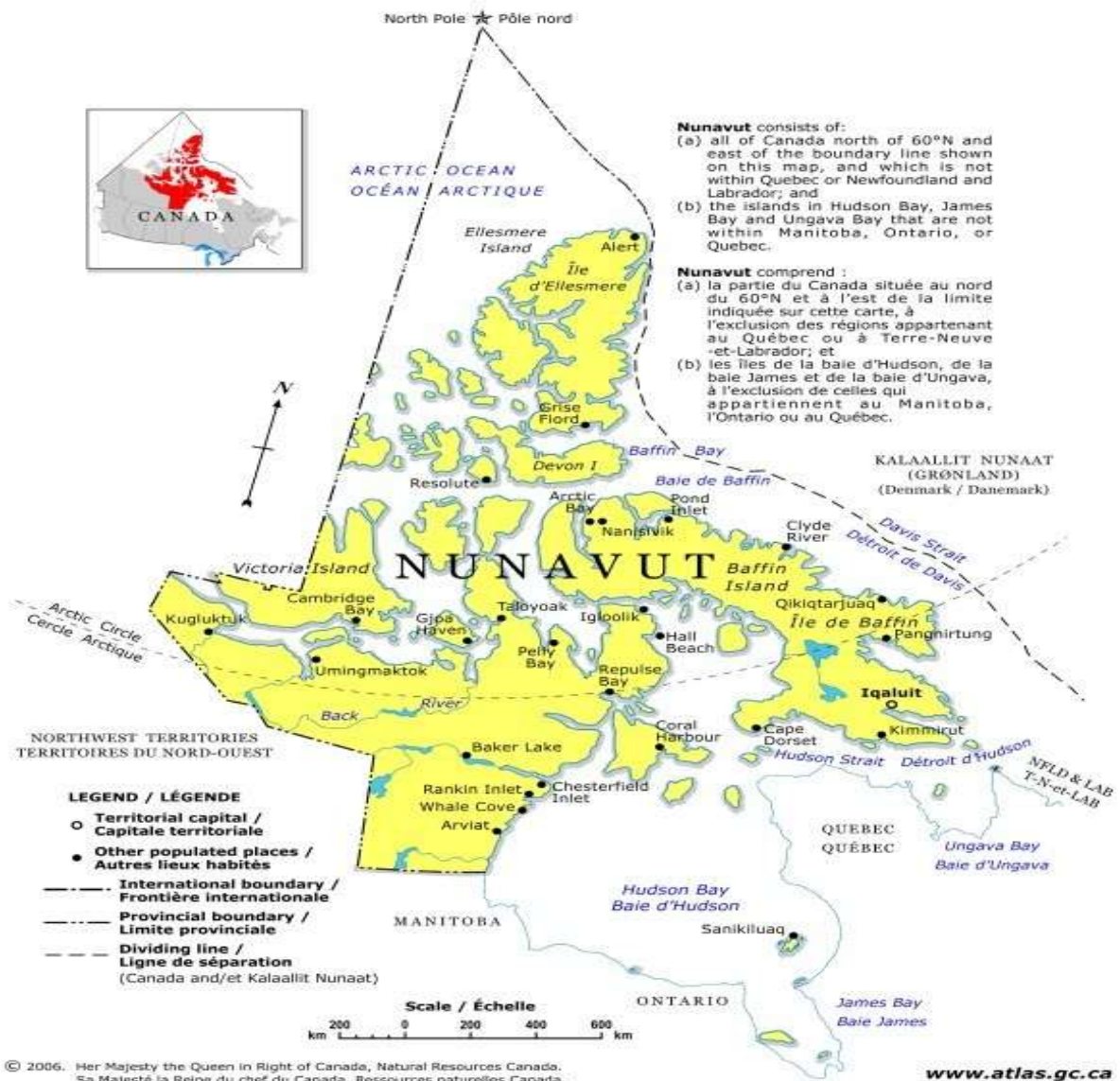


**The Legislative Assembly of Nunavut:  
An Introduction to Consensus Government in the Canadian Arctic**

**Iqaluit, Nunavut  
July 2008**





## Nunavut in the Canadian Federation

- ☪ Nunavut, the Northwest Territories and the Yukon are different from provinces. Each of the territories was “created” by a federal statute. The *Nunavut Land Claims Agreement Act* and the *Nunavut Act* are two federal statutes that were enacted in the 1990s to ratify the *Nunavut Land Claims Agreement (NLCA)*, establish the territory of Nunavut and provide for its government’s powers and responsibilities.
- ☪ Nunavut Tunngavik Incorporated (NTI) is the major Inuit organization in the territory. It uses funding from the land claims settlement to deliver certain programs and services to its beneficiaries. NTI lobbies the government on major public policy issues.
- ☪ Unlike a province, Nunavut does not have complete control over public lands and resource management. The Government of Nunavut is publicly committed to pursuing a devolution agreement with the federal government that would see greater control over lands and resources transferred to Nunavut, and an agreement on the sharing of royalties from natural resource development, such as mining activities. There are no outstanding aboriginal land claims within the territory, given that the jurisdiction itself is the result of the signing of the NLCA.

- ☞ The Government of Nunavut's ability to borrow money is restricted by section 27 of the federal *Nunavut Act*. The federal government, by way of an Order in Council, has established a maximum amount (\$200 million) that the Government of Nunavut may borrow.
- ☞ The Auditor General of Canada acts as the auditor for Nunavut, in the same way that the position serves the Northwest Territories and the Yukon. The Auditor General reports to the Legislative Assembly of Nunavut on the financial statements of the Government of Nunavut. The Auditor General has also provided a number of reports on performance audits of government programs and Crown agencies.
- ☞ The laws passed by the Legislative Assembly of Nunavut must be transmitted to the federal government after they are given Assent. Although it has never used this power, the federal government could disallow any law made by the Legislative Assembly within one year of its enactment.



## Some Fast Facts About the Legislative Assembly

- ✎ There are nineteen electoral districts in Nunavut. Nunavut's MLAs are elected as independent candidates in their constituencies. Nunavut has a public government, meaning that all residents of Nunavut are entitled to run for office and elect Members of the Legislative Assembly.
- ✎ The election of the 2<sup>nd</sup> Legislative Assembly took place on February 16, 2004. A total of 82 people were nominated as candidates. Two women and seventeen men were elected or acclaimed to office. There are currently seventeen Inuit Members and two non-Inuit Members.
- ✎ The election of the 3<sup>rd</sup> Legislative Assembly will take place on October 27, 2008. This date has been publicly announced. Although the Executive Council (Cabinet) has the legal authority to determine the date of a general election, the practice in Nunavut is for the Full Caucus of the Legislative Assembly to collectively decide on its date.

- ✎ An Electoral Boundaries Commission was established during the life of the 2<sup>nd</sup> Legislative Assembly, pursuant to territory's *Elections Act*. Its report and recommendations were considered by the Legislative Assembly and formally rejected. For the time being, the number of electoral districts in Nunavut remains at nineteen.
  
- ✎ The Speaker, Premier and Cabinet Ministers are chosen by the Members of the Legislative Assembly in a secret ballot selection process following the general election. The Members of the Executive Council (Cabinet) are formally appointed to office by the Commissioner of Nunavut, and serve at the pleasure of the Legislative Assembly as a whole. In order to ensure the accountability of the executive branch of government to the legislature, the Commissioner may not appoint a majority of Members of the Legislative Assembly to Cabinet.
  
- ✎ The Premier has the prerogative to assign and shuffle Ministerial portfolios.
  
- ✎ The Commissioner of Nunavut is appointed by the federal government by way of an Order in Council. The position is similar to a provincial Lieutenant Governor.

- ☞ A number of independent officers are appointed by, and report directly to, the Legislative Assembly as a whole: the Integrity Commissioner, the Languages Commissioner, the Information and Privacy Commissioner and the Chief Electoral Officer. One of the Legislative Assembly's Standing Committees has the responsibility to conduct merit-based selection processes for these positions. These independent officers provide annual reports to the House.
  
- ☞ The ten Regular Members (MLAs who are not Ministers) of the Legislative Assembly serve on a number of Standing Committees. Standing Committees review Bills, scrutinize government spending and initiatives and, from time to time, undertake special studies. The Legislative Assembly's current Standing Committee structure is described in the attached handout.
  
- ☞ The Management and Services Board (MSB) of the Legislative Assembly is analogous to the Board of Internal Economy of the House of Commons. The Board has authority over the management of the Office of the Legislative Assembly and the Parliamentary Precinct. The Board is composed of five MLAs: the Speaker (Chair), three Regular MLAs and one Minister (by tradition, the Premier designates the Government House Leader to represent Cabinet on the Board). Board approval is required for amendments to statutes that fall under the jurisdiction of the Legislative Assembly.



Proceedings of the Assembly take place in Inuktitut, English and Inuinnaqtun. Nunavut is one of only a small number of Canadian legislatures that publishes a bilingual (Inuktitut and English) *Hansard*. A majority of MLAs are bilingual Inuktitut/Inuinnaqtun- and English-speakers.



Exactly 100 Bills were passed during the 1<sup>st</sup> Legislative Assembly of Nunavut (1999-2004). 82 Bills have been passed to date in the 2<sup>nd</sup> Legislative Assembly.



## Consensus Government at Work

- ☞ Nunavut and the Northwest Territories are the only two Canadian jurisdictions that pursue a consensus approach to government.
- ☞ This approach has often been described as a fusion of Westminster-style structures and aboriginal views of deliberation and decision-making.
- ☞ Although unanimous agreement is not required for decisions to be made in the Legislative Assembly, unanimity is generally regarded as a desirable outcome. The Regular Members of the Legislative Assembly, although regarded as an “unofficial opposition”, do not view their role as opposing government initiatives for the sake of opposition itself. They are not a “government-in-waiting.”
- ☞ Some areas of consensus government that have distinct characteristics include:
  - Leadership selection and accountability;
  - The budget and legislative process;
  - Caucuses and Committees; and
  - The tone of deliberation and debate in the House.

## Leadership Selection and Accountability

- ☞ The Nunavut Leadership Forum, an informal gathering of all nineteen MLAs, conducts leadership selection processes. The decisions of the Forum are confirmed by way of formal motions in the House.
- ☞ Following a general election, the Forum meets to select the Speaker, Premier and members of Cabinet. Any MLA may be nominated to serve as Premier. Candidates are required to deliver speeches and respond to questions from other MLAs. Candidates for Cabinet also deliver speeches.
- ☞ An informal tradition has resulted in each region having Cabinet representation.
- ☞ During the 1<sup>st</sup> and 2<sup>nd</sup> Assemblies, a mid-term leadership review of Cabinet has taken place. This exercise has taken the form of an extended question period.
- ☞ Any member of Cabinet may be removed at any time by way of a motion of non-confidence. During the 1<sup>st</sup> Assembly (1999-2004), one Minister was removed from office in this manner.

## The Budget and Legislative Process

- ☞ The government's annual main estimates and departmental business plans are introduced in February/March of each year. To accommodate sealift deadlines, the annual capital estimates are introduced in the fall sitting of the preceding calendar year.
- ☞ Standing Committees are provided with the opportunity to review and comment on main and capital estimates during *in camera* meetings held prior to each budget session. This is to allow for the government to consider recommendations by Standing Committees on spending priorities prior to the finalization and introduction of the estimates.
- ☞ The estimates for each department are scrutinized in detail by the Committee of the Whole. During the 2<sup>nd</sup> Assembly to date, the estimates for two departments have been reduced as a result of deletion motions made by Regular MLAs in respect to specific line items.
- ☞ Standing Committees are provided with the opportunity to review and comment upon plain language legislative proposals prior to Bills being drafted and introduced.

- ☞ Although many Bills are amended during Standing Committee review, most are ultimately passed by the House in unanimous votes. During the 1<sup>st</sup> Legislative Assembly, two Bills died when they fell off the order paper as a result of Standing Committees recommending that they not proceed further, due to significant concerns with their content.
  
- ☞ During the 2<sup>nd</sup> Legislative Assembly to date, two bills have been formally withdrawn from consideration by way of formal motions in the House.
  
- ☞ Bills to amend or create statutes that fall under the jurisdiction of the Legislative Assembly itself (“House Bills”) are, by tradition, moved into the Committee of the Whole following 2<sup>nd</sup> reading. The Speaker appears before the Committee of the Whole to defend these initiatives.
  
- ☞ The federal *Nunavut Act* requires Bills to be introduced in English and French. These are translated into Inuktitut at the time of introduction. These translations are not legally authoritative.
  
- ☞ The Legislative Assembly has recently passed a new territorial *Official Languages Act*. The federal *Nunavut Act* requires that this bill receive the concurrence of Parliament by way of a formal resolution.

## Caucuses and Committees

- ☞ Two caucuses are formally recognized in the *Legislative Assembly and Executive Council Act*. These bodies do not have formal powers under the Act
- ☞ The **Full Caucus (FC)** consists of all nineteen MLAs, including the Speaker. The **Regular Members' Caucus (RMC)** consists of all non-Ministers. The Speaker does not participate in this entity's deliberations. Both the Full Caucus and the Regular Members' Caucus elect Chairpersons and Co-Chairs.
- ☞ The Full Caucus serve as a forum in which MLAs may deliberate in confidence on such matters as:
  - Scheduling of House business;
  - Setting of dates for general elections, by-elections and sittings of the House;
  - General priority-setting;
  - Approval of House Bills and other matters under the jurisdiction of the Legislative Assembly;
  - Ratification of appointments of independent officers, prior to formal motions of appointment being moved in the House.

- ☞ The Regular Members' Caucus meets from time to time during Sessions of the Legislative Assembly to plan Members' activities in the House. The Chair of the Regular Members' Caucus may liaise with the Government House Leader and the Office of the Clerk on scheduling matters and the planning of House business.
- ☞ By tradition, the Full Caucus holds a retreat during the first few months following a general election to establish general priorities for the government and Legislative Assembly.
- ☞ The 2<sup>nd</sup> Legislative Assembly has established five Standing Committees. Four of these have oversight responsibilities for the government's departments. The Rules of the Legislative Assembly allow Standing Committees the power to require the government to table formal written responses to their reports and recommendations. Standing Committees hold hearings on a variety of matters, including the annual reports of the Auditor General and other independent officers.
- ☞ During its recent hearings on a report of the Auditor General, the Legislative Assembly's Standing Committee on Government Operations and Accountability exercised its authority to issue subpoenas for documents and to compel the attendance of a witness.

## The Tone of Deliberation and Debate in the House

- ☞ Visitors to the Legislative Assembly of Nunavut often remark on the relatively decorous nature of proceedings. To illustrate, since April 1, 1999, not a single MLA has been named by the Speaker and ejected from the House for egregious breaches of order.
- ☞ Although MLAs vigorously question Ministers during oral question period, heckling is rare. Nunavut's oral question period is sixty minutes in length.
- ☞ Unanimous consent is frequently sought and received to waive the Rules. From time to time, the daily question period is extended by unanimous consent.
- ☞ Although the principle of Cabinet solidarity applies to Ministers when voting on most matters before the House, Regular MLAs are free to vote as they deem appropriate. When casting deciding votes, the Speaker is advised according to traditional procedural principles.
- ☞ Formal motions are often moved to express the sentiments of the House on a variety of issues.

## Strengths and Weaknesses of Consensus Government



### Strengths:

- The government is highly accountable and responsive to the Legislative Assembly as a whole, due to its minority position. Non-partisan elections ensure that the “small legislature syndrome” of overwhelming government majorities is not possible.
- Most MLAs seek consensus where possible, and generally avoid confrontation for its own sake. Deliberations of the House are generally decorous.
- Extensive public consultations take place on major initiatives. All MLAs are involved in establishing government-wide priorities.
- The lack of government majorities on Standing Committees ensures that the scrutiny of critical reports of independent officers, contentious issues and major government initiatives can take place. Ongoing scrutiny from MLAs and Standing Committees has contributed to an increase in the amount of information that is annually tabled in the Legislative Assembly by the government with respect to such matters as its spending and contracting practices.



## **Weaknesses:**

- The non-partisan composition of the legislature can reduce elections to personal popularity contests. The absence of party leaders results in the public not having a clear choice in elections with respect to whom they wish to assume the Premiership.
- The decision-making and legislative process can be cumbersome. The need for broad support for initiatives can result in the frequent deferral of contentious but critical issues. The “culture of consultation” can engender gridlock in situations where competing perspectives cannot be reconciled.
- Although the principle of Cabinet solidarity applies to that body, the Regular Members’ Caucus often lacks discipline and cohesion. The traditional tools of party and caucus discipline (e.g. assignment of critic portfolios and approval to participate in trips abroad) are absent.
- MLAs, veteran public servants and senior representatives of major interest groups have often known one another for years. The professional boundaries between these groups can sometimes be coloured by longstanding personal acquaintance or family relationship.

**Your Questions, Please!**  
**Thank you. ᐱᐅᐅᐅ. Nakurmiik.**

