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# Some Thoughts on Consensus Government in Nunavut

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by Kevin O'Brien, MLA

*Nunavut is one of two jurisdictions in Canada (the other being the Northwest Territories) where there are no political parties in the legislature. This article argues that consensus government is a northern variation of the standard Westminster model of responsible government. It describes the theory and practice of consensus government in Canada's newest territory.*



Many elements of consensus government are the same as in a legislature with political parties. We have a Premier, cabinet and private members; three readings for a bill, Hansard, question period, a politically neutral Speaker, motions of non-confidence and so on. Moreover, in terms of constitutional fundamentals, we follow the principles of the British parliamentary model of "responsible government".

The government – premier and cabinet – hold and retain power by maintaining the "confidence" of the House, which in practice means winning the votes in which confidence is explicitly at issue.

Once Cabinet reaches a decision, all ministers must publicly support that decision, whatever their personal reservations and whatever arguments they may have made behind closed cabinet doors. The principle of "cabinet solidarity" must remain

The spending of public money and the raising of public revenue through taxation may only be initiated by cabinet ministers; regular members certainly have the power to approve or reject such measures when they come before the legislature but bringing them forward remains a cabinet prerogative. Similarly, control and direction of the permanent bureaucracy rests firmly in cabinet's hands.

Ministers, both as political heads of individual departments and as members of a unified cabinet, are answerable to the legislature for the policies and decisions of government; this enables the public service to operate in a non-partisan fashion whereby bureaucrats answer to MLAs through their ministers.

People often wonder how we can truly have a parliament on the British responsible government model without political parties. Others presume that the absence of parties is simply a sign of our lack of political "maturity" and that once we have reached the proper stage of political development we will acquire parties. I note in passing that no one ever describes Nebraska as politically immature, although its legislature has long operated on a nonpartisan basis.

Political parties may indeed emerge in Nunavut somewhere down the road, but for the time being our residents think the system works fine without them. Our vision of political maturity is one of controlling our own affairs and does not necessarily require political parties.

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*Kevin O'Brien is Speaker of the Legislative Assembly of Nunavut. This is a revised version of his address to the 26<sup>th</sup> Canadian Regional Seminar of the Commonwealth Parliamentary Association held in Iqaluit on October 16-19, 2003.*

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As for the view that a proper Westminster system includes parties, I would point out that the key principles of responsible government I have just outlined were firmly in place in Britain and Canada well before the disciplined political parties we know today emerged in the mid and late 19<sup>th</sup> century.

However while the underlying constitutional principles are identical to those in Westminster-style parliaments in Canada and elsewhere, the way we put them into practice is quite different.

### Consensus Government in Operation

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Southerners observing our legislature immediately notice two things. First, much of our proceedings take place in Inuktitut. Second, debate is civil. MLAs listen to each other and do not often interrupt.

Nunavut MLAs, like politicians everywhere, get angry, upset and critical, but for the most part our proceedings are calm and respectful. Like the frequent use of Inuktitut, this reflects Inuit culture, in which direct confrontation is to be avoided and one listens attentively – and does not interrupt – when another is speaking.

Heated political battles occur behind the scenes but the norms of civility and respect are powerful. They certainly make the Speaker's job easier in maintaining order in the House.

All candidates for territorial election, including MLAs and ministers standing for re-election, run as independents. Some have strong and widely known connections to the national political parties. But while these affiliations likely have some bearing on candidates' attractiveness to voters, we all run – and are judged by the voters – on the basis of our personal views and records.

In the House, while there are certainly groupings and alliances among MLAs, there are no hard and fast lines, enforced by strong party discipline, dividing MLAs, as in the South. Nor, as I will explain in a moment, is there a traditional "opposition".

Regular members speak and vote in the House as they think best. Ministers typically speak and vote in unison, in keeping with the principle of cabinet solidarity, but on matters not directly linked to government policy, they too speak and act independently.

Central to consensus government is the way we choose our cabinet, including the Premier: This is done by secret ballot of all MLAs. Thus unlike Southern Canadian parliaments, where ministers owe their appointments directly to the Premier, Nunavut ministers understand that they were put in office by the MLAs, not the Premier and that they can be removed from office by the MLAs.

The premier assigns ministers to portfolios and also shuffles their assignments, but he does not have the power to dismiss them, as a recent episode demonstrated. In a conflict over a minister's refusal to abide by cabinet solidarity, the Premier was able to discipline the minister by removing his departmental responsibilities, but could not remove him from cabinet.

Some have compared our consensus government to a permanent minority government, for the regular MLAs outnumber the cabinet eleven to seven. There is some truth to that view but in other ways it is misleading. Obviously, the regular MLAs can defeat the government in a vote at any time, either on a specific policy issue or on a question of confidence. This means that – as is the case with minority governments – cabinet has to ensure that it has the voting support of some MLAs and this in turn makes cabinet sensitive to the views of the Legislative Assembly. In keeping with British parliamentary tradition, the Speaker only votes to break a tie.

Since we do not have parties regular members work together and support one another, but are not a formal opposition along the lines of those found in southern parliaments: a disciplined group of members, prepared to – indeed eager to – replace the government. The other characteristic of oppositions that is mostly absent in our House is their relentless fault-finding and finger-pointing and their objection to everything government does. Even when they really agree with government they will usually not admit it and find something to criticise.

***Nunavut MLAs certainly are not shy about voicing criticism of the cabinet, but they do not criticise and oppose just for the sake of criticism and opposition.***

Our Legislative Assembly simply is not as adversarial as party-dominated Houses. An important institution which helps all MLAs work together is caucus. This is a term familiar to all Canadian parliamentarians, but again its meaning and significance in Nunavut is rather unusual. In most other Canadian legislatures, each party has its own caucus and only members of that party participate. Here in Nunavut all nineteen MLAs – including the Speaker – attend and participate in caucus.

Caucus meets regularly – at least once a week when the House is sitting and occasionally when the Assembly is not sitting – to discuss political issues. As in the south, caucus meetings are not open to the public and caucus confidentiality is an important unwritten rule.

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In caucus we are all aware that the Premier is the Premier and the ministers are ministers, but at the same time everyone's views are taken seriously and there is genuine give and take among all MLAs. As one MLA has put it: "there is no such thing as ministers ... everyone is equal when it comes to feeling free to speak".

Some questions can be decided in caucus, which may mean that debate in the House is limited, while on others agreement will not be reached and the discussions will continue in the House and in committees.

I do not want to leave the impression that caucus is the real decision-making body and that it dictates to cabinet. It does not, but the discussions in caucus make it clear where everyone stands and facilitate compromises and problem-solving.

More traditional in form are our legislative committees, though here again, their capacity to influence government decisions is greater than in other Westminster parliaments. Because our House is so small and ministers do not normally serve on committees, we do not have many committees, but the ones we have are quite active.

In addition to two committees which deal with internal matters and the occasional special committee, we have four standing committees dealing with government policy and administration:

- Health and Education
- Government Operations and Services
- Community Empowerment and Sustainable Development and
- Ajauqtiit (Land Claims issues)

These committees have wide-ranging terms of reference which include oversight of specific government departments, including their spending estimates, legislation and special policy reviews. Government Operations also performs the functions of a public accounts committee.

In addition to its mandate to overseeing the department with a special mandate for protecting and enhancing Inuit culture, the Department of Culture, Elders and Youth, the Standing Committee Ajauqtiit – which roughly means "those who push forward" in Inuktitut – has special responsibility for issues arising from the Nunavut Land Claims Agreement as well as for the unique boards and institutions established under the claim.

As is the case in other Canadian parliaments, much of the Assembly's important business is carried out in these committees. A good deal of the committees' detailed work would be familiar to any Canadian parliamentar-

ian. Again, however, there are distinctive twists to the operation and influence of our committees.

First, they are routinely provided by cabinet with confidential information that committees in Ottawa and the provincial capitals could only dream of receiving. This includes draft government legislation, departments' draft expenditure budgets and other confidential documents. Cabinet does not share everything with the committees, but the practice of providing MLAs with important policy documents before they are finalized and made public offers cabinet an opportunity to determine and respond to MLA input and gives MLAs genuine influence – though by no means the final say – in important government decisions.

***A strength of our committee system lies in its capacity to foster a positive and cooperative relationship between cabinet and regular members to provide the best government possible for our constituents.***

This should not be taken to mean that the committees are tame or somehow in the cabinet's pocket. Indeed, since cabinet cannot control the legislative committees, as it usually does in party-dominated parliaments, they can and do act independently when they see the need.

Take a look at some of the hard-hitting committee reports posted on the Assembly's web site and you will see that committees do not hesitate to voice strong criticism of government when they perceive policy and administrative failings. The standing committees have the power to make cabinet do what they want.

Through the Ajauqtiit Committee, regular MLAs play a central role in recruiting and reviewing candidates for the Assembly's independent offices – the Clerk, the Integrity Commissioner, the Languages Commissioner, the Chief Electoral Office and the Information and Privacy Commissioner. Once Ajauqtiit has made a recommendation, the appointment is made on the basis of a vote in the Assembly.

Two other distinctive features of the Nunavut Assembly bear mention. First, we take seriously our commitment to remain close to the people by regularly holding legislative sessions outside Iqaluit, the capital. In other parts of Canada legislative committee hearings and caucus retreats may take place in communities beyond the parliamentary grounds but the House sits only in the legislative chamber.

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We also encourage our committees to travel across Nunavut and regularly hold Caucus meetings throughout the territory, but we go a step further. Every year we pack up the entire Assembly – MLAs, clerks, interpreters and other staff – and hold a session in a community outside Iqaluit. This past June we held a session in Baker Lake. It is expensive, though there are important economic benefits to the host community, but we think it is important to maintain a close connection with the people of Nunavut and, quite literally, bring their government to them.

### Evaluating Consensus Government

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I have argued that consensus government, Nunavut-style, is different and distinctive. But does it really work? I suspect that each MLA would give you a different answer to that question. Overall, my view is that it does work, although it is certainly not without problems.

Let us begin by recognizing that no political system is perfect; all have strengths and weaknesses. There is no question that consensus government offers private members much greater opportunity for real clout than they could have in a party system.

They have, and are prepared to use, the power to choose and dismiss ministers, including the Premier. Both in committees and in the House, they have the weight of numbers to enforce their will on cabinet. In the words of one of the regular members, “together we have just as much power as cabinet if we stick together.”

But consensus government is not just about who has power. The institution of caucus, the absence of parties and party discipline and indeed the whole spirit of consensus government all work toward a political environment where ministers can work closely and cooperatively with regular MLAs.

Just so I do not give you an overly romantic notion of the wonders of consensus government, let me paint you a fuller picture. Some observers say that under consensus government MLAs do have the opportunity to influence government and its policies but that they fail to make good use of their opportunities: too often they are disorganized or they are unwilling or unable to take on ministers.

For their part, some MLAs say that ministers talk a good line about cooperation and consensus but only go through the motions of taking regular members seriously. Some would say the government has a long way to go in involving MLAs and communities properly in major policy decisions.

Views of MLAs about the value of caucus also differ a good deal. While everyone agrees that it is a meeting of

equals, not everyone agrees that “discussions in caucus can be helpful in resolving issues”. Some members dismiss caucus as “a waste of time” arguing that few decisions are actually reached there.

MLAs constantly complain that the cabinet has failed to consult them adequately, that ministers pay more attention to their bureaucrats than to the elected MLAs, that ministers are often unwilling to share critical information with MLAs, that cabinet is less interested in developing a genuine consensus among all MLAs than in playing “divide and conquer” political games.

On the one hand, you have ministers who say all the information cabinet has, the MLAs get, while regular members voice disappointment that the information they get can be incomplete and slow in coming. Some MLAs claim that our system has nothing in common with traditional Inuit consensus decision making, that it represents a rejection rather than an affirmation of Inuit culture and values. More than one MLA has referred to the procedures of the parliamentary system as “alien”.

Consensus government has both notable strengths and weaknesses when it comes to accountability. In our system, cabinet is more directly and genuinely accountable to the elected MLAs than is usually the case in Westminster parliaments. However voters cannot choose between competing sets of policies, as can voters in party systems. For the most part they do not even know who is likely to be in cabinet, and even if they did, they have almost no way of influencing that process. Then, come election time, voters are largely unable to register their approval or disapproval of the government’s record, because the choice before them is who to pick as MLA, not (again, as in party systems) whether to cast their ballot to re-elect or defeat the government.

In Nunavut, the interest in moving to a party system has not been strong to date, but a very different idea for strengthening the accountability of the government to the people has surfaced in the past: electing the Premier in a territory-wide election. It would not surprise me if this idea came up again during our next election period.

Revamping our system by directly electing the Premier – which as you can imagine, would bring about fundamental changes – has also been proposed as a way of dealing with what some critics see as another serious weakness of consensus government. Some contend that without the discipline brought by a powerful Premier, who hires and fires ministers, and with cabinet constantly needing to curry political favour with MLAs because of its minority position, cabinet is left in a weak position.

Under consensus government, they suggest, cabinet lacks coherence and consistency, with ministers too often

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going off in separate directions. Moreover, the criticism runs, cabinet may be reluctant to make the tough decisions on big contentious issues that government sometimes needs to make.

As Speaker of the Assembly, I keep my opinions on the various assessments of consensus government, pro and con, to myself. However, I would like to leave you with one thought about the relevance of consensus government, Nunavut-style to the more conventional parliaments in Canada.

Whether consensus government appeals to you or not, whether you side with its critics or its supporters, I think you will agree that its processes, its culture, its institutional forms *are* different. And yet to repeat a central point I made at the outset, this *is* a system firmly located within the traditions and principles of Westminster-style parliamentary government.

The important lesson to be drawn is that responsible parliamentary government is not the inflexible, hide-bound system its critics sometimes make it out to be. It is highly adaptable and many different organizational forms and political processes are perfectly compatible with its fundamental precepts.

No one is about to propose copying Nunavut's consensus government system in southern Canada. This is unrealistic for any number of obvious reasons. Rather, the message that consensus government holds for southern Canadians is that there is no single definitive model of responsible parliamentary government – many variations are possible.

The genius of the Westminster system lies in its adaptability to a wide range of political circumstances and cultural contexts — we in the North have adapted it to our unique needs and situations.