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CANADA'S ARCTIC POLICY FRAMEWORK: GOVERNANCE TRANSFORMATION IN NUNAVUT

By C. Mark Macneill

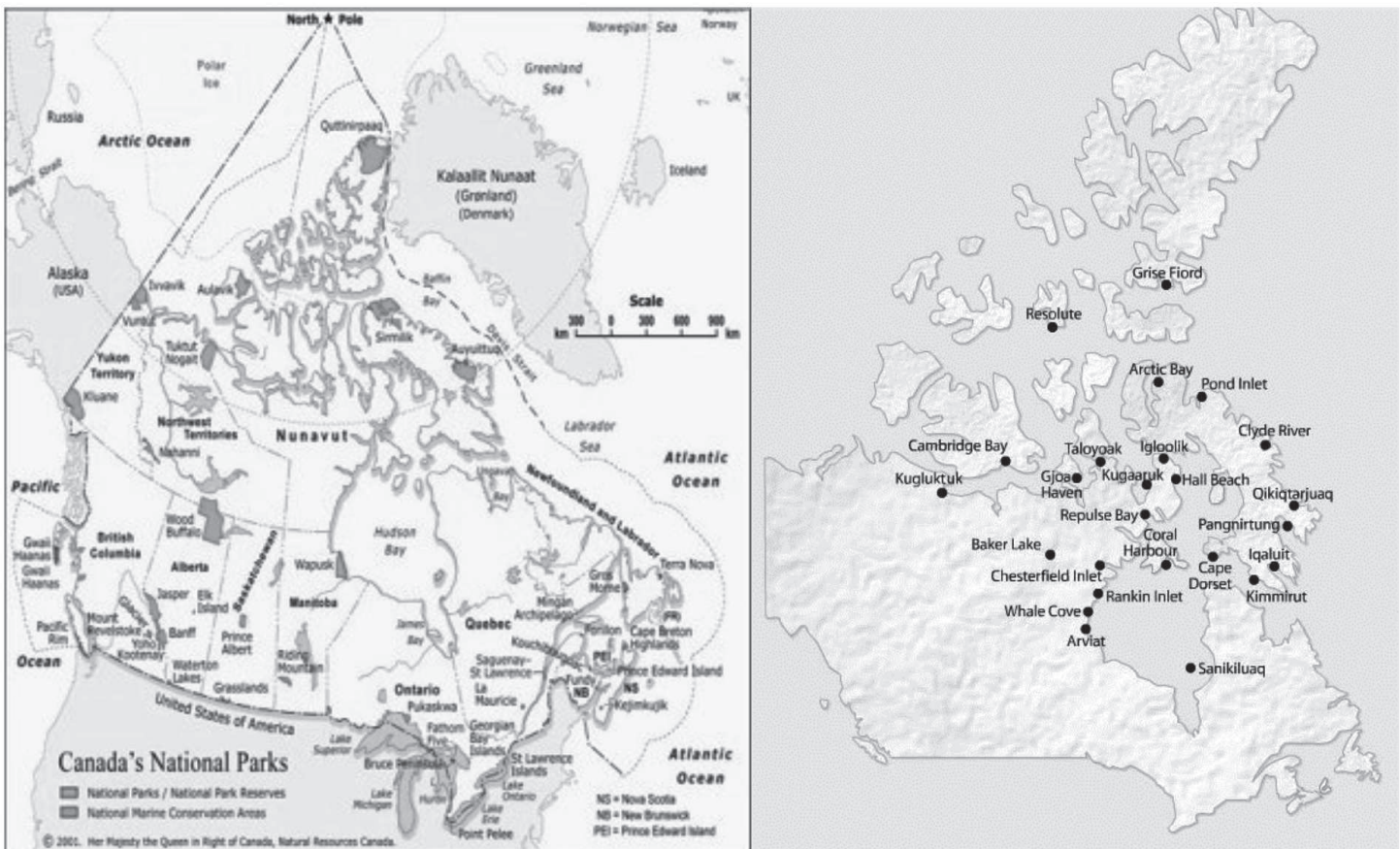
On August 28, 2017 Canada's Prime Minister, Justin Trudeau committed to a renewed relationship with Indigenous Peoples based on the recognition of rights, respect, co-operation and partnership.¹ To accomplish this mission, major structural changes in how the Government of Canada engages and relates with Indigenous peoples across the country were co-developed with indigenous, territorial and provincial partners to form a new Arctic Policy Framework (APF).² This has had major implications of departmental transformation, particularly for the former Department of Indigenous and Northern Affairs (INAC), Nunavut Regional Office (NRO), its staff, programs, and operations.³

The major implications of departmental transformation for the NRO begin with the dissolution of Canada's INAC and its replacement with two distinct departments Crown-Indigenous Relations and Northern Affairs (CIRNA), and Indigenous Services Canada (ISC). This includes the division of roles and

responsibilities respectively for staff, programs, and operations. The division also requires co-operation and collaboration between the two departments.⁴

The partition of Nunavut on April 1, 1999 from the Northwest Territories was, politically, an event long in process for the Inuit.⁵ Under the Nunavut Act⁶ and Nunavut Land Claims Agreement⁷ signed in 1993, the Nunavut Territory was created. It is one of the largest administrative and northerly districts in the world. The Nunavut Act and Land Claims Agreement also included recognition of indigenous rights to self-determination and self-governance.⁸ It is now Canada's youngest territory. The Inuit represent eighty-five percent of the population⁹ of approximately 39,000 residents in Nunavut,¹⁰ and are spread over a huge resource rich and ecologically vulnerable land mass and archipelago, including twenty-five communities spread out in distant and limited-access locations.¹¹

EXHIBIT 1: MAPS OF NUNAVUT¹² & ITS 25 COMMUNITIES¹³



The Nunavut Government is ascribed by the Nunavut Act and Land Claims Agreement to create an Inuit owned territory and lands, managed through Inuit self-governance, under the support of the Federal government.¹⁴ Section 35 of Canada's Constitution Act calls for the recognition of indigenous rights and supports the Federal Government's obligation to collaborate and consult with the Inuit on issues and challenges facing them as a people and self-governing territory.¹⁵ NRO is a department emerging from the Government of Canada's transformative approach to enriching and more greatly fulfilling the implementation of Aboriginal rights and aspirations. Innately, it will need to be flexible and highly collaborative and consultative with the Government of Nunavut, its NGOs and the Inuit people.¹⁶

Nunavut is poised for continued expansion of its economy, particularly the service industry, mining, construction and transportation.¹⁷ Investments in public infrastructure, such as schools, hospitals, broadband and transportation, are direly needed.¹⁸ CIRNA is tasked with working in new creative ways to help the Nunavummiut take advantage of economic opportunities balanced with their culture.¹⁹

The implications of the bi-departmental transformation are different for NRO, compared to other regional offices. NRO is distinct in many aspects, including culturally as it is predominantly an Inuit land and territory, governed by the Inuit under agreement with Ottawa with rights protected under the Canadian Constitution.²⁰ Also the Nunavut Act and corresponding Nunavut Land Agreement were signed together. This was a strategically synched governance framework negotiated and insisted upon by the Inuit. They felt self-governance and their land were interdependent and self-governance could not be effective for their traditional lifestyle which is tied to the land and sea without security of a satisfactory land agreement as well.²¹ In contrast in other non-Inuit regional offices transformation will include ongoing Aboriginal (Indian) land claims settlement and collaborative negotiation of devolution and self-governance frameworks. Whereas in Nunavut, this already exists since its creation.

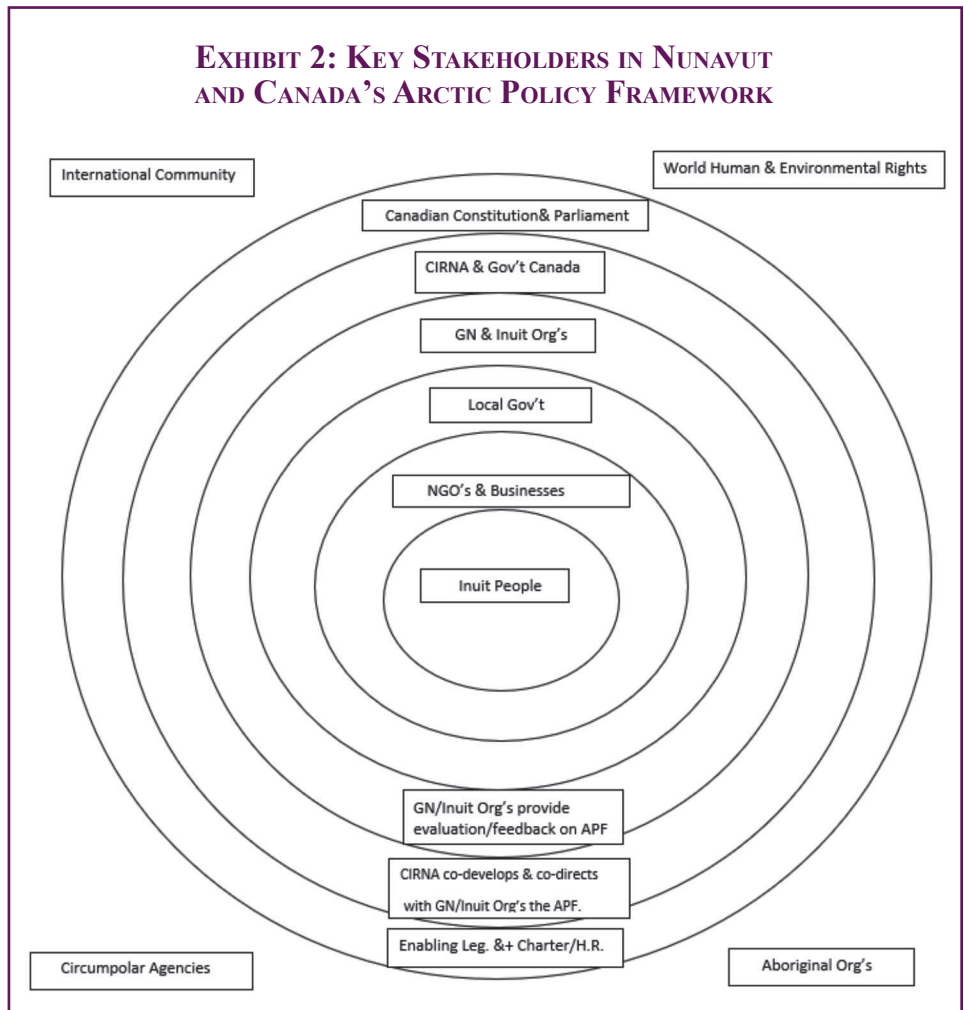
Structural changes that will occur include new frameworks and mechanisms supporting cooperative federalism as part of an ongoing duty to consult and evolving process of enabling Inuit-Crown relations. This process will see further and deeper empowerment of Inuit self-government through greater emphasis on collaboration using Inuit advisory structures for NRO

to consult with in developing programs and policies, and operations.²²

Canada's new APF embraces a micro as well as macro perspective concerning the development of a Northern Strategy for Canada. This new approach led by CIRNA includes consultation and collaboration with Northerners,²³ territorial and provincial governments, and indigenous groups of people.²⁴ Working collaboratively with these groups, also includes CIRNA's continued role on behalf of the Government of Canada to co-develop and maintain a long-term vision for the Canadian and circumpolar Arctic. Externally, global arctic affairs and northern international relations, including matters such as climate change, are led by Global Affairs Canada and the Department of National Defence.²⁵ Compounding the implications of structural change at the federal level and inhibiting clarity of communications and channels of responsibility, are the further creation of additional federal departments. The Government of Canada list of federal departments now also includes: Department of Northern Affairs, Department of Infrastructure and Communities, Department of Economic Development and Official Languages, Department of Canadian Heritage, and other overlapping federal ministries.²⁶

Essentially, under the new APF, Northerners now have more say with policy development, albeit now a more complex and inter-governmental and inter-departmental process, that affects them.²⁷ In essence, Canada's federal government maintains

EXHIBIT 2: KEY STAKEHOLDERS IN NUNAVUT AND CANADA'S ARCTIC POLICY FRAMEWORK



that the Arctic region requires shared leadership and a need to work closely with Arctic residents and governments to make sure their views are reflected in future policy development affecting the Arctic and Canada's role in the circumpolar Arctic.²⁸ See Exhibit 2.

Through the new APF's co-development consultation process, the Government of Canada undertook to identify a new vision, priorities and strategy for the north and its people. This also identified opportunities for partnerships with Indigenous groups and governments to develop more informed decisions and policies in the Canadian and Circumpolar Arctic.²⁹ A good partnership example is the Inuit-Crown Partnership signed on February 9th, 2017 by Prime Minister Trudeau and Natan Obed, President of the Inuit Tapiriit Kanatami.³⁰

Under Canada's Constitution 1982, Sections 91 and 92 are not included in the devolution of power to the Inuit per Nunavut Act 1999 and Nunavut Land Claims Agreement 1999, the Government of Canada retains jurisdiction and decision-making authority over Canadian defence, foreign policy and other issues of national interest.³¹ Thus while the new APF will inform decisions in the Canadian and circumpolar Arctic on a consultative process, the Government of Canada reserves decision-making authority exclusively for matters related to Canadian defence, foreign policy and other issues of national interest.³²

The Government of Nunavut (GN) is responsible and holds authority under the Nunavut Act for the territorial administration of Nunavut, and GN serves as the central conduit for fostering self-determination and self-governance for the Inuit people.³³ The GN is committed to supporting healthy Arctic communities and is focused on remedying the chronic need for improved housing, health care, education, broadband and other basic infrastructure in 25 communities as a priority. They are hopeful this will be a priority area in the final federal APF.³⁴


Nunavut is growing rapidly, and sustainable development is a top concern for the Inuit people to ensure that their land and ecology is protected and conserved in a balanced manner with resource and infrastructure project developments. The GN also needs to ensure that its economic growth is diversified to

usurp greater economic stability for the territorial economy and its people, and that opportunities for full Inuit employment and education and training programs that are requisite are provided.³⁵

The GN, through the Department of Executive and Intergovernmental Affairs,³⁶ provides assistance to Aboriginal and Circumpolar organizations for increased circumpolar cooperation, understanding and awareness. See Exhibit 2. The GN's role also is to engage its elected leaders, senior staff, land claims organizations, scientists, representatives of industry, and non-governmental organizations to provide advice on conservation goals for the Arctic and the social and economic priorities of Indigenous peoples living in remote Arctic communities.³⁷

Canada's new APF has had major implications of departmental transformation, particularly accompanying the splitting of INAC into two new federal departments; CIRNA and ISC. For NRO this has included a division of roles and responsibilities respectively for staff, programs, and operations. It also requires co-operation and collaboration between the two new departments. For NRO, this provides extra corroboration interdepartmentally and adds complexity to external collaboration with the GN and Inuit organizations. Innately, NRO will need to be flexible in its collaboration and consultations with the GN, NGOs and the Inuit people.

Structural changes that will occur include new frameworks and mechanisms supporting cooperative federalism as part of an ongoing duty to consult and evolving process of enabling Inuit-Crown relations. Further and deeper empowerment of Inuit self-government through greater emphasis on collaboration through the use of Inuit advisory structures for NRO to consult with in developing programs and policies, and operations is required.

Essentially, under the new APF, Northerners now have more say with policy development, albeit now a more complex and inter-governmental and inter-departmental process, that affects them. Yet, social issues such as chronic housing and health care issues, excessive unemployment, child poverty and access to basic services for Nunavut's collectivity of 25 remotely dispersed communities in harsh arctic environs remains an ongoing, daunting challenge for both the GN and NRO. 

ENDNOTES

¹ Justin Trudeau, Prime Minister of Can., *New Ministers to Support the Renewed Relationship with Indigenous Peoples*, GOV'T OF CAN. (Aug. 28, 2017), <https://pm.gc.ca/en/news/backgrounders/2017/08/28/new-ministers-support-renewed-relationship-indigenous-peoples> (highlighting historical developments between Canadian government and Indigenous Peoples and outlining Canada's new relationship building strategy moving forward).

² See generally *Canada's Arctic and Northern Policy Framework*, CROWN-INDIGENOUS RELATIONS AND N. AFFAIRS CAN. (2019), <https://www.rcaanc-cirnac.gc.ca/eng/1560523306861/1560523330587> [hereinafter *Arctic and Northern Policy Framework*] (describing the vision and goals of the Arctic Policy Framework).

³ E.g., *id.* (detailing changes that took place in the Department of Indigenous and Northern Affairs); GOV'T OF CAN., *Nunavut devolution* (2019), <https://www.rcaanc-cirnac.gc.ca/eng/1352471770723/1537900871295> (detailing history and purpose of Nunavut devolution); Nunavut

Act (S.C. 1993, c. 29) (Can.) (committing to increase the amount of Inuit participation in government employment in the Nunavut Settlement Area).

⁴ *Continuing our Transformation Journey*, GOV'T OF CAN. (June 17, 2019), <https://www.sac-isc.gc.ca/eng/1560792374691/1560792561077> (dissolving the Department of Indigenous and Northern Affairs Canada and proposing the formal creation of two new departments: Crown-Indigenous Relations and Northern Affairs Canada).

⁵ Legislative Assembly of the Nw. Territories, *Creation of a New Northwest Territories*, (2014), <https://www.assembly.gov.nt.ca/visitors/creation-new-nwt> (outlining the history of the establishment of Nunavut and the Northwest Territories).

⁶ See generally Nunavut Act, S.C. 1993, *supra* note 3 (creating the Nunavut Province and its governing structure under Canadian law).

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