLAs), rather than on formal rules or procedures. Nonetheless, some specific procedural issues do arise:

- development of a formal protocol detailing the information to which MLAs are entitled and timelines for its production;
- consultation with the public and with the communities on proposed policy or legislative changes could be more closely tied to detailed drafts of policies or bills (rather than general policy statements) in order for the public to gain a clearer idea of what is being proposed;
- clear guidelines might be developed as to what sort of policies or bills should be subject to public hearings or community consultations (on the premise that it is too costly and time-consuming to hold such exercises on all bills and policy initiatives);
- is the cost of holding sessions outside of Iqaluit justified?

Mid-term Review

The most fundamental issue relating to the mid-term review is whether to hold one. Once this decision is made, members can consider modifying the approach used in the First Assembly.

Any number of minor changes could be made to the procedure followed in 2001: the overall length of the review could be altered, as could the number of questions each MLA was

entitled to ask (either of specific ministers or in total); the focus could be placed more clearly on specific departmental policies or overall government performance; more of the review could be conducted in closed (i.e. private) sessions.

As well, members might wish to consider whether – and following that, how – to involve the wider Nunavut community in the review: the communities, the land claims organizations and other territorial groups.

Aside from settling the basic question of whether there should be a mid-term review, the only large-scale question is the possibility of a ‘spill’. Under this approach, ministers would resign before the review and only regain their positions if they satisfactorily accounted for their performance. In contrast under the process used in the First Assembly it was assumed that ministers would remain in office unless MLAs were so dissatisfied with their performance as to introduce and pass a motion of dismissal. Such an approach would make for a more extensive review but could prove extremely disruptive, and could transform the review from an accountability exercise into a political competition.

Relations with Claims Organizations and IPGs

Despite the importance for Nunavummiut of the claims organizations and of the IPGs established under the claim, in the First Assembly no formal or routine process linked them to the Assembly. Perhaps no formal mechanisms are needed – issues could be dealt with on an ad hoc basis as they arise. If, however, MLAs feel the need to have regular, official contact with bodies such as NTI or the Nunavut Wildlife Management Board, various possibilities arise:

- a legislative committee could be established whose mandate included (or perhaps was limited to) relations with the claims organizations and the IPGs; the exact mechanisms for contact and interaction would be worked out between the committee and the external bodies;
- for issues of special importance to them, external bodies could become formally involved in Assembly consultation processes, such as committee public hearings or community tours on policy or legislative issues;
- officials of the external bodies could be invited to appear in the Committee of the Whole on a regular basis;
- officials of the external bodies could meet with Full Caucus on a regular basis;

Recourse to any of these options would require careful thought as to just how extensively MLAs wish to involve external organizations in the work of the Assembly.

In addition, any developments in this direction involving the IPGs would have to be

carefully reviewed to ensure that involvement of MLAs or Assembly bodies did not impinge on the IPGs' independence. IPGs are not extensions of the GN, but are independent organizations, whose members are required to act according to their own best judgement, rather than as delegates for the parties which nominated them.

APPENDIX – THE VIEWS OF MLAS

This appendix summarizes the views of MLAs on selected aspects of the Legislative Assembly of Nunavut. These views were obtained in October 2003 through personal interviews with MLAs (four ministers and seven ‘regular members’) who were asked to reflect on the experiences of the first four and a half years of the First Assembly. The interviews, which lasted between 40 minutes and 2 hours, were all conducted on a ‘not-for-attribution’ basis. Accordingly, beyond indicating whether the MLA being quoted or paraphrased was a minister or regular member, no comments or information which might identify the speaker are included. Extensive notes were taken of the interviews, but no tape recordings were made. Some interviews were conducted with the assistance of an interpreter. Arrangements for interviews were made by the Clerk’s Office.

Each section summarizes the main strands of opinion held by MLAs on particular aspects of the Assembly, followed by direct quotations or paraphrases of MLAs’ comments. These summaries are not exhaustive; that is, they do not include all the ideas or opinions expressed by MLAs on the topic. No attempt was made to analyse MLAs’ views on any of these topics statistically, since this would have lent an artificial air of precision to what are highly complex questions on which MLAs hold a wide range of nuanced views. Specific comments from MLAs should not necessarily be taken as being representative of the overall views of MLAs; rather, they are included because they are especially interesting or noteworthy. (For example, one comment may be the best expression of an opinion held by several MLAs, while another is a viewpoint that no other MLA put forward.) For some facets of the analysis, it seemed useful to distinguish ministers’ comments from those made by regular MLAs; for others, this distinction seemed less germane.

The material is presented under the following headings, though of course ideas and perceptions on one topic were often closely linked to those on another topic. For example, MLAs’ comments on the overall workings of consensus government were very much tied in to their thoughts about Inuit Qaujimajatuqangit, while many observations on the issue of consultation directly reflected views on the relations between cabinet and regular members.

- the nature and effectiveness of ‘consensus government’;
- Inuit Qaujimajatuqangit (IQ);
- relations between cabinet and regular members;
- the meaning and impact of consultation;
- Full Caucus;
- Regular Members’ Caucus;
- legislative committees;
- the powers of the premier;

In this appendix the terms “MLAs” and “members” refer to all MLAs, while “regular members/MLAs” refers to non-ministers.

‘Consensus Government’

Overall, MLAs expressed generally positive comments on the general operation of ‘consensus government’, though there was widespread recognition of various weaknesses and problems with the system. Even members who were on balance critical of the consensus government system accepted that every governmental system has shortcomings and they believed that the existing system should be improved but not replaced. In this regard, there was no support whatsoever for a party system in Nunavut and strong opposition to this idea.

Most members thought that inexperience and lack of familiarity with government processes (and with other MLAs) made for problems in the early going but as members gained knowledge and experience, things improved and the Assembly worked better. Some regular members, however, took an opposite point of view, commenting that the influence of regular members as a group declined over time owing to various political developments.

As to just what constitutes ‘consensus government’, no MLA had a precise definition but several offered insightful comments. References to ‘teamwork’, ‘cooperation’ and ‘working together’ were common, as was emphasis on ‘positive’ rather than ‘negative’ approaches to politics and political colleagues. The capacity of the consensus government system to promote strong linkages with the communities and to foster MLA accountability to them was frequently stressed.

At the same time, MLAs pointed out that the political realities of the Assembly meant that members’ behaviour often partially or completely contradicted these ideals. According to some, this meant too many MLAs adopting narrow perspectives and failing to rise above the interests of their own communities to work on behalf of all Nunavummiut.

On the question of what ‘consensus’ entails in reaching a decision, the overwhelming view was that it did not mean unanimity or near-unanimity. It did mean respectful exchange of ideas and open-mindedness but, assuming that an open and extensive discussion had taken place, MLAs were prepared to accept the majority opinion.

Some dissatisfaction was recorded with the ‘foreign’ or ‘alien’ rules adopted by the Assembly which were seen by some as needlessly complex and inhibiting. Not all MLAs adopted that position, however, several noting that there simply have to be rules and that the real problem lies not with the rules themselves but with MLAs’ willingness to learn and use them to best effect.

MLA Comments

despite lots of talk about working together, in caucus, cabinet and committees ministers and

MLAs pretty much work alone and don't get much help from colleagues
all MLAs have been making their best efforts to make consensus government work

consensus government has sometimes been slow but usually productive

consensus government must work in terms of a clear majority "you never get all 19 to agree ... at some point the ministers have to make decisions"; this is an elemental fact of government life but not all MLAs or all ministers understand it

overall, consensus government works well; it's mainly about working together as a team;

what does 'consensus' mean? Even if three or four MLAs disagree, once they've had their say, they'll go along with the decision

a key point about consensus government is that it's not negative; "it's a friendlier version of politics [than party system]"

important element in consensus government is that the objective is to improve policies and services rather than score political points, tho certainly this does happen

consensus government is superior to party politics because under party politics the members attack one another and that's not the Inuit way; "we don't have time for that here ... there's too much work to be done ... there's less fingerpointing ... instead there is a concern with making things work because you [as MLA] are involved in the decision"

the mechanisms are there; the problem is a lack of commitment to make them work

"Consensus government isn't supposed to operate on the basis of unanimity"

"Consensus government is the only form of government for Nunavut; we should never have a party system"

the basic problem is that the procedures are "alien" but we have to follow them

when important issues come up, consensus government works well because it promotes negotiation, deliberation and argument

the key is "working together"; this is essential when there is a small population

consensus government means that decisions are made "closer to the people" and there is very good accountability to the people

the rules of consensus government were developed and brought over from the GNWT; it's important to make them Nunavut-relevant; we need to set up our own way of doing things in

government

Inuit Qaujimajatuqangit (IQ)

No topic generated anything like the diversity of opinion and the expression of diametrically opposed views as did the role of Inuit Qaujimajatuqangit (IQ) in the Assembly. For some MLAs, the almost complete absence of IQ from the Assembly stands as a key failing which needs to be addressed as a top priority. Others argue that it is unrealistic to expect that IQ could be incorporated into the workings of the Assembly in any significant way and that time and energy directed to doing so could be put to much better use. Still others contend that in limited ways IQ is present in the way the Assembly operates and in the behaviour of MLAs and that further progress is certainly possible.

As one MLA noted, “IQ means something different to everybody” which makes its application to practical situations or processes especially problematic. Two examples illustrate the point. First, Question Period: several MLAs pointed out that, even under consensus government, Question Period tends to be adversarial and confrontational – in direct contradiction to important IQ principles. Others, however, saw elements of IQ in Question Period. One minister talked about trying to use IQ in answering questions, by being as helpful as possible to questioners. Another MLA suggested that Question Period provides a good opportunity to engage IQ in the overall governing process; IQ, the MLA maintains, has a strong educational component and Question Period can be very useful for educating Nunavummiut about policy issues and the workings of government.

The second illustration relates to the principle of cabinet solidarity. One view expressed by MLAs is that the requirement for ministers to support a cabinet position even if they disagree with it flies directly in the face of IQ. Another view is that cabinet solidarity accords well with IQ, a central element of which is the need to work together.

A few members expressed the view – much akin to a theme which emerged with respect to consultation (see below) – that on occasion MLA complaints about decisions being made or processes established in contravention of IQ principles were not so much about lack of adherence to IQ as about the MLAs’ disagreement with the actual decisions. Other MLAs observed that had IQ been properly injected into the process, the decisions might have been different.

MLA Comments

“Traditionally the way we ran our communities was that we had a leader who was supported by the whole camp; when someone needed help, everyone would help; the Leg should be that way with everyone working together”

“IQ means nothing in the Assembly ... it can’t be integrated into parliamentary government; it

will be a long time for IQ to come into the Legislature”

there have been efforts to bring IQ into the Leg: seeking advice from colleagues [ie MLAs]; expressing views honestly; extra effort at working together; attempting to resolve issues quickly – in Inuit culture you deal with problems as quickly as possible; you don’t allow them to fester

overall, ‘responsible government’ represents a serious culture clash for Inuit; one special problem is the relationship between MLAs and bureaucrats; some MLAs just don’t understand responsible government and what it means for relations between MLAs and bureaucrats

consensus government itself is the best way of using IQ in government, but here too there are problems: the rules and procedures inherited from the NWT should be made less confrontational

for the most part, MLAs ask and ministers answer questions with IQ in mind

often IQ used as an all-purpose political weapon: if it looks as if something is not going to go an MLA’s way, “this is not IQ ... IQ becomes a lightning rod for dissatisfaction with government”

“Inuit never had a government so the idea of having IQ in government doesn’t work”

“We do speak Inuktitut and that’s important but everything else is done as if we were in England”

for the Assembly, a key IQ principle is that MLAs need to put aside their self-interest (either theirs personally or those of their ridings) and look after the general wellbeing

the rules are not too formal; there have to be rules otherwise there would be chaos; there is lots of flexibility within the rules – this is in part a manifestation of IQ

“what we have now is the white man’s rules”; MLAs need to be able to use and follow Inuit ways of doing things

IQ “has no relevance in government or the leg”; it’s important to understand and follow the traditional ways out on the land but “those [pre-government] days are gone”

IQ should be among the public, as a way of Inuit life, but it should not be pressed in GN or at the Assembly; this is not because it is not a good thing but that there have to be priorities; too much energy is taken away from where it’s needed by trying to figure out what IQ means in government; the emphasis on IQ should be in the communities among the people, not in GN or the Assembly; within the Legislature there are far more pressing uses of MLAs’ time and energy than trying to incorporate IQ into process

the Legislature is partially there on adopting IQ but still not up to what this MLA would like to see; it would be ideal to use TK in procedure manual [despite probing, no specifics offered as to just what this would mean]

it will take a long time to get IQ fully into Legislature; in the meantime the Assembly should recognize and use traditional laws

“In Inuit culture, traditionally even if we disagree with or dislike someone, we work together”

“If ministers disagree with a cabinet decision, they should not pretend to be what they’re not ... in Inuit culture we sometimes have to be quite blunt about the way we feel”

Relations between Cabinet and Regular Members

Overall, regular MLAs and ministers alike reported that the relations between cabinet and regular members were reasonably cooperative and positive, though rough spots were certainly evident. Especially problematic was the issue of ‘consultation’, which is examined in the next section. Wide agreement was registered that regular members hold the potential for significant, indeed decisive influence over cabinet. At the same time, both regular members and ministers commented that this potential was not realized nearly as often as it might be. Regular MLAs, in this view, are not nearly as cohesive as is cabinet and they too often go their separate ways on issues where they need to act as a group to be effective.

It was generally thought that ministers were open to advice from regular members and were prepared to discuss matters of concern. Various MLAs observed, however, that in order to be effective, regular members had to invest serious time and effort in pursuing their policy goals but that this did not always occur.

For some MLAs the mid-term review had a positive effect on relations between cabinet and regular members by drawing regular members’ dissatisfaction forcefully to ministers’ attention and insisting on improved performances. Others, however, didn’t think that anything fundamental changed as a result of the mid-term review and that the opportunity to bring about significant change was lost because it turned into little more than a popularity contest.

In this and other facets of the study, a minor but persistent theme among some MLAs was dissatisfaction with the role and performance of the permanent GN bureaucrats. For some, many of the shortcomings of the system and of individual ministers reflected the (often unhealthy) influence of the bureaucrats. Others rejected this view, suggesting that those who held it didn’t really understand the system.

MLA Comments

Ministers

Regular MLAs are not as effective as they could be in influencing policy because they lack coordination; on a few issues the coordination and direction has been there but not that many

it’s very common and healthy for MLAs simply to come upstairs for a personal chat about whatever the issues or problems are

minister tries never to simply give a flat-out ‘no’ to MLA requests; looks for a positive way of approaching the issue, offer alternatives and work together

“They [regular MLAs] help us [ministers] out”

mid-term review was a good idea for taking stock and refocusing on priorities but the way it took place was not good; it was “dirty politics and very personalized”

Regular MLAs

some ministers didn't take mid-term review seriously; some did and took the criticism to heart and this made a difference

mid-term review was a waste of time; the MLAs didn't do their jobs properly, nor were they prepared to be professional about criticising ministers who deserved it; process turned into a popularity contest

“MLAs must work together but too often they don't ... no one wants to be the bad guy and take on cabinet ... this is part of the Inuit way; we don't like to be confrontational but some times you have to be”

MLAs don't fully understand that if they work together they can control the government

“I've never been turned down for a meeting [with a minister]”

often although ministers agree with MLAs the bureaucrats put up barriers to what the MLAs want; it has to be clarified who holds the power and authority to make decisions – MLAs or bureaucrats

now, with experience, we know that we have the power to make decisions and not just listen to what has been told to us; cabinet is listening to MLAs much more than it did in the early days

the level and timeliness of information MLAs get is satisfactory now; was not so in early part of Assembly; a key development was the mid-term review, which crystallized MLA dissatisfaction with how ministers were performing, including the information they were providing

after 4 years, MLAs know they have the power; at the first they did not realize what power they had; they thought cabinet had all the power

MLAs “have a strong voice if they want to have it ... they have to be together ... we have just as much power as cabinet if we stick together”

concerted action by MLAs makes ministers listen and respond and follow MLAs' wishes; the problem is that this power is not realized if/when even one or two MLAs don't go along or support the others

Consultation

‘Consultation’ is a word frequently heard in public debates and private conversations around the Assembly. MLAs’ comments about the nature and the adequacy of consultation in and by the Assembly reveal stark differences in understandings of what constitutes proper consultation as well as in assessments of how effectively and genuinely ministers consult regular MLAs and communities.

Although the distinction is not always carefully drawn – especially when accusations of insufficient consultation are levelled at cabinet – it is useful to differentiate between ministers consulting regular MLAs and the government (sometimes ministers, sometimes departmental staff) consulting the people and the communities.

Ministers consulting regular MLAs

For many MLAs, a central requirement for genuine consultation is that ministers provide thorough information to regular MLAs in a timely fashion. Ministers tended to believe that they routinely do just that; “we show them everything” said one. Regular members were decidedly less positive about the quality and quantity of information they received from ministers and about the promptness of responses to information requests. Some were generally satisfied and expressed only minor criticisms on this score; a smaller number were more harshly critical.

A fundamental disagreement was evident on the question of whether consultation meant listening and discussing or following advice and direction. Most MLAs stated clearly that consultation required ministers to listen carefully to advice and criticism from regular MLAs and to consider their opinions and requests seriously but that ultimately ministers had to make decisions on the basis of their own best judgement. A small number of regular members, however, were equally clear that consultation meant that ministers not only had to listen to regular members, they should abide by their wishes.

Another point of disagreement emerged from MLAs’ assessments of whether cabinet truly takes regular members’ views into account. Most MLAs were of the view that for the most part, ministers do listen carefully to regular members and factor their advice and opinions into decisions. At the same time, some regular MLAs commented that ministers often just go through the motions of consultation, that ministers have their minds made up before they meet with regular MLAs, or that they’re only prepared to change their position on minor details not on basic policies.

While some MLAs expressed significant reservations about cabinet’s commitment to genuine consultation, others – and not just ministers – voiced the opinion that complaints about lack of consultation were often not really about consultation but about disagreement with a decision or policy. According to one minister, MLAs claim there’s not been enough consultation

when there is something they don't like: "it's a fallback for delaying or blocking something without coming right out and opposing it". Similarly, a regular MLA said that on constituency matters, when MLAs say they weren't consulted it usually means they didn't get what they wanted. Yet another regular MLA was even more blunt: "claiming there's not enough consultation is a way of making excuses for not doing your job".

Consultation with the People and Communities

MLAs' comments about government consultation with the people and with the communities roughly paralleled their views about cabinet consultation with members. However, while MLAs acknowledged that conducting adequate community consultations was more difficult (and more costly) on balance there was greater dissatisfaction with the extent and quality of community consultation. Shortcomings in the consultation processes for the Education Act and the Wildlife Act were repeatedly mentioned as demonstrating the GN's basic failure to do proper consultations on important government policies.

Problems with public consultations were attributed to a variety of factors, including lack of political will on the part of ministers, inadequate cultural understanding on the part of bureaucrats, inability on the part of MLAs to facilitate communications between communities and the government and failure on the GN's part to provide sufficient information to communities. At the same time, some MLAs took the position that communities had to understand that being consulted on an issue was not equivalent to being given the power to make the decision and that Nunavut-wide considerations may take priority over the preferences of individual communities.

One regular member added that, while there is always room for improvement, demands for public consultation (as with MLA consultation) "are getting out of hand": some people are never satisfied no matter how extensive the consultation and, given the high turnover of people in community leadership positions, it can become necessary to go back again and again to repeat consultations.

MLA Comments

Ministers

with very few exceptions "all the information cabinet has, the MLAs get"

ultimately a minister must listen and then make up his own mind and make decision

cabinet has listened to MLAs and made changes; you can't accommodate everyone and MLAs generally understand that

on occasion MLAs have grounds for complaining about not being consulted

as a minister you make a decision; sometimes there are time pressures and not all members are available or in town to be consulted; decisions have to be made; you can't always wait to consult all MLAs

consultation mainly means having access to the information

ministers should listen carefully to MLAs but ultimately must use own judgement; "as a minister you can't do everything they [regular members] want you to do ... they're not responsible"

the Education Act consultation was not done well; the people's views weren't really taken into account ... "it's the people's bill; we should involve the people in drafting the bills"

on financial matters, consultation process works well; the MLAs voice their concerns and interests to cabinet in camera and cabinet tries to respond; MLAs understand that not every wish can be accommodated and some balances have to be struck, but the people don't always understand; they have to be educated on how the process works

Regular MLAs

in terms of consultation with ministers, if MLA doesn't feel properly consulted would simply ask the minister directly "they'll tell me"

it's important for MLAs to realize that "it works both ways" – ministers should consult them but they have to be active and involved: "the system is there but MLAs need to take the initiative"

to an important degree "I should have faith in the minister to do the right thing because I elected that minister ... ministers are there to make hard decisions and MLAs must respect that"

"The government has a long way to go in involving MLAs and communities properly in major policies"

in some instances, ministers listen in a technical sense but in reality weren't really listening

"you get the pieces of the puzzle they [ministers] want you to have"; they're forthcoming on minor issues but on anything major or potentially contentious they'll be vague and hold back information

often it turns out that MLAs hear about things ministers have done "only after they're a done deal"

consultation with MLAs is critical but in the end ministers should listen but use their best judgement; “you [as a minister or MLA] have to do what’s right no matter how hard people are pushing you”

the problem with lack of consultation is with the bureaucrats not the ministers; when we talk about things in our culture, the bureaucrats don’t understand our culture

when ministers come before regular members to ‘consult’ they bring many documents and it seems that everything is planned and decided; “we [MLAs] should be involved in decision making, not just approve or reject recommendations from ministers”

level of cabinet consultation of MLAs is not adequate; it takes a long time to get information and sometimes only partial information is provided

ministers sometimes hear and understand MLA views but do not act on them or accept them; this is **not** consultation

after 4½ years cabinet is responding well to regular members’ demands for consultation; things have improved a good deal; cabinet does take MLA input seriously though there are occasions when the urgency of some problem requires that cabinet act before it has time to consult MLAs

it is important and beneficial for consultation with public to include detailed drafts of legislation (and not just general principles) because it is important for people and communities to understand the details; as well it is by concrete examples that the people will understand intent of general principles;

consultation means MLAs question and advise cabinet; cabinet has a responsibility to listen carefully and take MLAs’ advice seriously but then make its own decision; it does not mean that cabinet has to do exactly what MLAs say and want, though usually what cabinet does will reflect MLA views fairly closely

Full Caucus

Substantial division of opinion was evident in MLAs' assessments of (full) Caucus. For some, Caucus represents the embodiment of consensus government and its strongest feature. Others called it as "a waste of time" (a recurring description) featuring a great deal of talk but little capacity to accomplish or decide anything of substance.

It was universally agreed that in Caucus all MLAs are equal; as one put it, in Caucus "there is no such thing as ministers ... everyone is equal when it comes to feeling free to speak". While this absence of status divisions within Caucus was seen as a good thing, a sizeable minority of MLAs didn't think that Caucus really did anything useful. Others, while not claiming that Caucus was the place where crucial policy decisions were made, did say that it performed a valuable function.

MLA Comments

Ministers

Caucus doesn't make decisions very often; isn't really much help to ministers in developing or refining policies

Caucus can become little more than "bitch sessions"; needs to have clearer purpose; too much meeting just for the sake of meeting

"Everyone really is equal in Caucus"

Caucus does give members a chance to air their disagreements and dissatisfaction with government

Caucus has been very useful in dealing with "sensitive" matters that are best dealt with out of the public spotlight, such as personnel matters and issues relating to MLAs' behaviour; it's not about hiding things but about keeping government from getting sidetracked away from dealing the important issues

"discussions in Caucus can be long and tedious but helpful in resolving issues"; Caucus provides a way of dealing with problems without grandstanding

ministers express reservations about cabinet positions in Caucus

Regular MLAs

Caucus works well; lots of decisions are made there;

it is helpful to get update on information that has yet to have been made public

“it’s a good way to sort out our differences but try to work together”

there is a free discussion; cabinet and premier have no special authority in Caucus

Caucus is a waste of time; there is too much self-interested behaviour;

it’s good that ministers and regular MLAs are able to say what they want as equals, but it doesn’t change anything: “we can exchange views, but so what?”

ministers and regular MLAs really are equal in Caucus but few important decisions are made so this doesn’t really matter

“Don’t know why we have it [Caucus] ... 90 per cent of what goes on there is a waste of time”; lots of minor House issues are resolved there; that’s useful but not very important; the rest is just an opportunity for MLAs to vent; this doesn’t really accomplish anything; only rarely are major policies dealt with in Caucus

Caucus is working well; the MLAs meet together and get to understand each others problems

Regular MLAs and ministers do seriously listen to one another in Caucus; they resolve issues and help and support each other; all this is very beneficial

Caucus is a very good vehicle for cooperation; the ministers come in as regular MLAs: “there are no ministers in Caucus”

has been known for ministers to express disagreement with cabinet positions; in this way they send a message to the entire group

Caucus is very important in planning, in setting overall priorities and in big picture issues; doesn’t usually, nor should it, deal with minor issues or details

Regular Members' Caucus

MLAs' views on Regular Members' Caucus (RMC) resembled those on Full Caucus – some seeing it as useful and productive, others seeing little value in it – though some MLAs with positive views about Full Caucus expressed significant reservations about RMC.

For those critical of Regular Members' Caucus, the source of the problem was not structural, rather it lay with the commitment of regular members to concerted, collective action.

All of the comments below are from regular members.

MLA Comments

RMC is no better than FC; the potential is there but MLAs too often go off on their own without working together for the common good

Regular Member Caucus is an attempt to get MLAs together and working together; it can deal effectively with Nunavut-wide issues

RMC is pretty much as useless as full caucus; at first did some useful organizing but that didn't last long

one of the reasons that RMC isn't effective is that on the really tough questions RMC can't exercise its power over ministers because of the problems in answering the question of who would replace a minister if he/she was removed

RMC works well; seems to meet often enough to do its work

RMC “doesn't work very well because each MLA is doing his own thing with the ministers”

Legislative Committees

On balance, MLAs were positive about the operation and the effectiveness of legislative committees, though concerns as to unfulfilled potential were present. Views about the value of legislative committees were more favourable than those about Full Caucus and (especially) about Regular Members' Caucus. This is largely because of committees' concrete tasks and their accomplishments – reviewing and approving legislation and budgetary estimates, conducting consultations, scrutinizing specific policies and departments.

Committees were also seen as a practical mechanism for ministers and MLAs to discuss and resolve specific policy and financial issues. Yet while MLAs generally acknowledged the important, detailed work done by committees, there was some dissatisfaction expressed – both by ministers and regular members – with the capacity of committees (and the members serving on them) to rise above their routine tasks to deal with major issues in innovative and imaginative ways and for MLAs to act in a cohesive fashion which could assist and direct cabinet.

MLA Comments

Ministers

committees are not very helpful in resolving problems; ministers are pretty much left to fix departments' problems without much input or help from committees

LA committees can do good work but there needs to be clearer and stronger guidelines/rules about timelines: committees should not be able to delay legislation indefinitely the way they do now

LA committees are good at holding public consultations

committees have essentially been reactive; they can and do make good suggestions for improvements on legislation, budgets, etc but they are almost always reacting to cabinet proposals rather than developing ideas

it has proved very useful for committees to have access to confidential drafts and budgets to be able to respond to cabinet before they are made public

it is very helpful for ministers to get input and advice from committees; MLAs provide good ideas for improvement

minister takes LA committees seriously to get support for policies and to avoid problems and, to some extent, as a sounding board

Regular Members

LA committees can and do force ministers to change their minds about policies and revise their plans; “through the committees, MLAs have a lot of authority to say no”; it’s not all saying no: committees work well with ministers in finding ways to improve policies

LA committees are very good at pushing ministers to move forward with policies

there have been significant opportunities for LA committees to be stronger on important issues; some have been realized but on others they have not; the will to fight, to take a stand has been missing

the committee structures are fine, shortcomings are MLAs’

Over time ministers have been less inclined to take committees and their recommendations seriously; they come to committee unprepared or don’t respond to recommendations/reports (or if they do provide insubstantial responses);

LA committees have worked reasonably well; the main weak spot has been review of O&M, perhaps 90 per cent of which committees don’t even look at, and that’s where “ministers and deputy ministers play their games” (shifting O&M money into capital, funnelling money into ministers’ constituencies, etc)

LA committees can have very considerable clout; “For a while we had more power than the ministers but some MLAs were bought off” and the committees lost a fair bit of clout

committees are working very well and are very busy; it is very good that MLAs get input on bills from the public; other than on bills, though (for example capital spending), committees are not closely linked to the people and the communities and this is a problem

more travel to the communities by LA committees would be good but it is very expensive and we have to be careful about spending; solution is to have community input through MLAs on the LA committees

LA committees do both policy development and scrutiny work well; cabinet is responsive and careful “because they know that we’ll find out eventually” what they’re doing

LA committees have an important role in keeping an eye on cabinet

“The standing committees have the power to make cabinet do what they want”

for the most ministers take committees and their recommendations seriously, but the bureaucrats don’t and it’s the bureaucrats who really run the GN

Powers of the Premier

MLAs were asked about a particular subset of the Premier's powers, specifically whether the Premier should have the power to appoint and dismiss ministers. With very few exceptions, MLAs were of the view that the Premier should **not** have such authority, that this power should be the exclusive preserve of MLAs. A small number of MLAs thought that while the MLAs rather than the Premier should select ministers, the Premier should be able to dismiss ministers. Ministers and regular members alike considered that the Premier's power to assign and reassign portfolios to ministers constituted a significant power with which to discipline and control ministers.

The question of shuffling ministers' portfolio responsibilities arose in a different context. Some regular MLAs commented that ministers had been shuffled too often, with disruptive effects on governmental operations. The suggestion was made that, while ultimately the Premier must have authority to allocate and reallocate portfolio responsibilities, he or she should only do so after consultation with MLAs. This proposal was did not find universal favour: some ministers and regular members thought it unrealistic and impractical.

MLA Comments

Ministers

the Premier should have power to appoint and dismiss ministers, subject to MLAs also having power to remove ministers; it's important that the Premier have a loyal and united team; this might make the prem and MLAs work better together by removing some of the politics

it is important to have MLAs pick ministers to ensure their support

“the power to reassign ministers to portfolios can be just as effective” as power to choose and dismiss them

MLAs should not be involved in discussions about shifting ministers; the Premier needs some tools to control cabinet

it is a huge responsibility, but the Premier should be able to pick his cabinet and to remove ministers; even if the MLAs still pick the ministers, the Premier should be able to dismiss; “he has to have some control over cabinet”; even if Premier chooses ministers, MLAs should have right to remove

Regular MLAs

the Premier should not be able to pick his own cabinet; “premier has too much power already”; nor should he be able to remove ministers

Premier exercises a good deal of power by moving or threatening to move ministers’ portfolios; this doesn’t sound like much but it has been very effective; the portfolios they hold are very important to ministers

if the Premier has a problem with a minister the solution is not to give him power to dismiss ministers, but to work with all MLAs on finding a solution

Premier should be given power to dismiss ministers; important to keep cabinet working as unified team; Premier needs this power

Premier has capacity to recommend to MLAs that they remove a minister; this system works well.

Shuffling ministers creates significant problems in terms of instability and inconsistency and should be done as infrequently as possible; Premier should work more closely with MLAs on this

Premier should not have power to pick ministers but should have power to dismiss a minister; this is necessary for good government; the Premier needs some control