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# The Dynamics of Intra-jurisdictional Relations in the Inuit Regions of the Canadian Arctic: An Institutional Perspective

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**ABSTRACT** One of the most exciting developments in Canadian federalism has been the emergence of Aboriginal self-governing regions. This paper constructs a theoretical framework for exploring the evolution of intra-jurisdictional relations in the self-governing Inuit regions of the Canadian Arctic. Intra-jurisdictional relations in these regions are characterized by a unique set of relationships between elected governments and organizations that represent the beneficiaries of land-claims agreements. Using the literature on historical institutionalism, we argue that the nature of Inuit intra-jurisdictional relations following the establishment of self-government can be explained by the institutional choices made prior to the signing of land-claims agreements and/or self-government agreements. To illustrate the potential of our framework for analysing Inuit intra-jurisdictional relations, we briefly examine the experiences of Nunavut, an Inuit-dominated region and the newest territory in the Canadian federation.

**KEY WORDS:** Federalism, intra-jurisdictional relations, aboriginal self-government, historical institutionalism, Inuit self-government

## Introduction

One of the most exciting developments in Canadian federalism over the last two decades has been the emergence of new, self-governing Aboriginal regions. The evolution of Aboriginal self-government has been slow and fraught with conflict and tension, as new governments seek to create their own governance structures and build relationships with non-Aboriginal governments. Nowhere is this trend more evident than in the Canadian Arctic. While self-government is a longstanding goal of many Aboriginal groups in Canada, it seems that the Inuit,<sup>1</sup> an Aboriginal group that has inhabited the Arctic region for over a thousand years, has made the most

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progress towards establishing autonomous political structures that are grounded not only in land-claims agreements, but also within the federal structure of Canada.

Aboriginal self-government in Canada encompasses a range of structures and forms. Many groups, for instance, have chosen some form of ethnically-based government that is controlled by the recognized members of a particular Aboriginal group. There are many variations of ethnic Aboriginal self-government, mostly turning on the extent to which non-Aboriginals are excluded from governmental processes and policies. By contrast, the Inuit of Nunavut have adopted a public, Inuit-dominated government model, meaning that all residents, regardless of ethnicity, can participate in the political process. Inuit residents, none the less, enjoy *de facto* ethnic or 'Aboriginal' government by virtue of their overwhelming demographic dominance in the territory (see Henderson, 2007). Moreover, as this article will explain, the Inuit across the Canadian Arctic exercise considerable authority through the land-claims organizations that negotiated the treaties. These organizations form a key part of the hybrid governance structures in Nunavut and other emerging Inuit regions and are answerable only to the Inuit beneficiaries of the respective land-claims agreements (see also White, 2009; Wilson and Alcantara, 2012).

While the most well-known example of Inuit-dominated (public) government is Nunavut, the newest territory in the Canadian federation, other existing and emerging self-governing Inuit regions include Nunavik, located in the northern-third of the province of Québec, Nunatsiavut in northern Labrador and the Inuvialuit Settlement Region in the northern part of the Northwest Territories (NWT). These regions are demographically and geographically similar to Nunavut, yet they differ politically and institutionally because they are 'nested' within existing constituent units of the Canadian federation (Wilson, 2008). They are also at different stages in their political and institutional development. Collectively, however, these regions cover a huge expanse of Canadian territory and, more importantly, are examples of innovative and unique governance structures that are changing the face of Canadian federalism.

Over the past four decades, the Inuit have been at the forefront of the development of comprehensive land-claims agreements, otherwise known as 'modern' treaties to distinguish them from the historical treaties that were signed by Aboriginal groups and the Crown between 1701 and 1923. These treaties are important because they provide a political and economic foundation for the evolution of Inuit-dominated government. They are also constitutionally protected documents and, therefore, are an important part of the constitutional and intergovernmental landscape in Canada.

In most cases, comprehensive land-claims agreements are managed by Aboriginal land-claims organizations. These organizations are legally established corporations with extensive resources and operations. They perform a variety of important activities in their respective regions, including the provision of services and employment and, most importantly for the purposes of this discussion, are directly responsible to the Inuit beneficiaries of the agreements, not to any publicly-elected governments (Wilson and Alcantara, 2012). Indeed, one of the defining features of this emerging genus of Inuit-dominated government is the coexistence<sup>2</sup> of publicly and ethnically-based governance bodies with legitimate representative claims in their respective regions. For example, in the Territory of Nunavut, the democratically-elected Government of Nunavut (GN) coexists alongside Nunavut Tunngavik Incorporated (NTI), the

democratically-elected land-claims organization that represents the Inuit beneficiaries of the Nunavut land-claims agreement. The coexistence of these two distinct governance bodies sets the stage for both co-operation and conflict within a broader dynamic of intra-jurisdictional relations in Nunavut (White, 2009).

The term 'intra-jurisdictional relations' refers to the relationships between separate governance bodies within a single jurisdictional unit. Whereas the literature on federalism understandably focuses on intergovernmental relations between different levels of government, it is important to recognize the significance of the relationships and connections, both formal and informal, between political actors within a single jurisdiction. Such relations are essential to the functioning of federal systems because they affect the internal cohesiveness of constituent units and, ultimately, their relationships with other levels of government. This is especially true in Canada because of the tri-lateral (federal, provincial/territorial and regional) nature of the comprehensive land-claims agreements that underpin Inuit-dominated governments.

In most federal systems, relations that occur between the different branches of government, either at the federal or regional levels, are characterized as intra-governmental in nature (Ward and Rodríguez, 1999). In the Inuit regions of the Canadian Arctic, however, the dominant interactions occur between competing and, in representative terms, overlapping regional governance bodies, namely regional governments and land-claims organizations. Although the land-claims organizations are not part of the regional government, they do perform very important representative and development roles in these regions. Both the regional governments and the land-claims organizations are elected in region-wide elections and are responsible for regional economic and social development. In addition to the unique relationship between regional governments and land-claims organizations, it is also important to note the small size of the governing elite within these regions, which means that there is often a significant overlap in terms of personnel. For instance, it is not uncommon for regional government officials to have worked previously for the land-claims organization and vice versa.

In light of these unique features of governance, we use the term intra-jurisdictional rather than intra-governmental to refer to the relationships and interactions between regional governments and land-claims organizations. While the evolving relationship between these governance bodies is the most important determinant of regional politics, their intra-jurisdictional relations have only been described briefly by others (Mifflin, 2009; White, 2009). The primary purpose of this article is to construct a theoretical framework for explaining the evolution of this hybrid form of governance in Nunavut and predicting the future development of intra-jurisdictional relations in other emerging Inuit regions in the Canadian Arctic.<sup>3</sup>

In the first section, we draw upon the historical institutionalism literature to construct a theoretical framework for analysing intra-jurisdictional interactions in existing and emerging Inuit-dominated governments. The first part of this framework focuses on understanding how initial institutional choices, regardless of why they were made, can affect which actors and what kinds of environments might exist in these regions. It also examines the effects of these initial institutional choices on preferences and power resources and how these elements can influence the frequency of intra-jurisdictional interactions between land-claims organizations and Inuit governments. The second section applies this theoretical framework to the specific case of

Nunavut and asks the following questions: what kinds of interactions occur between the government of Nunavut and NTI? To what extent can we explain these interactions by focusing on institutional factors, preferences and power resources?

### **Analysing Intra-jurisdictional Relations through the Lens of Historical Institutionalism**

To construct a theoretical framework for analysing intra-jurisdictional relations in existing and newly emerging Inuit self-governing regions, we rely on the tools of historical institutionalism. The basic premise of this literature is that institutions, whether they are formal (i.e. written constitutions) or informal (i.e. norms of behaviour), “emerge from and are embedded within concrete temporal processes” that reflect the political and social context (Thelen, 1999: 371). Once established, institutions serve as intervening variables, structuring how different actors, interests and ideas interact with each other at a variety of levels (Hall and Taylor, 1996).

This is not to say that institutions pre-determine outcomes. Indeed, students of historical institutionalism acknowledge the importance of other contextual factors, such as ideas and material interests (Béland, 2009). As well, they recognize the importance of power and power relationships, especially those of an asymmetrical nature, which can significantly affect political outcomes and the ability of different actors to pursue their goals (Alcantara 2008). None the less, institutions remain important for structuring the preferences, strategies and outcomes of political actors and actions in any given political environment.

Historical institutionalists have developed two different, yet complementary, approaches for explaining the emergence and role of political institutions. The path dependency approach emphasizes the decisions made by political actors during critical junctures or windows of opportunity, which are moments in time when “the options for policy change are, at least relatively, open and contingent,” allowing for different pathways to be chosen (Boychuk, 2008: 15). Once the initial choices are made, the institutions or policies come into effect and eventually become locked-in, especially as positive feedback occurs with the actors learning the rules of the game and selecting their strategies accordingly. The process sequencing approach “brings into focus the possibility of shifting directions or even reversals within a historical trajectory” (Broschek, 2010: 8). Such reversals can occur as a result of the frictions that exist between multiple layers of a political order (Liebermann, 2002) or they may simply reflect the cyclical or recurrent patterns of institutional change that are embedded in the historical trajectory of the originating institution and initial conditions (Broschek, 2010). Both approaches, however, recognize that sequencing matters and offer plausible theoretical starting points for analysing intra-jurisdictional relations in Inuit regions.

### **Intra-jurisdictional Relations in the Canadian Arctic: A Theoretical Framework**

Based on these theoretical assumptions, and focusing on Inuit regions in the Canadian Arctic, we argue that the nature of intra-jurisdictional relations in these regions will depend heavily on the substance and sequencing of the institutional choices made

by the actors during comprehensive land-claims and/or self-government negotiations. Specifically, these choices will affect the likelihood of whether a land-claims organization will continue to exist in the region, as well as the nature and frequency of the organization's interactions with the new Inuit government, post-treaty and, in some cases, following the establishment of a public, regional government. Both land-claims agreements and self-government agreements represent significant instances of institutional change. Once signed and ratified, these agreements become constitutionally protected under §35 of the Constitution Act, 1982 and provide Aboriginal groups such as the Inuit with a range of important rights, powers and jurisdictions. Under a land-claims agreement, Aboriginal groups gain ownership and rights to a variety of lands and resources (Alcantara, 2012). Under a self-government agreement, Aboriginal groups receive a range of political and legal powers akin to what provinces, territories and/or municipalities have (Henderson, 2008; Alcantara and Whitfield, 2010).

The main negotiating parties in land-claims and self-government negotiations are the Crown and the Aboriginal groups. The Crown is represented by the federal government and the particular territorial or provincial government in which the Aboriginal group is located. Aboriginal groups vary in terms of which organizations or bodies represent their interests at the table. The Inuit have relied on land-claims organizations to represent their interests at the negotiating table.<sup>4</sup> The Inuit in eastern Arctic, for instance, were represented by the Tungavik Federation of Nunavut for most of their land-claims negotiations while the Labrador Inuit were represented by the Labrador Inuit Association (Rodon and Grey, 2009; White, 2009). The fact that these organizations negotiated on behalf of their Inuit constituents has important implications for the nature of the intra-jurisdictional relationships in their respective regions, post-treaty, and for the self-government agreements they have negotiated.

Two particular institutional choices relating to land-claims and self-government negotiations matter the most for structuring the intra-jurisdictional relationship between land-claims organizations and Aboriginal governments. In the case of the Inuit, the first choice has to do with whether a group decides to adopt an ethnic or public form of government. As noted above, an ethnic form of government is one in which membership is restricted to members of the Aboriginal group. In these situations, the new Aboriginal governments have exclusive jurisdiction over *who* can participate in the political life of the community. The governance model that was established in Nunatsiavut, for instance, allows only Labrador Inuit to vote, run for office and access programmes and services (Alcantara and Whitfield, 2010: 130–131). As noted earlier, however, the extent to which citizens and non-citizens can participate or are restricted from participating varies.

In contrast, public government is when membership in the political community is open to all residents in the region, regardless of ethnicity. As noted above, the classic example of this type of government is the territory of Nunavut (Henderson, 2008: 222–225). In the case of the Inuit regions of the Canadian Arctic as a whole, the public government path is possible and even desirable because of the demographic dominance of the Inuit and because the idea of public government is more 'compatible' with the principles of governance in Canada. As we will show below, the choice between public and

ethnic government has had a powerful effect on the nature of intra-jurisdictional relations in Inuit regions.

The second institutional choice that matters is the sequencing of *when* Inuit groups complete land-claims and self-government agreements. This choice set, however, is very much constrained by evolving federal policies relating to land-claims and self-government agreements. In 1973, the federal government initiated the comprehensive land-claims process by inviting Aboriginal groups that had never signed a treaty to submit a claim to the Crown for possible negotiation. The first groups to complete a modern treaty under this process were the Cree and the Inuit in northern Québec in 1975 and the Inuvialuit in the NWT in 1984. Although these groups were also interested in negotiating self-government agreements, federal policy at the time did not allow them to do so. This policy changed in 1986, however, when the federal government amended its comprehensive land-claims policy to allow Aboriginal groups to negotiate self-government, among other things. In 1995, federal policy changed again, this time recognizing the inherent right of Aboriginal self-government and allowing Aboriginal groups to negotiate self-government agreements concurrently with their land claims (Abele *et al.*, 2000). As a result of these developments in federal policies relating to Aboriginal land-claims and self-government, Inuit groups have experienced different sequences in terms of *when* they have been able to complete land-claims and self-government agreements.

In sum, two initial institutional choices, ethnic vs. public government and the sequencing of completed land-claims and self-government agreements in the context of evolving federal policies, produce four possible intra-jurisdictional scenarios for existing and newly emerging Inuit self-governing regions. These scenarios, summarized in Table 1, identify how different institutional choices affect *which actors* are likely to be involved in intra-jurisdictional relations once a treaty and self-government agreement are completed. The table also specifies whether we expect any intra-jurisdictional interactions to exist between the actors in the various scenarios. These scenarios provide a starting point for investigating further the nature of intra-jurisdictional interactions between Inuit governments and the land-claims organizations.

**Table 1.** Explaining the presence and absence of intra-jurisdictional actors and interactions, post-treaty and self-government agreement

	Land-claims and self-government agreements completed at the same time	Land-claims agreement first, self-government agreement later
Ethnic government	1. No interaction because there is no land-claims organization to compete with the Inuit government (i.e. Nunatsiavut)	2. Interactions between the Inuit government and the land-claims organization (i.e. potentially the Inuvialuit Settlement Region)
Public government	3. Interactions between the Inuit-dominated public government and the land-claims organization (No existing example)	4. Interactions between the Inuit-dominated public government and the land-claims organization (i.e. Nunavut and potentially Nunavik)

In the first scenario, located in the top left quadrant of Table 1, an Inuit group completes a treaty and self-government agreement concurrently and chooses an ethnic form of self-government. These two choices produce no intra-jurisdictional interactions between the land-claims organization and Inuit government because the land-claims organization that negotiated the treaty dissolves and is replaced by a new, ethnic form of Inuit self-government. An example of this scenario is Nunatsiavut where the Labrador Inuit formed the Labrador Inuit Association (LIA) in 1975 to negotiate their treaty with the federal government and the Newfoundland provincial government. The three parties successfully negotiated a Final Agreement in 2003 and the treaty came into effect in 2005. Included in the treaty was a self-government chapter that outlined the framework under which the Labrador Inuit could establish their own Nunatsiavut government. According to the treaty and the Labrador Inuit Constitution that preceded it (see Alcantara and Whitfield, 2010), the Labrador Inuit chose an ethnic form of government with citizenship restricted to Labrador Inuit in accordance with the rules established by their new government. As well, upon the treaty coming into effect, the Labrador Inuit Association was formally dissolved and the Nunatsiavut government immediately assumed full authority over the administration of the land-claims agreement, including all of the powers and jurisdictions that flowed from the self-government chapter (Alcantara, 2007; Rodon and Grey, 2009).

In essence, by choosing ethnic government, the Labrador Inuit intended that their new government would be the main (and only) body for managing their land-claims agreement and representing the interests of the beneficiaries. As well, the sequencing of the agreements meant that the LIA never had the opportunity to assume responsibility over the administration of the Labrador Inuit land-claims agreement nor did it ever become institutionalized as the main defender of the agreement. As a result, no intra-jurisdictional interaction has taken place between the Aboriginal government and the land-claims organization in this region.

In the second scenario, located in the top right quadrant of Table 1, an Inuit group completes a land-claims agreement first and a self-government agreement second and then chooses an ethnic form of self-government. These two choices produce intra-jurisdictional interactions; a new Aboriginal government is born which must then operate alongside the land-claims organization. In contrast to the first scenario in which the land-claims organization is dissolved, the land-claims organization in this second scenario continues to exist mainly because of path dependency. During the time period between the completion of the two agreements, it is the land-claims organization that administers the land-claims agreement on behalf of the beneficiaries. The longer the land-claims organization performs this role prior to the establishment of self-government, the more likely it will continue to exist in some capacity following the self-government agreement, especially if the land-claims organization was also responsible for negotiating the self-government agreement. So, although the choice of ethnic government indicates that the new government is expected to serve as the main voice and representative of the beneficiaries, the land-claims organization is likely to continue to exist in some capacity. This likelihood increases the longer the land-claims organization is responsible for implementing the modern treaty prior to the establishment of self-government.



As of yet, there are no Inuit groups in Canada that fit this category, although the Inuvialuit are close to doing so. In the early 1970s, the Committee for Original Peoples' Entitlement (COPE), representing the Inuvialuit, joined forces with Inuit Tapirisat of Canada to begin negotiations on a comprehensive land-claims agreement with the federal government. Several years later, COPE decided to negotiate a separate agreement, achieving an agreement-in-principle in 1978 (Abele and Dickerson, 1985). The negotiating parties completed the Inuvialuit Final Agreement (IFA) in June 1984. Immediately after signing the agreement, COPE disbanded and was replaced by the Inuvialuit Regional Corporation (IRC), whose main job was to oversee the implementation of the treaty and to pursue future self-government negotiations on behalf of the Inuvialuit, should federal policy on this issue change. In 1986, federal policy changed and, in 1996, the Inuvialuit and the Gwich'in, another Aboriginal group in the NWT, jointly began negotiations with the federal and territorial governments. In 2005, the Gwich'in decided to negotiate a separate self-government agreement. The Inuvialuit agreed with this decision and the IRC is currently negotiating an agreement-in-principle on self-government with the federal and territorial governments.

In essence, the Inuvialuit are close to fulfilling the conditions for this scenario, completing a land-claims agreement in 1984 and currently negotiating an agreement in principle with the federal and territorial governments. As well, IRC documents (Inuvialuit Regional Corporation, 2009: 9) and informal discussions with a senior IRC official indicate that the Inuvialuit plan to choose an ethnic form of government and that the IRC will continue to exist even after a self-government agreement is completed. The continued existence of the IRC, post-self-government, will likely occur due to the sequencing of completed agreements, which has allowed the IRC to institutionalize itself as an important part of the political landscape in the region. At this point, however, it is unclear what role the IRC will have in the new self-government regime but there is speculation that the corporation will continue to undertake some of its current economic development responsibilities. Therefore, in contrast to the first scenario where the new government replaced the land-claims organization as both the government and administrator of the modern treaty, in this scenario we predict coexistence between the new government and the existing land-claims organization.

In the third scenario, located in the bottom left quadrant of Table 1, an Inuit group encloses its self-government agreement within its land-claims agreement and chooses public government. This sets the stage for coexistence and intra-jurisdictional interactions. Public government means that the new government must represent both Inuit and non-Inuit residents in the new region. The land-claims organization remains in existence because it must administer the land-claims agreement and represent Inuit beneficiaries in the region. Currently, there are no Inuit groups that have chosen or are considering this model. Historically, federal policy relating to land-claims agreements and self-government agreements mandated that land claims had to be negotiated first, before self-government. As such, Inuit groups were not able to choose a sequence of negotiations that would produce the third scenario. None the less, it remains available to those groups that have yet to complete a land-claims agreement and a self-government agreement.

In the fourth scenario, located in the bottom right quadrant of Table 1, an Inuit group completes a land-claims agreement first, followed by a self-government agreement, and then chooses a public form of self-government. Like scenario three, these two choices produce coexistence; a new government emerges which must then work alongside the land-claims organization. An example of this scenario is Nunavut. As will be outlined in more detail in the following section, the initial land claim was the result of trilateral negotiations between the federal and territorial governments, and the Tungavik Federation of Nunavut, the land-claims organization that was formed to negotiate on behalf of the Inuit in the eastern part of the NWT. The formal, legal process began in October 1992 with the signing of the Nunavut Political Accord by all three parties to the negotiations. The Accord provided a timetable and process for the creation of the Territory of Nunavut. It was followed by the signing of the Nunavut Land Claims Agreement and the passing of the Nunavut Act by the Canadian Parliament in July 1993, and the eventual establishment of the Territory of Nunavut in April 1999.

Immediately after the land-claims agreement came into effect, the Tungavik Federation of Nunavut was dissolved and replaced by a new organization called Nunavut Tunngavik Incorporated, whose main role was to manage and implement the land-claims agreement. Therefore, unlike Nunatsiavut, where the land-claims organization was formally dissolved, the NTI continued to exist after the signing of the land-claims agreement and prior to the formal establishment of the Nunavut government.

The end result of these events is intra-jurisdictional interactions. The government of Nunavut is a public government that governs on behalf of all Aboriginal and non-Aboriginal residents in the territory. NTI, the Nunavut land-claims organization, acts as the main representative body for the beneficiaries of the treaty and manages all of the lands, resources and benefits that flow out of the treaty. Coexistence, therefore, rather than the dissolution of the land-claims organization, is the end result in this scenario because the Inuit of Nunavut chose public government rather than ethnic government. As well, although less important in this situation, the sequencing of the agreements meant that a land-claims organization was necessary and preferable for defending the interests of the land claim and its beneficiaries, even after the new government of Nunavut was established.

Another potential example of this scenario is Nunavik in northern Québec. In 1975, the Inuit of Nunavik were signatories to the James Bay and Northern Québec Agreement (JBNQA), the first modern treaty. Although this treaty was strictly a land-claims agreement, it did contain provisions for the province of Québec to create regional public governments (Wilson, 2008). During the mid-1980s, the Inuit in the region decided to pursue a self-government agreement that would bring together all of the various institutions of public government into one unified Nunavik government, overseen by an executive branch. In 2003, the Inuit of Nunavik and the governments of Québec and Canada signed a Negotiation Framework Agreement. The parties completed an agreement-in-principle in 2007 (Wilson, 2008) and a Final Agreement in January 2011. Several months later, however, the Inuit of Nunavik voted against the Final Agreement in a referendum, meaning that the parties must now restart negotiations from scratch if they want to continue pursuing a self-government agreement. In the meantime, the lands, powers, resources and benefits that flow out of the

Nunavik land-claims agreement are administered by the Makivik Corporation, an Inuit economic development corporation that is similar to NTI (Wilson and Alcantara, 2012).

In sum, the choice between public and ethnic government and the sequencing in which land-claims and self-government agreements are completed both have a powerful effect on determining which political actors (specifically, Aboriginal government only or Aboriginal government and land-claims organization) are involved in Aboriginal self-governing regions. In three of the models above, scenarios two, three and four, some sort of coexistence is the norm; the new Aboriginal governments in these scenarios must work alongside the existing land-claims organizations to govern and manage their regions, either co-operatively or competitively. In only one model, scenario one, does the land-claims organization disappear completely, leaving the new Aboriginal government as the sole political, economic, social and cultural authority in the region.<sup>5</sup> Although the nature of intra-jurisdictional relations in this one scenario is quite clear (i.e. no intra-jurisdictional relations between a land-claims organization and Aboriginal government), the nature of intra-jurisdictional interactions in the other three scenarios is less simple and straightforward. The next section of this paper examines these interactions in more detail and discusses several factors that may explain the resulting patterns.

*Explaining the Frequency of Intra-jurisdictional Interactions in Inuit Self-governing Regions: Institutional Choices, Preferences and Power*

On an ordinal continuum from highest to lowest, we expect the following frequency of intra-jurisdictional interactions to exist among the four scenarios: scenario four (public + delay between agreements) > scenario three (public + no delay) > scenario two (ethnic + delay) > scenario one (ethnic + no delay). In terms of the four Inuit regions, we expect the following rank-ordering: Nunavik > Nunavut > Inuvialuit Settlement Region (ISR) > Nunatsiavut. We construct these rank-orderings based on the influence of two key institutional choices (i.e. ethnic vs. public government and sequencing) on the preferences and powers of the Inuit governments and the land-claims organizations in each region, following the negotiation of the treaty and the self-government agreement. We focus on preferences and power because the inter-governmental relations and negotiation literatures emphasize these factors as being important and influential for structuring interactions and outcomes (Simeon, 2006). For instance, comprehensive land-claims and devolution negotiations in the Canadian territorial north have been found to be strongly influenced by the distance between the preferences of the negotiating actors (Alcantara, 2012, 2013).

Yet the content and distance of preferences alone are insufficient to explain inter-governmental or intra-jurisdictional interactions. Also important are the power relations that exist between the actors (Simeon, 2006; Alcantara, 2012). If one government or governance body holds a monopoly of power and power resources in a region, then there is likely to be little meaningful interaction since the weaker government/body can do little to prevent the dominant government/body from doing what it wants. In contrast, a more balanced distribution of power is likely to lead to more frequent interactions, especially if preferences are divergent.<sup>6</sup> Any distribution of power

between the monopoly and balanced distributions will also produce meaningful and frequent interactions.

The ways in which preferences and power resources influence the frequency of intra-jurisdictional interactions in Inuit self-governing regions are strongly influenced by the legacies of key institutional choices, specifically public vs. ethnic government and the sequencing of agreements. We expect the most frequent intra-jurisdictional interactions to occur in scenario 4. In this scenario, the preferences of the new Inuit government are likely to be different from the preferences of the land-claims organization, mainly because the Inuit group chose public government. Public government means that the new government and the land-claims organizations will have different mandates, responsibilities and constituencies and thus are likely to have different preferences. In the case of Nunavut, for instance, the Government of Nunavut is responsible for representing all residents of the territory, both Inuit and non-Inuit. Its goals, therefore, are to serve these broader interests. In contrast, NTI is responsible for representing Inuit beneficiaries only. Therefore, its goals will be to serve these narrower interests.

In contrast to scenario 4, we expect slightly less frequent intra-jurisdictional interactions in scenario 3. Again, since public government is the model, the preferences of the new Aboriginal government and the land-claims organization are likely to diverge, resulting in frequent interactions akin to scenario 4.<sup>7</sup> It may be that the interactions are slightly less frequent than in scenario 4 because, in this scenario, there is no lag between the completion of the modern treaty and the self-government agreement and therefore the path-dependent effects of managing the land claim prior to self-government will not exist.

Finally, we expect scenario 2 to have less intra-jurisdictional interactions than scenarios 3 and 4. The choice of ethnic government means that it is highly likely that the new government will have the same preferences that the land-claims organization has, given that both represent the same constituents (i.e. the beneficiaries). This preference convergence should result in the mitigation of any sequencing effects on the frequency of intra-jurisdictional interactions, at least compared to scenarios 3 and 4.

The distribution of power resources is also influenced by key institutional choices, specifically the decision to adopt ethnic or public government and the sequencing of completed agreements. In scenarios 3 and 4, the new government is likely to have a broad range of powers at its disposal to undertake its public responsibilities. The land-claims organization is also likely to have a range of significant powers because it remains responsible for defending the land-claims agreement and its beneficiaries, especially in situations where the preferences of the broader public diverge from those of the beneficiaries. The powers available to land-claims organizations can include, for instance, litigation in Canadian courts, symbolic power (i.e. as the voice of the Inuit group), and financial resources, all of which are partly a consequence of the choice to adopt public government. Sequencing may matter here as well in that the longer the land-claims organization is able to administer the treaty prior to the implementation of a self-government agreement, the more likely the land-claims organization will have acquired experience, symbolic power, and human resources and expertise to deploy. In scenario 2, the land-claims organization is likely to have fewer power resources compared to its counterparts in scenarios 3 and 4 given the

choice of ethnic government. In the case of the Inuvialuit, for instance, evidence suggests that the Inuvialuit Regional Corporation will become much less important and able to defend the interests of the treaty and its beneficiaries once a new Inuvialuit government is born. Finally, in scenario 1, all of the power is located in the hands of the new government, and intra-jurisdictional relations take on a wholly new (yet familiar in non-Aboriginal settings) dynamic of internal relationships between different branches of power or different political parties or factions.

In sum, this section outlined a theoretical framework for analysing intra-jurisdictional interactions between land-claims organizations and Aboriginal governments in existing and newly emerging Inuit self-governing regions. The first part of our framework focused on understanding how initial institutional choices can affect which actors and what kinds of environments might exist in these regions, as treaties are negotiated and self-government arrangements are put into place. The second part focused on the effects of these initial institutional choices on preferences and power resources and how preferences and power resources could influence the frequency of intra-jurisdictional interactions. The result is a theoretical starting point for analysing intra-jurisdictional relations in these regions.

As is typical in the historical institutionalist tradition, however, the application of this framework will depend heavily on the specific context of the different cases under examination. So although broad patterns relating to preferences and power relations give us a useful starting point for making sense of these relationships, there is room for variation within each scenario. Given the fact that Nunavut is the only region where a self-government arrangement is fully functional and where an Inuit government and a land-claims organization coexist, the next section of this paper applies our theoretical framework to Nunavut's experiences over the last decade of its existence. Specifically, we ask the following questions: what kinds of interactions occur between the government of Nunavut and NTI? To what extent can we explain these interactions by focusing on institutional legacies, preferences and power resources?

Before we discuss the Nunavut case, it bears re-emphasizing that the main goal of this paper was to specify some theoretical expectations regarding the factors that might produce different patterns of intra-jurisdictional relations in Inuit self-governing regions. Unfortunately, this theoretical framework cannot be systematically tested because, at present, the number of completed Inuit cases is limited to Nunatsiavut and Nunavut. However, in order to demonstrate the potential value of this framework, we provide an overview of the intra-jurisdictional interactions that are occurring in Nunavut. Future research will have to investigate more systematically the utility of our framework in other cases once the Inuit in the ISR and Nunavik complete their self-government agreements.

### **Intra-jurisdictional Relations in Nunavut**

The hybrid political structure in Nunavut is unique in Canada, if not the world, in that it combines public and ethnic governance bodies within a single territorial jurisdiction. Both the Government of Nunavut (GN) and NTI have representative legitimacy within the territory. The GN is a public government, elected by the eligible voters of Nunavut, regardless of ethnicity. Its institutional structure is similar to other

provinces and territories within the Canadian federation. It is comprised of departments in areas such as education, finance, environment, and health and social services, as well as various public agencies, such as territorial corporations and statutory bodies. These departments are headed by cabinet ministers, who are elected representatives in the Legislative Assembly of Nunavut (GN). In terms of finances, the GN is heavily dependent on transfer payments from the federal government (White, 2009; Alcantara, 2012).

By contrast, NTI is the legal representative of the Inuit beneficiaries of the Nunavut Land Claims Agreement (NLCA), which was signed in 1993, prior to the creation of the Territory of Nunavut and the GN. Its primary responsibility is to ensure that the obligations specified in the NLCA are implemented by the Government of Canada and the GN. NTI is headed by a nine-person Board of Directors which is elected by adult beneficiaries to the NLCA. It is also comprised of three Regional Inuit Associations (RIAs) which serve the different regions in this vast territory. In 2011, NTI reorganized itself into six policy-orientated subdivisions (executive, corporate services, social and cultural development) and departments (implementation, wildlife and the environment, and lands and resources). NTI is financially dependent on the Nunavut Trust, a body which:

manages and invests the \$1.1 billion land-claims settlement that was paid in yearly installments by the Government of Canada to Nunavut Inuit until 2007. The Nunavut Trust also receives a share of the resource royalties paid to the Government of Canada from resource production on Crown land (Nunavut Tunngavik Inc.).<sup>8</sup>

As mentioned above, NTI played a pivotal role in the establishment of a public government in the territory. NTI succeeded the Tungavik Federation of Nunavut (TFN) in 1992, following a successful referendum on the Nunavut Final Agreement. In 1993, the President of TFN, Paul Quassa, and the Prime Minister of Canada, Brian Mulroney, signed the NLCA. In the period between 1993 and the formal establishment of the Territory of Nunavut in 1999, NTI participated in extensive discussions on the new public government model with representatives of the Government of Canada and the Government of the Northwest Territories (Légaré, 1998). NTI's involvement in the institutional development of Nunavut and, in particular, the GN, coupled with its continuing role as the guardian of the NLCA, sets the stage for a very interesting series of intra-jurisdictional interactions.

Although the coexistence<sup>9</sup> of two democratically-legitimate governance bodies within the same territory could be a recipe for political conflict, relations between NTI and the GN have been generally co-operative. This is even more surprising given the acute public policy challenges facing the territory and its people. The institutional basis for such co-operation is a series of protocols which outline the nature and character of their relationship. In 1999, they signed the *Clyde River Protocol*, in which both organizations mutually recognized each other's importance and pledged to work together on common projects relating to: the implementation of the NLCA; co-operation in areas of shared NLCA responsibility (i.e. hunter support, economic development and jurisdiction over Crown land and mineral rights), the protection of

Inuit culture in Nunavut and Canada; Aboriginal treaty rights in Nunavut and Canada; and Nunavut's place in the world. The protocol also specified that regular meetings should take place between officials from both organizations, but that meetings between the Premier of Nunavut and the President of NTI should only be convened "on an as needed basis" (Nunavut Tunngavik Inc. and Government of Nunavut, 1999).

The institutional foundations of this relationship were revisited in 2004, when the GN and NTI signed the *Iqqananaijaqatigiit: Government of Nunavut and Nunavut Tunngavik Incorporated Working Together* agreement. This agreement outlined a more regular meeting schedule between senior officials from the GN and NTI. It also provided a framework for dealing with disagreements between the two groups (Nunavut Tunngavik Inc. and Government of Nunavut, 2004). The relationship between the GN and NTI was renewed once again with the 2011 *Aajiiqatigiinniit: Government of Nunavut and Nunavut Tunngavik Incorporated Working Together* agreement. The agreement reiterates many of the policies outlined in the previous agreements, and also commits the leaders to a series of meetings and annual updates (Nunavut Tunngavik Inc. and Government of Nunavut, 2011).

Whereas one could argue that this constant process of institutional renewal is a sign that relations between the GN and NTI may be problematic, a closer examination of the agreements suggests that over time, the two organizations have realized that they need to put in place a more formal process for conducting intra-jurisdictional relations, especially as their relationship and the needs of their respective constituencies evolve. Overall, it seems that the GN and the NTI work together best when confronted with a common external challenge, such as the federal government's long gun registry, or in an area where the federal government has failed to address a policy problem, such as housing. In these cases, the preferences of GN and NTI converge when there is a breakdown in intergovernmental relations, which in turn encourages closer intra-jurisdictional relations between the GN and NTI.

Despite the protocols and areas of mutual concern, however, the relationship between the GN and NTI has not always run smoothly. Intra-jurisdictional conflicts and differences of opinion have occurred in a number of areas. Such conflicts are products of the institutional choices that were made at the outset of the self-government process and, more specifically, the different preferences and asymmetries in power resources that these institutional choices have created. By the time Nunavut was formally established in 1999, NTI had already entrenched itself as the guardian of the NLCA and the representative of the beneficiaries to that agreement, a group that constitutes an overwhelming majority of the population of Nunavut. As such, the decision not to dissolve NTI or incorporate it formally into the GN set the stage for a power struggle between the two governance bodies.

This is particularly true in the area of language, culture and education, where NTI sees itself as the 'primary' champion of Inuit rights, but where the GN has a role to play in terms of delivering services to the citizens of Nunavut. A good example of co-operation between the GN and the NTI on issues relating to language, culture and education is the establishment of Piqqusilirivvik, a new Inuit Cultural Learning Facility, in Clyde River (with satellite programming in Baker Lake and Igloodik). According to the GN, this facility "is dedicated to enabling the transfer of traditional culture, knowledge, life style, skill sets and values, taught in the Inuit language and based on Inuit

Qaujimaqatuqangit guiding principles” (Piqqusilirivvik, 2013). When Piqqusilirivvik opened, NTI President Cathy Towtongie stated that “NTI has been a proud partner in the development of Piqqusilirivvik with the Government of Nunavut” (Fleischer, 2011).

Yet, despite such examples of co-operation, the NTI has repeatedly criticized the GN for not doing enough to promote Inuktitut and Inuit culture, both within the education system and in government. In response to the government’s Education Act of 2008, NTI, along with the national Inuit organization, Inuit Tapiriit Kanatami (ITK), developed a strategy on education entitled *First Canadians, Canadians First: National Strategy on Inuit Education*. The strategy focused on two particular issues: getting Inuit students to stay in school and ensuring that the curriculum promoted Inuit language and culture. According to a report in *Nunatsiaq News*, while the territorial government supported the strategy “in principle”, it maintained that it lacked the funds to implement it (Rogers, 2011).

More recently, the NTI has raised concerns about the health and well-being of Inuit children and youth in Nunavut. In its 2010–11 Annual Report on the State of Inuit Culture and Society, it accused the Governments of Canada and Nunavut of not engaging with Inuit on this issue “in a way that is consistent with the United Nations Declaration on the Rights of Indigenous Peoples” (Nunavut Tunngavik Inc., 2011–12: 3). Furthermore, it also stated that the Government of Nunavut has not met its obligations under Article 32 of the Nunavut Land Claims Agreement (NLCA) (NTI Annual Report, 2011–12: 3). Article 32 of the NLCA outlines the rights of Inuit “to participate in the development of social and cultural policies, and in the design of social and cultural programs and services, including their method of delivery, within the Nunavut Settlement Area” (Nunavut Land Claims Agreement, 1993).

The dispute over the education strategy issue aptly illustrates the differences between the two bodies in terms of the power resources at their disposal and their conflicting preferences with regards to the constituencies these resources will serve. As Michael Mifflin (2009) has argued, NTI’s control over lucrative resource rents has hamstrung the government and its ability to respond to most critical policy problems facing the territory. In some cases, NTI has refused to allow the money that it earns from Inuit Impact and Benefit Agreements (IIBAs) to fund community projects because such projects might assist non-beneficiaries to the NLCA. Had the architects of Nunavut decided to establish a single public governance structure, such conflicts would have taken place within and between government departments, rather than between the GN and NTI. As it stands, while the conflict is more public and open, the imbalance in power resources between the two bodies, coupled with their conflicting preferences and constituencies, leads to institutional inertia and deadlock.

Another indication of the asymmetries in power resources between the two bodies is their competition in the area of human resources. The lack of qualified, local staff is a challenge that has plagued Nunavut for over a decade (Timpson, 2009) and, according to the *Mayer Report on Nunavut Devolution*, has been one of the most important barriers to Nunavut’s effective development (Mayer, 2007). NTI has been accused of “poaching” the best people from government, thereby eroding the capacity of government to address the pressing public policy challenges facing the region (Hicks and White, 2000: 62). Both NTI and the GN are particularly intent on hiring qualified Inuit, who are limited in number and also targeted by private-sector organizations.



Although NTI has worked with the GN to develop training programmes for Inuit, the two bodies compete with each other for the best and most talented individuals (White, 2009: 73).

Differences between NTI and the GN have also appeared around the thorny questions of intergovernmental consultation and devolution.<sup>10</sup> The federal government's duty to consult Aboriginal peoples before taking government-sanctioned action, as first outlined by the Supreme Court of Canada in the case of *R v. Sparrow* (1990), has been complicated by the coexistence of two organizations with legitimate claims to represent the interests of Inuit peoples in Nunavut (Isaac and Knox, 2003). In the past, the GN has unsuccessfully tried to establish its position in litigation involving NTI and the federal government. The federal government, in turn, has tried to both involve the GN (*NTI v. Canada (A.G.)*) and prevent its involvement (*Nunavut Territory (Attorney General) v. Canada (Attorney General)*) in such litigation.

This brief case study illustrates how intra-jurisdictional relations and the hybrid governance structure in Nunavut affect the territory's intergovernmental relationship with the federal government. Compared to other provinces and territories in the Canadian federation, the unique nature of governance in Nunavut necessitates an entirely different set of intergovernmental relations. NTI's representative legitimacy and resources, coupled with the duty to consult, has empowered NTI to act in an area that is usually confined to 'governments'. NTI's involvement in high-level negotiations regarding Nunavut's future is further evidenced in the debate over devolution. As in other areas, there is evidence of both intra-jurisdictional collaboration and conflict. In 2008, a protocol on a phased approach to devolution, which is the transfer of administrative authority over territorial lands from the federal to the territorial government, was reached between the federal government, the GN and NTI. Although negotiations on a final agreement have stalled, the fact that a protocol was signed suggests a co-operative approach between the GN and NTI. Both organizations support devolution in principle, but their preferences diverge on the specifics, especially in controversial areas, such as resource development. Generally speaking, the GN seeks 'province-type' powers to manage the territory's resources, while NTI wants to ensure that devolution does not derogate from any party's responsibilities under the NLCA (Mayer, 2007; Alcantara, 2013). If devolution occurs in the future, it could trigger conflict between the GN, which seeks greater control over Nunavut's resources, and NTI, which has primary and existing responsibility for resources under the NLCA.

## Conclusion

By applying historical institutionalist analysis to various examples of Inuit government in the Canadian Arctic, this article provides a useful theoretical framework and starting point for exploring intra-jurisdictional relations at the territorial and regional levels of government. Although many of the Inuit regions identified at the outset are still in a process of institutional transition, the Nunavut case demonstrates that the intra-jurisdictional relations in the territory are a product of specific institutional choices that were made prior to the creation of Nunavut in 1999. By institutionalizing two autonomous organizations—with different political preferences, constituencies and

resources—within a hybrid governance model, the founders of Nunavut have provided the basis for a unique, albeit not always constructive, type of intra-jurisdictional relations. These relations have not only influenced Nunavut's internal politics, but also the territory's intergovernmental relationship with other levels of government. Some emerging Inuit regions may indeed follow Nunavut's governance path, while others may choose a different path. In all cases, however, the choice of institutions will have an important and lasting impact on the development of these regions.

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## Notes

<sup>1</sup>There are three constitutionally recognized Aboriginal groups in Canada: First Nations, Métis (who trace their descent to mixed European and Aboriginal heritage) and Inuit.

<sup>2</sup>Our use of the term 'coexistence' here and elsewhere does not refer to the nature of relations in the region (e.g. co-operative or conflictual) but instead simply indicates that two distinct governance bodies exist in the region.

<sup>3</sup>As other Aboriginal peoples in Canada achieve self-government, this framework could be used more extensively. Much would depend, however, on the existence of land-claims organizations prior to the negotiation of self-government.

<sup>4</sup>The Inuit do not fall under the jurisdiction of the Indian Act, a piece of federal legislation that has defined the relationship between First Nations and the Government since 1876. The Indian Act requires the establishment of Aboriginal or band governments on all First Nations reserves. These governments have played an important role in self-government negotiations. The absence of band governments in Inuit regions has meant that the Inuit have often turned to the land-claims organizations to represent their interests at the negotiating table.

<sup>5</sup>By sole authority, we mean in terms of whether the Aboriginal government shares power over the land-claims agreement and beneficiaries with a competing Aboriginal body or organization within the region. We are, of course, cognizant of the fact that Aboriginal self-governing regions are also subject to federal, provincial and territorial jurisdictions (see Wilson, 2008).

<sup>6</sup>Of course, if preferences are similar, meaningful interaction in the form of co-operation may still be frequent if jurisdictions and powers overlap.

<sup>7</sup>Much depends, of course, on the homogeneity and heterogeneity of the population in each region. In all Inuit regions, however, there are at least some non-Inuit residents and thus we expect at least some significant divergence in preferences since the government must represent these non-Inuit interests, regardless of their population size.

<sup>8</sup>See <http://www.tunnngavik.com> (accessed 26 Jun 2012).

<sup>9</sup>In this context, coexistence refers to the existence of two separate bodies (NTI and the GN) within the same territorial jurisdiction, not to the nature of the relationship between these bodies.

<sup>10</sup>The Canadian territories (Yukon, Northwest Territories and Nunavut) were established by federal legislation and, as a result, their powers are somewhat constrained by federal paramountcy. In recent years, however, they have gained greater autonomy through a process of devolution (see Alcantara, 2013).

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