



Northern Policy Papers

LABRADOR

Land Claims
Agreements
and Aboriginal
Governance
Issues in Labrador:
the Nunatsiavut
Experience

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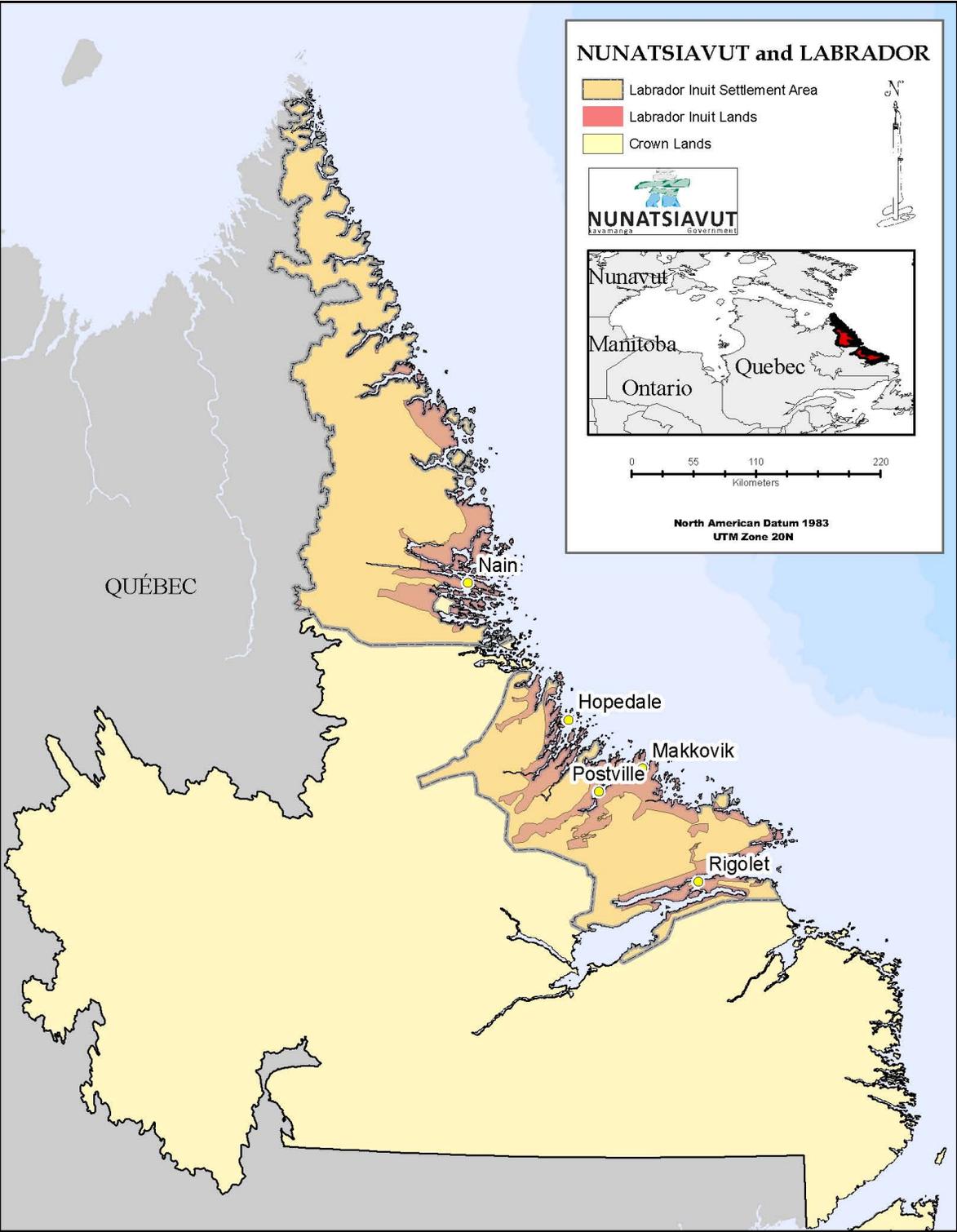
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Land Claims Agreements and Aboriginal Governance Issues in Labrador: the Nunatsiavut Experience

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September 1, 2011

Map 1: Labrador Inuit Settlement Area, Inuit lands and Crown lands



1. Terms of Reference:

- ▶ 5-7 page policy paper on Aboriginal governance issues using Nunatsiavut as a case study.

2. Governance: An overview

Much of what we call government, in fact, now occurs outside of it. Political scientists have coined the term **governance** to capture this wider process. Governance denotes a larger process and system(s) through which societies and organizations, formally governmental as well as non-governmental, make important decisions, determine whom they involve in the process, and how they ensure accountability for the decisions they make (Bowles and Gintis 2002). In this general sense, governance refers to the web of organizations and relationships, formal and informal, through which people establish priorities, mediate conflict, and build a common future and the norms and rules governing this process .

3. An overview of ABORIGINAL Groups in Labrador:

There are three aboriginal nations calling Labrador home: the Inuit of the central and northern coast as well as the central region of Happy Valley/Goose Bay/Mud Lake/North West River, the Innu of the Western and Northern expanse of Labrador to the Quebec border and the NunatuKavut Community Council (Labrador Metis Nation) of Central and Southeastern Labrador. Each has its own distinct history and culture. Moreover, each is at a different stage in negotiations with the Canadian and provincial governments. As a result, the implications for governance relations are somewhat different for each resulting in both shared yet distinctive forms of governance with each other as well as external governments and other organizations. Since the system of governance is most advanced and extensive with the Labrador Inuit, they are taken as the most useful point from which to discuss issues of aboriginal governance.

3.1 Inuit People:

Descendants of contemporary Inuit are thought to have first migrated wither from the Western arctic or from Greenland in the late 1400's though intermittent Inuit ancestry may be traced back several thousand years (See Rankin et. al in Natcher, Felt and Procter, 2011). Their history up to the 20th century has been well documented in several sources by Garth Turner, Hans Rollman and other researchers (See Brice-Bennett, 1977). In many respects, their modern history, at least leading to the Labrador Inuit Land Claims Agreement (LILCA) can be traced back to the mid 1970's and the founding of the Labrador Inuit Association (LIA).

Between 1977 and 2003, the Labrador Inuit Association (LIA), representing Inuit peoples in Labrador, the Canadian and, more recently, the provincial government of Newfoundland and Labrador, carried out intermittent negotiations to establish a land claims agreement recognizing a physical Inuit homeland and an associated land claims regional government directed by Labrador Inuit to govern in their regional government in ways that protected and supported the language, culture and lifestyles historically important to their identity as a distinct people. On August 29, 2003 all three parties to the negotiations initialed an agreement. In the

Spring of 2004 Inuit beneficiaries as defined by the agreement voted overwhelmingly to accept the agreement and in late 2005, the Inuit Land Claims government of Nunatsiavut formally came into being. LILCA provided for the establishment of the Labrador Inuit Settlement Area (LISA) consisting of approximately 72,520 km² of land and approximately 48,690 km² of adjacent tidal waters as well as the aboriginal government. Within the LISA approximately 15,800 km² is Inuit-owned land referred to as Labrador Inuit Lands (LIL) (See Map 1.)

Nunatsiavut consists of approximately 72,500 km² of land straddling the central and northern Labrador coast inland to upwards of 100 km populated by approximately 3200 Inuit in five communities (See Map). A further approximately 2500 live in the central Lake Melville communities of Happy Valley/Goose Bay, North West River and Mud Lake outside the designated territorial boundaries. A further 1700 live in other parts of Labrador, the province of Newfoundland and Labrador or beyond in other Canadian or foreign locations. The logistical and labour requirements of a western model government structure upon such a population are immense, even before occupational requirements for many of the highly skilled jobs is challenging, to say the least.

Due to an extended history of contact with European and North Americans dating back to the late 1500's and a more immediate relationship with Moravian missionaries and settlements founded beginning in the 1770's that continue to this day as important Inuit coastal communities such as Nain, Hopedale and Makkovik, the designation of people within the land claims area to be considered beneficiaries in the agreement is complex due to resulting intermarriage, continuous coastal settlement by individual Europeans since the 1860's and related events. For an excellent overview of the Moravian history on the coast and its relationship to Labrador Inuit see Hans Rollman special edition of Newfoundland and Labrador Studies entitled *Moravian Beginnings in Labrador* .

In recognition of the long standing Inuit-European contact, the Land Claims Agreement provides for several means of determining Inuit status, or beneficiary status as it is termed. To deal with such complexity, the Land Claims Agreement in Chapter 3 Beneficiary status under the agreement is provided for those who (a) possess continuous Inuit ancestry; (b) no Inuit ancestry but who settled permanently in the Labrador Inuit Land Claims area before 1940 or (c) no Inuit ancestry but is a lineal descendant of an individual referred to in clause (b) above and was born on or before November 30, 1990 (LILCA 3.1, p. 34).The more inclusive term of *Kablunangajuit* (*Kablunangajuk in the singular*) meaning people designated as beneficiaries under LILCA. This term is increasingly used to characterize beneficiaries. As of 2011, *Kablunangajuit* number approximately 8,000 individuals. It is these people who form the electorate of Nunatsiavut.

3.2 Innu People:

The Innu people of Labrador are historically, and still often by kinship, originally part of two related Innu groups utilizing the vast landscape from the area north and east of the James Bay drainage area of Quebec to the Labrador coast. Highly migratory and nomadic, their annual cycle coincided with movements of the vast caribou herds in the area. While they have had intermittent contacts with Western representatives as long as the Inuit, there has not, until relatively recently, been year round permanent settlement. In 1990, the two groups formed the Innu Nation (*Mamit Innuat*) that replaced an earlier organization formed in 1976 termed the Naskapi Montagnais Innu Association reflecting the names of the two groupings. Today, most of the approximately 2,500 Innu live in the two Innu communities of Sheshatshiu and Natuashish. The former is approximately 30 km from the central Labrador commercial and population hub of Happy Valley/Goose Bay; the latter near the North Central Labrador coast between the Inuit communities of Hopedale and Nain.

For approximately the same time, the Innu nation has been in negotiations for their recognition as an aboriginal people and a land claims settlement reflective of the vast territory in the North and Western part of Labrador through which their nomadic life was based. While recognition has been achieved for some time, they have not yet concluded a formal land claims agreement. Prospects for this happening in the near future have been considerably enhanced, however, with the looming development of the Lower Churchill hydro facility and a recently signed agreement.

The Innu nation has recently (2011) approved The *Tshash Petapen* Agreement (New Dawn in English) that resolved key issues outstanding between the people and the provincial government relating to matters surrounding the Innu Rights Agreement, Lower Churchill Impacts and Benefits Agreement (IBA), Innu redress regarding the Upper Churchill hydro development and a commitment to fast track land claims negotiations. The latter is to be achieved, in part, through establishing certain areas and types of land that might be proposed in an eventual land claims agreement. It should be mentioned as well that historically what are now Quebec Innu used large sections of Western Labrador in their migratory life styles and some land claims documentation has been filed with the Canadian government covering Labrador territory.

3.3 Metis people:

The third aboriginal population in Labrador is the NunatuKavut Community Council (formerly known as the Labrador Metis Nation) of Central and Southeastern Labrador. Founded in 1985 as the Labrador Metis Nation, it was the political arm of Labrador Metis people and as such provides a wide array of services as well as lobbies for a land claims settlement and regional government of its own.

Labrador Metis are largely an ethnic mix of more Southerly Inuit with English, Scottish, Irish and French partners though there is a minority proportion in which aboriginal lineage is through the Innu nation. Many can trace their lineage back

to the island portion of the province and its founding populations of Irish, Scottish and English settlers. Metis people are primarily distributed in central and south-eastern portions of Labrador with particularly large proportions of the community population from Cartwright through Charlettetown, William' Harbour, Port Hope Simpson to Mary's Harbour and Lodge Bay on Labrador's southeast coast. A significant number also reside in the Happy Valley/Goose Bay central area. Prior to the 1960's, many Metis were active as trappers in the vast area to the south of the Churchill River.

The Metis people have received at least de facto recognition by the Canadian government. Fisheries and Oceans, Canada essentially treats them as an aboriginal group in terms of their food, social and ceremonial fisheries as well as their Federal Aboriginal Fisheries Initiative. Following their recognition in an *amicus curiae* brief filed three years ago on behalf of a group seeking Metis recognition in Northwestern Ontario near the Manitoba border, it is expected that they will receive complete aboriginal status by the government soon. Preliminary, unofficial land claims negotiations have apparently been hold but no formal meetings have yet occurred to my knowledge.

Provincial government recognition has been more problematic. Officially, the government of Newfoundland and Labrador has refused to recognize the existence of the Metis people in the province. There have been informal discussions and NunatuKavut has subcontracted the delivery of some health, manpower training and education services from the province.

4.0 Emergent Governance Challenges Drawn from the Nunatsiavut Experience:

Nunatsiavut has had but five years to try its new government. These years are best seen as an experiment and many of what are currently seen as challenges simultaneously provide opportunities to build the type of government and society the citizenry desires. The following are five particularly interesting challenges flowing from this experiment.

Challenge of Organizational Scale:

A common characteristic of land claims agreements in Canada is a provision to incorporate what is called 'government-to-government structures. This has typically led, at least with the larger regional aboriginal governments such as Nunavut, Nunavik, and Nunatsiavut replicating the hierarchical Western model reflected in Canada's national and provincial levels with a significantly reduced level of human and fiscal resources poses a number of logistical, organizational and fiduciary challenges. Important consequences involve 'stretched' government structures, skilled labor shortages, high levels of labour mobility for those who are qualified and frequently insufficient financial resources . In this regard, Nunatsiavut is similar to other devolved land claims aboriginal governments in the Canadian North (Natcher and Davis 2007; Natcher et. al. 2005).

One result of this mismatched scaling is a concatenating or linking of distinct min-

istries. The Nunatsiavut government (NG) is organized around six ministries and several crown corporations. Ministries include: Nunatsiavut Affairs; Lands and natural Resources; Health and Social Development; Culture, Recreation and Tourism; Finance, Human Resources and Information Technology; and Education and Economic Development. While sufficient numbers of highly skilled Inuit staff the upper levels of these ministries (Rodon and Grey 2009), there are often vacancies at mid levels as qualified individuals frequently move as opportunities arise. Virtually all these positions require an extended range of work activities i.e. doubling up work tasks/responsibilities with the result that employees often live out of their suitcases, both within and outside NG. While the situation will likely change positively as more and more Labrador Inuit acquire the educational and technical skills necessary to staff modern state bureaucracies, in the short to medium period relating government-to-government is likely to be a logistical, organizational and labour challenge.

Exacerbating this structural or institutional issue is one of adequate, longer term financial stability. Nunatsiavut is financed through several sources of which the most relevant is a five year funding agreement with the federal government (D. Lowe, Personal communication). While specific details may be found on the provincial government's Department of Labrador and Aboriginal Affairs web site (<http://www.laa.gov.nl.ca/laa/>), the following table drawn from the site summarizes revenues and expenditures. Note that the OSR refers to Own Source Revenue.

Revenue	
Source	Amount
Investment Income from Trusts	5,000,000
Personal Income Tax sharing and GST	3,751,996
Fiscal Financial Agreement (FFA)	30,975,264
Contribution Agreements	3,004,862
Mining Royalty	1,210,000
TOTAL	\$43,942,122
Expenditure	
Administration	13,827,337
Programming (FFA Revenue clawed back by a % of OSR)	30,975,264
TOTAL	\$44,802,601

This funding arrangement has created some funding pressure given the high cost of government in a remote region where all core Inuit communities are only accessible by plane, boat or snowmobile depending upon season. As a result, many jobs remain part-time or for contractually limited periods of time. In the smaller coastal Inuit communities this has led to few permanent jobs and very high levels of unemployment. Part-time, contractual employment often has conditions or 'strings' attached since program delivery funds and rules governing their operation originate in distant non-Inuit bureaucracies. This curtails long term planning and expanding government capacity in a number of areas in service provision

and beyond. By failing to allocate sufficient resources and insisting on conditions established elsewhere, tension between levels of government can arise, with local authorities finding themselves in “financial strait jackets” when it comes to what is considered relevant, culturally and traditionally appropriate and respectful ‘place-based’ policy development and administration (Prince and Abele, 2002: 2). While this has not happened to any extent yet, these factors collectively raise a number of institutional, logistical and fiduciary issues that could pose important future challenges for Inuit governing capacity and effectiveness.

Challenge of Compatibility with Traditional Culture and Authority - the Role(s) of Inuit Elders:

Unlike hierarchical Western models, traditional Inuit government was informal, horizontal and personalized with elders, either individually or informally organized among seasonally migrant small groups based largely on kinship. As pressures towards more permanent settled occurred in the 19th century, largely through Moravian contact, attempts were made to formalize elder leadership as early as 1865 through elder councils, particularly in Nain and Hopedale (Peter Evans in Natcher, Felt and Procter 2011).

While respect, honour and general acknowledgement of the cultural and spiritual place of elders within Inuit society remains widely acknowledged and strong, new government structure as of yet does not have a formal set of roles and institutional place within the land claims government. A Nunatsiavut-wide Elders Council or Foundation (*TungavittalauKit Inutikavut*) workshop was held in September 2009 in the community of Rigolet. While this author was not present at the workshop, a research assistant, a lifelong Inuit resident of the coast, was. Those at the meeting expressed a strong desire to be more involved in the larger process of governance if not a more specific role within NG itself. Nunatsiavut politicians appear very supportive of such a role(s). There is currently discussion of having a formal position of ‘elder advisor’ for the government and Inuit politicians are supportively exploring other possible ways in which elders may play a more formal role in government.

Challenge of Meaningful Involvement of Local governments:

The Labrador Inuit Land Claims Agreement (LILCA) provides for a distribution of political power between the Land Claims government itself and the five coastal Inuit communities of Nain, Hopedale, Postville, Makkovik and Rigolet that form its principal constituencies. Chapter 17 of the LILCA specifies power allocated to the Nunatsiavut government as well as to the five coastal municipalities or Inuit Community Governments (ICG’s). The agreement, and Constitution associated with it, allocates responsibility for the vast majority of activities, other than local service provision to NG even though the structure as well as level of NG representation is established in such a way to protect and enshrine the importance of these communities. This can be seen in a brief overview of government organization.

Nunatsiavut is governed a President elected at large and a General Assembly composed of community-elected representatives from seven constituencies including the five coastal communities as well as provision for Inuit beneficiaries living in

central Labrador and elsewhere in Canada. Each of the coastal communities has one elected member per 1,000 residents up to a maximum of four with 75% of all community seats reserved for beneficiaries under the LILCA. Additionally, the *AngajukKat* or ICG mayor, sits in the general assembly. Only the President is elected by the entire electorate and only he/she must be fluent in Inuttitut. The President then appoints a First Minister from the elected General Assembly, who in turn nominates other ministers to form the government.

In light of traditional political organization one might have expected a wider range of powers and responsibilities to have been allocated to ICGs. Given the small size of the Nunatsiavut population this does not appear problematic at present but could potentially be if significant population growth occurs on the coast and the government begins to assume control over a greater range of government activities. There may also be an issue with elevating community rivalries to the General Assembly level while a wider sharing of powers between government levels might potentially mitigate, though not eliminate, this possibility. In hierarchical Western Parliamentary governance models, municipalities have relatively modest legislative mandate other than providing local services so this is perhaps not unexpected within a government-to-government framework. This is an important point being discussed within Nunatsiavut as they review their first five years as a government. It is an important part of a larger process of how it can become more of an Inuit government consistent with Inuit culture, values and spirituality.

Challenge of the Ethnic Basis of membership:

To better protect its culture and language, Labrador Inuit negotiators preferred a form of ethnic government in which membership, and hence most rights, was determined by ethnic definition and membership rather than geographical and residency criteria. Membership in the new government is defined in terms of a beneficiary status. At least two advantages of this approach are thought to be (a) minimizing rivalry and conflict between previously existing local aboriginal organizations and subsequent aboriginal governments and (2) consolidating funding amounts and sources for government utilization (Rodon and Grey, 2009). In so doing, it also provides the capacity and mandate to move beyond service provision towards a more comprehensive government and governance mandate (Cornell and Kalt 2007; Felt and Natcher 2008).

Interesting issues arise from this decision, however. A number seem at least potentially obvious. One is that it creates an important intra community distinction in small, relatively undifferentiated communities based on ethnicity, a distinction made more restrictive by tight eligibility rules. In the view of Rodon and Grey (2009), an important consequence is that, in their words, “it (ethnic governments) tend to create beneficiaries rather than citizens. Beneficiaries have rights while citizens have not only rights but also a duty to their community “(331). They note that this has not yet happened since in important respects, the euphoria of the recent agreement and subsequent creation of NG still dominates local political discourse.

A related issue concerns the geographic distribution of beneficiaries. Based on 2008 data, 38% of beneficiaries lived within the Land Claim Area (LCA) or the five coastal communities, approximately 45% reside in Labrador outside the LCA, primarily in the Upper Lake Melville area. 28% reside outside of Labrador (but not necessarily outside the province). Should these constituencies continue to grow at a faster rate than the coastal communities themselves, a likely assumption, representation provisions currently in place may become less and less adequate. Depending upon the awareness and utilization of this beneficiary status, there may be important issues of governance that could arise. In the short term this appears most likely in the Lake Melville area as it will most probably benefit from new hydro construction for the Lower Churchill development.

Challenge of Aboriginal to Aboriginal Relations:

Nunatsiavut has created and maintained efficient and productive relations with other Inuit governments and associations, nationally and internationally, for many years. The NG President sits on ITK (*Inuit Tapiriit Kanatami*), successor of the Inuit Tapirisat of Canada). As well, NG is a member of the Inuit Circumpolar Council (ICC) as well as several regional boards. They have also developed good relations with the Labrador Innu with whom they share an overlapping management area adjacent to Upper Lake Melville and utilize caribou hunting areas to the north and west of the Labrador Inuit Settlement Area. In fact, there is the Innu community of Natuashish, resettled from the near-by island community of Davis Inlet in 2002, between Inuit communities of Hopedale and Nain. These historical adjacencies have generally been supportive and mutually beneficial both at aboriginal government-to-government level as well as interpersonally.

In more recent years, Labrador Inuit have extended their relationships with other first nations. A good example is their membership in the Atlantic Policy Congress of First Nations Chiefs and through it the Atlantic Aboriginal Economic Development Integrated Research Program (AAEDIRPP). AAEDIRP's mandate includes conducting research on Aboriginal economic development, create a database on Aboriginal economic development, build Aboriginal research capacity and hold workshops on Aboriginal economic development. A number of Inuit elders have been particularly involved in AAEDIRP initiatives and this may prove to be a useful venue for greater involvement in Nunatsiavut governance activities more generally. A particularly interesting project within this relationship is exploring ways to integrate Inuit traditional knowledge (ITK) and its more general formulation of *Inuit Qaujimaqatuqangit* into economic development. While relations with the Atlantic Policy Congress and AAEDIRP has been largely informal, an issue of particular interest is whether this might be a useful venue to address the earlier issue of greater involvement of Inuit elders in government and governance in Nunatsiavut.

Challenge of Aboriginal to Non-aboriginal Relations in Labrador and Beyond:

Relations with non-aboriginal Labrador settlers as well as the provincial government, in particular, have not always been cordial and in recent years as land claims negotiations became more focused and conclusive, relations with other Labrador residents less relevant. Memories of resettlement from northerly communities of Hebron and Nutak are still remembered as is the provincial government decision to curtail the teaching of Inuttitut in local schools. Moreover, in the 1948 negotiations under which the province of Newfoundland, as it was then known, was admitted to Canada, the soon-to-be provincial government insisted that no recognition or reference to aboriginal peoples be included in contractual terms of admission to Canada. Moreover, a resettlement plan that resulted in the closure of more northerly communities such as Hebron and Nutak (Evans, 2011) created a certain level of distrust. Having said this, the success of land claims negotiations (and the provincial government's agreement to them) combined with significant economic change in Labrador and the rise of a proliferation of 'civil society' initiatives as more and more non-governmental organizations have arisen to address these issues of social, economic and political change have created a new, more devolved governance landscape in which Nunatsiavut seems destined, and willing, to play an important part.

With land claims negotiations behind them, the new Inuit government is now taking a reflective examination as well of their formal and informal relations with other actors in Labrador governance more generally. For example, as mineral and hydro development occurs, relations with non-Inuit municipalities through the Combined Council of Labrador Municipalities as well as other civil groups will take on increased importance and relevance.

Summary

It is important to emphasize that effective governance is neither automatic nor problem-free. Rather, it is shaped by the traditions, cultures, and the social locations of all parties. Federal and provincial governments, who have long treated communities and municipalities as little more than service providers, will need to continue on their path of devolution or participatory governance, with appropriate fiduciary support, or risk accelerated criticism for being arrogant and insensitive to local meaningful involvement (Natcher et al., 2004). This is the new governance environment to which land claims governments such as Nunatsiavut increasingly need to be able and prepared to play a leadership role. Simply stated, no one government, group, or individual can afford to be a spectator during this period of change. In the end, all Labradoreans will need to reach out and cooperate if effective governance is to develop. Nunatsiavut is particularly well situated to play a leading role in this momentous transformation in governance for the region.

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