

## ARTICLES

### **Our Land, Our Way – The Administration and Management of Environmental Law and Policy in Nunavut**

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On 1 April 1999, Nunavut was born, Canada's first new jurisdiction since Newfoundland joined the Dominion in 1949. The territory of Nunavut makes up 20% of Canada's land area but is home to just 25,000 people, 20,000 of whom are Inuit. The *Nunavut Act* 1993 requires that political institutions be established; following elections held in March 1999, it is clear that Nunavut will be governed by Inuit for the foreseeable future. Because of all of these reasons, there has been considerable interest in the establishment of Nunavut, at home and overseas.<sup>2</sup> The purpose of this short paper is to discuss briefly the context of environmental policy in the region, and give an overview of the particular approach taken to the environmental law provisions found within the *Land Claims Settlement Act* 1993 ('the Act').

The geographical location of Nunavut ensures that it has as much in common with its neighbours in the circumpolar world as it does with the federal government in Ottawa. In 1977 the first Inuit Circumpolar Conference (ICC) was held between the Inuit of Canada, Alaska and Greenland.<sup>3</sup> The Russian Inuit joined later, and the Saami of Scandinavia have continued to support the Inuit cause - to advance political and land claims, and emphasise environmental protection.<sup>4</sup> In parallel with the development of the ICC were the links formed between the eight Arctic governments of Canada, Denmark/Greenland, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States; these met in 1991 to establish the Arctic Environmental Protection Strategy (AEPS). Implementation was later taken over by the Arctic Council, which was formed in 1996.<sup>5</sup>

The Act contains provisions for the establishment of protected areas (Articles 8 - parks, 9 – conservation areas, and 15 – marine areas); for the protection of species (Article 5 - wildlife); for water rights and water management (Articles 20 and 13 respectively); and for land use planning,

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<sup>2</sup> Jull, P, 'Reconciliation and Northern Territories, Canadian-Style: The Nunavut Process and Product', (1999) 4 *Indigenous Law Bulletin* 4-7; Forbes, C, 'Brave New World', *Weekend Australian Review*, (1999) April 3-4, 6-8; Editorial, 'The Sorry State of Reconciliation', *The Age*, (1999) May 26; Various, 'Nunavut: Special Report on the New Territory', (1999) 119/1 *Canadian Geographic*; Various, 'April 1 1999 Souvenir Edition' (Nunavut newspaper), *Nunatsiaq News*, <http://www.nunatsiaq.com/nunavut>; and Parfit, M, 'A Dream Called Nunavut' (1997) 192/3 *National Geographic*.

<sup>3</sup> The inspiration of Greenland is particularly strong in the North. The Greenlandic Inuit achieved partial independence from Denmark with the passage of the *Greenland Home Rule Act* 1978. This contains provisions for environmental protection and related matters.

<sup>4</sup> See ICC, *Inuit Circumpolar Conference June 1977*, Resolution 77-05 (Concerning environmental policy), <http://www.buchhold.com/EbenHopson/icc/ICCBooklet.html>; ICC, *Principles and Elements for a Comprehensive Arctic Policy*, Part III Environmental Issues; ICC, *Presidents Report*, Nuuk, July 24-31<sup>st</sup> 1998; and ICC, *1998 Draft Resolutions*.

<sup>5</sup> Fourth Ministerial Meeting, *The Arctic Environmental Protection Strategy*, Alta, Norway, June 12-13 1997; Arctic Council, *Declaration on the Establishment of the Arctic Council*, Ottawa, Canada, September 19 1996; and Tennberg, M, *The Arctic Council: A Study in Governmentality*, ACTA Universitatis Lapponiensis, Rovaniemi, 1998.

impact assessment and natural resource development (Articles 11, 12 and 27 respectively). The Act also contains provisions for the administration and management of the land and its resources (Article 10 – land and resource management institutions).<sup>6</sup> Resource management institutions established include the Nunavut Planning Commission, the Nunavut Impact Review Board, the Nunavut Wildlife Management Board, the Nunavut Water Board, and the Nunavut Marine Board.<sup>7</sup> The relationship between each of these institutions ensures that they are well integrated with one another and the potential for overlapping responsibilities has been minimised. This is a huge advantage of establishing a new regime for environmental administration and management, as it is possible to introduce co-ordinated frameworks where before there had been little or no provision at all.

In common to all of these institutions is the co-management approach to environmental issues and the use of traditional ecological knowledge (TEK) in decision-making. Co-management has become a useful approach to claims legislation, shifting decision-making for renewable resource management from government agencies to co-operative management bodies on which indigenous peoples have an equal say. In Nunavut, Inuit are therefore guaranteed equal representation on the Boards established for environmental management. TEK is therefore a way of balancing values in decision-making, and has been defined as:

... a body of knowledge and beliefs transmitted through oral tradition and first hand observation. It includes a system of classification, a set of empirical observations about the local environment, and a system of self-management that governs resource use. Ecological aspects are closely tied to social and spiritual aspects of the knowledge system.<sup>8</sup>

The role of the Nunavut Social Development Council, established under Article 32 of the Act, is an important one, which pervades each of the environmental law provisions. It is required to assist, define and promote social and cultural development goals and objectives. Articles 8 and 9 of the Act therefore require an Inuit Impact and Benefit Agreement to be carried out prior to the establishment of any parks or conservation areas; this is to ensure that matters connected with them are not detrimental to Inuit, and that benefits are conferred on Inuit as a result. With regard to Articles 11 and 12, special attention is given to protecting and promoting the existing and future well-being of Inuit and Inuit owned lands. Due regard is to be given in public hearings to the tradition of Inuit oral communication and decision-making, parties can be heard in Inuktitut (the Inuit language), and intervenor funding is available. Perhaps of greatest importance of all to the Inuit is their relationship with their wildlife. Article 5 recognises that Inuit are the traditional and current users of wildlife, and that the exercise of Inuit harvesting rights are governed by and are subject to conservation principles.

In conclusion, it must be said that it will take time for any new approach to implementing environmental law to be seen to be effective. What is important for now is that at least the Inuit of Nunavut are able to make the important decisions about the administration of their own land and resources. Indigenous peoples worldwide can feel a sense of pride that Nunavut is indeed the land of the Inuit and that the Inuit can at last make their own choices based upon their own value systems. For too long has it been otherwise.

<sup>6</sup> The Land Claims Agreement which contains each of these provisions is available on the government site and also on the Nunavut Tunngavik Inc (NTI) site. NTI is responsible for the administration of land claims in Nunavut.

See <http://www.incc.gc.ca/pubs/nunavut/index.htm> and <http://www.tunngavik.com/site-eng/nlca>

<sup>7</sup> The Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB) have useful websites detailing ongoing and intended work programs. See <http://npc.nunavut.ca/eng/npc> and <http://ipg.nunavut.ca/nirbpg.htm>

<sup>8</sup> Cited in Weinstein, M, *Traditional Knowledge, Impact Assessment, and Environmental Planning*, Canadian Environmental Assessment Agency, 1996. See also Nunavut Social Development Council, *Report of the Nunavut Traditional Knowledge Conference*, Igloolik, March 20-24 1998.