

BRIEF TO
THE ROYAL COMMISSION ON ABORIGINAL
PEOPLES

THE NUNAVIK CONSTITUTIONAL COMMITTEE

MAY, 1993

EXECUTIVE SUMMARY

- This brief is submitted by the Nunavik Constitutional Committee. The Committee was created in 1989 to develop Nunavik government proposals for the Québec area north of the 55th parallel, and its members were elected by the Inuit and non-Inuit residents of the region.

- The Inuit relationship with Québec was largely determined by the James Bay and Northern Québec land claims Agreement. With this Agreement, Inuit became the first group of Aboriginal People to freely choose to have their institutions and lands come under provincial jurisdiction. Inuit also chose then to have their region administered by non-ethnic bodies, allowing non-Inuit to fully participate in their public institutions.

- Inuit believe their region still lacks some overall powers and structure required for effective government. Québec has acknowledged this and has agreed to enter into discussions on the matter.

- The Nunavik Constitutional Committee proposes the creation of a single non-ethnic government through amendments to the James Bay and Northern Québec Agreement, an institution which would also be granted additional powers through a legislated framework.

- The negotiations between the Nunavik Constitutional Committee and Québec cover new legal grounds and the Committee will need assistance from the Federal Government for legal research in areas which have not been investigated before. So far, the Committee has not received any assistance from the Federal government because non-ethnic government negotiations with provinces have not been clearly recognized as they should have.

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1. Introduction.

On behalf of the people of Nunavik, the Nunavik Constitutional Committee is pleased to appear before you.

Before proceeding it is important to explain what we mean by "Nunavik" and the "people of Nunavik".

For us, Nunavik is that region of Québec which lies north of the 55th parallel. In making this statement, we stress that Nunavik is not a region that we have conveniently drawn up for self-serving reasons. Rather, Nunavik is our name for an area which is recognized as a distinct region by a variety of institutions, including the Government of Québec. Nunavik is that region over which the Kativik Regional Government, the Kativik School Board, and other related bodies exercise their authority and competence.

Nunavik is a distinct region for a number of reasons. It is an area where Inuit are the overwhelming majority. It is an Inuit homeland which falls within Québec. Above all else, it is an area which is covered by an Agreement between the Inuit and Québec, as well as Canada.

It may also interest you to note that the Inuit of Québec also claim the offshore area surrounding Québec's northern borders as being part of Nunavik. It is a claim which the Inuit intend to pursue until the offshore area is properly recognized as being part of Nunavik.

It would be incorrect to conclude that any reference to the people of Nunavik applies only to Inuit. Our references to the people of Nunavik include all permanent residents of the region, whether they be Inuit or non-Inuit. This is an important point since Inuit made a conscious decision to negotiate the creation of regional institutions which benefit, and are open to the participation of all residents, regardless of their ethnicity. This is the principle which Nunavik hopes to build upon in an effort to obtain greater powers for its government.

Based upon the same principle of openness, the Nunavik Constitutional Committee was created by the people of Nunavik through regional elections which took place on April 10, 1989. The six people elected to the Committee have the mandate to develop proposals for a constitution and new structures which will provide for greater governing powers for Nunavik. The starting premise for this work is that Nunavik government structures will function within Québec and will be non-ethnic in nature.

We also call on the Commission's attention to the fact that the Québec National Assembly passed resolutions authorizing Québec's Chief Electoral Officer, Mr. Pierre-F. Côté, to assist us in organizing the referendum and elections necessary for the creation of the Nunavik Constitutional Committee. The election of this Committee was also the subject of a special 48 page supplement of *Le Devoir* which appeared on April 1, 1989. This supplement published in both French and Inuktitut was distributed throughout Québec, demonstrating that our hopes, aspirations, and values are increasingly accepted within Québec society.

2. Profile of Nunavik: territory and population

The territory of Nunavik spans a surface area of 563,515 square km which is equal to a little more than one third of the total area of the province of Québec. Its 14 villages are spread out along the coasts of Ungava Bay, the Hudson Strait and Hudson Bay.

The number of Inuit and non-Inuit inhabitants of the 14 villages varies from 140 persons in Aupaluk to some 1 600 persons in Kuujuaq. The total population of Nunavik is around 8 000, of which some 9% is composed of non-aboriginals.

Like most aboriginal or northern people, the population of Inuit in Nunavik is young and growing at a higher rate than that of the rest of Canadians. The level of education is also improving at a fast pace, forcing modernization on Nunavik political institutions.

Following the signing of the Bay James and Northern Québec Agreement, various institutions were created and given jurisdiction in specific areas:

- The Kativik Regional Government exercises an overall municipal competence over the whole territory of Nunavik, and has specific delegated responsibilities in relation with environment, manpower and training, public security, recreation and others;
- The Kativik School Board administers all schools in the region and has jurisdiction over primary and secondary education;

- The Kativik Board of Health presides over the administration of health care and social services;
- The Kativik Regional Development Council administers economic development programs.

An argument that people in Nunavik make about government is that while the economy has developed particularly in the public sector, it has to develop more in the private sector to create employment opportunities for the growing population.

3. History of self-government in Nunavik.

The Inuit have for thousands of years occupied the territory in the northern part of Québec now known as Nunavik. During these years, the Inuit were self-governed people and remained so until southern governments caught interest in them and their land.

In 1912, by virtue of an act of Parliament, the borders of Québec were extended to include the entire northern part of its present territory. While acquiring this new land, Québec also assumed the obligation to settle territorial claims related to native people, including the Inuit.

In the 1950's, the Federal Government expanded its administration to the North and built villages where the Inuit settled. Later, in the 1960's, Québec also expanded its services in the new communities and the Inuit found themselves overly administered by central governments.

In reaction to that new phenomenon, the Inuit took steps over the following years to regain control of their own destiny by grouping together establishing co-ops, community councils and a Northern Québec Inuit Association¹, which was to be mandated to negotiate the James Bay and Northern Québec Agreement.

¹Extract from a letter to Residents of Nunavik by the Nunavik Constitutional Committee.

The signing of the James Bay Agreement took place in 1975 and its implementation in the following years brought about a great number of institutional changes. New local and regional institutions were created to replace administration from central agencies and were given territorial jurisdiction over such important matters as education, health care, economic development, housing, and other local and regional services.

Despite all these important achievements, there is a major defect in the governing structures that currently apply to Nunavik. Unlike other self-governing societies, our governing powers and resources are divided up among a number of different organizations and institutions such as the Kativik School Board, the Makivik Corporation, the Federation of Cooperatives, the Kativik Regional Government, and others. As a result, our government structures lack a single body which we can rely on to set our priorities, to shape our future, and to determine our place in Canada and Québec.

The James Bay Agreement has meant changes and progress for the Inuit. But it has also brought some degree of structural confusion and Inuit soon were convinced that they had to find a way to work together under one roof.

The first occasion was given to us in November 1983 when a delegation of Inuit leaders appeared before a Parliamentary Committee of the Québec National Assembly examining the rights and needs of Aboriginal peoples.

At the conclusion of the Inuit presentation, Premier Lévesque indicated that his government would be prepared to re-negotiate a new form of regional government in Northern Québec if the Inuit could come up with a unified position.

To do so, the Inuit created in January 1984 the Ujjitujiit Task Force representing the five main institutions of Nunavik. The Task

Force was mandated to formulate a common proposal that could be discussed with Québec.

In October 1987 a Referendum was held in Nunavik which determined the composition of a new Task Force and that consultation was followed in April 1989 by the election of the six members of the Nunavik Constitutional Committee, whose mandate was to prepare a Constitution for Nunavik.

The Constitution was then made public in December 1989. It proposes the creation of a democratic Assembly and Government, non-ethnic and open to all citizens of Nunavik. The assembly will have the power and responsibility to protect and promote the Inuit culture and values as well as those of non-Inuit residents in Nunavik. In this sense, the new Constitution is not an effort to isolate the Inuit from the rest of Québec or Canada but, quite the contrary, it is an opportunity for the residents and in particular the Inuit to take command of their own development and assume their share of responsibility in the larger Québec and Canadian societies.

4. Negotiation between the Nunavik Constitutional Committee and Québec.

The first round of discussion with Québec lasted from June 1991 until June 1992. In the process the Inuit presented the key elements of their proposal for a Nunavik government, including:

1. A territorial government as opposed to category 1 or reserve land based;
2. One government for Nunavik to regroup existing institutions;
3. Non-ethnic and public as opposed to racially based government;
4. A large degree of autonomy through consolidation of existing Nunavik institutions powers, through delegation of additional powers from the National Assembly and through regrouping federal and provincial responsibilities under one roof;
5. A large degree of financial autonomy through fiscal arrangements and block funding;
6. A direct relationship between the Nunavik Assembly and the Québec National Assembly for the financing review process, for the review of arrangements on the delegation of powers, and for the resolution of outstanding issues.
7. A step by step approach for its implementation.

In June 1992, during what was to be the Charlottetown Accord, our discussions with Québec were suspended as national constitutional talks proceeded to their conclusion.

5. Discussion points for a possible political accord to provide for Nunavik Government.

After being suspended, discussions were to be resumed in the month of November 1992 through direct contacts between representatives of the Nunavik Constitutional Committee, and Québec Minister of Native Affairs. These discussions which are still going on at the present time, are centred on two issues: one concerns the nomination by Québec of a Special Negotiator with the mandate to accelerate and finalize the negotiation for the creation of the Nunavik government; the second deals with the approach and structure which would be most feasible for the establishment of a Nunavik government.

Present discussions take into account the Constitution that the Nunavik Constitutional Committee tabled in 1989 as well as the ideas and proposals flowing from earlier negotiations concerning the creation of a non-ethnic government north of the 55th parallel. In essence, these discussions are centred on the various provisions which would be contained in a political accord.

PROVISIONS OF THE POLITICAL ACCORD.

Provisions for a political accord would include the following points:

- * Inuit and Québec would commit themselves to negotiate agreements which would :

1. PROVIDE FOR A NUNAVIK ASSEMBLY THROUGH AMENDMENTS TO THE JAMES BAY AND NORTHERN QUÉBEC AGREEMENT.
2. PROVIDE FOR ADDITIONAL POWERS FOR A NUNAVIK GOVERNMENT THROUGH A LEGISLATED FRAMEWORK.
3. DEFINE THE FINANCIAL AND ADMINISTRATIVE RELATIONSHIP BETWEEN THE NUNAVIK AND QUÉBEC GOVERNMENTS.

- * Inuit and Québec could jointly invite the federal government to participate in the negotiations.
- * Plebiscites would be held in Nunavik to ratify the Nunavik government agreements. Québec would also have to agree.
- * All negotiations would be completed within a year, enabling legislation would be introduced in the National Assembly within a year and a half.
- * A mediation/arbitration process would be established to facilitate negotiations.
- * Québec policies dealing with Nunavik and Nunavik government negotiations would be independent of those dealing with other Aboriginal Peoples in Québec and Canada.
- * Nunavik self-government arrangements would not diminish the status or level of protection of the various self-government rights Inuit currently enjoy under the James Bay and Northern Québec Agreement.

6. Conclusions and recommendations.

The Inuit of Nunavik live in a particular political context. Citizens of a Province, they became the first group among Aboriginal Peoples to freely choose to have their institutions and lands come under provincial jurisdiction. With the James Bay and Northern Québec Agreement, they also chose to have their region administered by non-ethnic institutions, allowing non-Inuit to fully participate in them, and in turn allowing themselves to be part of the whole society.

All residents of Nunavik, Inuit and non-Inuit, are currently proposing the creation of an autonomous non-ethnic government through amendments to the James Bay and Northern Québec Agreement, a new institution which would also be granted additional powers through a legislated framework.

Based on such principles, the negotiation is breaking new grounds and raises several questions which have never been answered before. The Nunavik Constitutional Committee will therefore need help and it makes an appeal to the Royal Commission on Aboriginal Peoples to provide funding assistance for the necessary legal research to be made.

The Nunavik Constitutional Committee has been negotiating self-government with Québec since 1989, and has appealed in vain to the Federal Government for financial assistance. We believe that non-ethnic government negotiations should be recognized for what they are and that those aboriginal groups who choose that avenue

should not be penalized. On the contrary, non-ethnic governments negotiations represent a model of solution for the future and should be valued as such. In that sense, the Federal Government should put aside the necessary resources and make them available for those among Native Peoples who make the same choice as the Nunavik Constitutional Committee and who undertake to negotiate with provincial governments.

History of Nunavik government negotiations in brief.

- 1912: Québec boundaries are expanded to include Nunavik.
- 1950's: Villages are built, administered through central government agencies.
- 1960's and 70's: Inuit attempts to regain control: Federation of Coops - NQIA - community councils...
- November 1975: creation of new Nunavik organizations: Makivik, KRG, KSB, CRSSS, and ITN.
- 1981: Federal transfer of programs (local affairs - housing - education...) to Québec and Nunavik institutions.
- November 1983: Makivik - ITN before Québec Parliamentary Commission.
- January 1984: the Ujjitujit Working Group is created.
- October 1987: Referendum in Nunavik.
- April 10, 1989: Election of Members of NCC.
- December 1989: The first Constitution project is tabled.
- April 10, 1991: Approval of the Constitution project.
- June 27, 1991: Signing of the MOA with Québec.
Beginning of negotiation with Québec.
- June 1992: Suspension of negotiation as National Constitutional talks proceed to their conclusion.
- January 1993: Renewal of discussion between NCC and SAA..
- February 1993: Tabling of a document on "a possible political accord to provide for Nunavik Self-government".

Québec then proposes the nomination of a 'special Negotiator'.