

Community politics, governance, and land-use planning in Nunavut: Two decades of controversy over  
the Nunavut Land Use Plan.

by

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## **Abstract**

Co-management, the concept that natural resource management is more effective and equitable when governments and local resource users work together, has become increasingly institutionalized in the Canadian territories. This thesis looks at one particularly ambitious application of the co-management principle: the Nunavut Land Use Plan process. Despite over a decade of work and multiple drafts, the Nunavut Planning Commission has been unable to create a plan that is close to approval. This failure illustrates a gap in academic studies of natural resource management processes involving the state and Indigenous peoples in Canada.

While these have largely focused on the management and valuation of knowledges, the policy development aspect and the actual implementation are equally important. Implementation and policy making remain primarily the domain of the state, and even in cases where policy-makers are motivated by progressive aims, this is not only colonial, but ineffective. Through the Nunavut Land Use Plan process has involved the collection and consideration of Inuit knowledge, and the Nunavut Planning Commission has demonstrated a commitment to planning approaches that limit the destructive excesses of industrial capital, the decision-making process that produces the plan is opaque, centralized and technical. This is a key reason for the failure of the planning process. The colonial-modernist wildlife and human management policies introduced in the Canadian North during the mid-20th century failed, and progressive initiatives run by centralized organizations in the rationalist, technocratic tradition of policy making are similarly prone to failure despite their aims. In places like Nunavut that are sparsely populated and have a strained public service, there needs to be a greater shift towards community-based policy making and implementation. While there are some positive steps in this direction occurring in Nunavut, more

resources and capacity should be provided to communities if planners and academics expect there to be policies that respect the knowledges and understandings of communities, or even to simply achieve their intended purpose.

## **Preface**

This thesis is an original work by Samuel Dyck. The research project, of which this thesis is a part, received research ethics approval from the University of Alberta Research Ethics Board, Project Name: Coffee shop politics meets the review board: Rural community agency, consent and development in Canada, No. 00078850, March 14, 2018. The research conducted in Nunavut was licensed by the Nunavut Research Institute, No. 03 019 18N-A, July 04, 2018.

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## Glossary of Acronyms

RIOs: Regional Inuit Organizations (NTI and the three regional organizations)

HTO: Hunters' and Trappers' Organization

IOL: Inuit-owned Lands

IPG: Institution of Public Government

KIA: Kivalliq Inuit Association (referred in some documents as the KivIA to distinguish it from the Kitikmeot Inuit Association)

NBLUP: North Baffin Land Use Plan

NIRB: Nunavut Impact Review Board

NLCA: Nunavut Land Claims Agreement (official titled *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in the Right of Canada*, and also referred to as the Nunavut Final Agreement).

NPC: Nunavut Planning Commission

NTI: Nunavut Tungavik Incorporated (formerly Tungavik Federation of Nunavut (TFN))

NLUP: Nunavut Land Use Plan

NWB: Nunavut Water Board

NWT: Northwest Territories

NuPPA: *Nunavut Planning and Project Assessment Act*

SRT: Surface Rights Tribunal

TFN: Tungavik Federation of Nunavut (now Nunavut Tungavik Incorporated (NTI))

## Introduction

Co-management, the concept that natural resource management is more effective and equitable when governments and local resource users work together, has become increasingly institutionalized in the Canadian territories. As a theory, co-management rejects the liberal and technocratic supremacy that underlies modernist approaches to governance and resource management, and recognizes the value of local Indigenous knowledge and collaborative learning (Armitage, Berkes, & Doubleday, 2007). The ideas and institutions of co-management are so well-established and there is enough experience with co-management that criticisms of the concept have emerged arguing that it only reinforces the same colonial and technocratic approaches to governance that it sought to avoid (Nadasdy, 2005; Stevenson, 2004). As Nadasdy puts it,

The simplistic assumption that “traditional knowledge” is just sitting out there waiting to be collected and used by those engaged in co-management [...] ignores the institutional realities of wildlife management in the Canadian North. [...] I have argued that the production of “traditional knowledge” for use in co-management involves elaborate processes of compartmentalization and distillation. These processes are specifically geared toward rendering the lived experiences of local First Nation people into a form that is compatible with (and useable within) existing institutional structures of state management. Because the standards of relevance by which traditional knowledge is distilled derive from the need for it to be “useful,” those aspects of local First Nation people's experiences that might actually present an alternative to the official discourse are distilled out as useless or irrelevant [...]. For this reason, traditional knowledge often reflects existing management policies and agendas more than local understandings (Nadasdy, 2005).

However, these critiques have largely been about the actual collaborative practice of co-management as knowledge sharing, and not the underlying principles or how co-management relates to policy development, and consequently have tended to focus on the value assigned to local and Indigenous knowledge. While knowledge is an important part of the co-management

process, knowledge sharing is by definition not management. The decades-long experience of the development of the Nunavut Land Use Plan (NLUP), which is the focus of this thesis, shows this. While there are many significant issues with the management, collection, and valuation of Inuit knowledge in the NLUP process, issues of knowledge do not explain the delays and controversies that have plagued the plan's development through multiple drafts. My argument is that the delays are better understood as policy problems: the key issue with the NLUP is not how Inuit knowledge has shaped or been excluded from the plan, but the centralized, technocratic structures that despite their commitment to deliberative and democratic ideals have marginalized communities from the policy development and implementation process. The problem with co-management in practice that is often missed in critiques is not so much how knowledge is valued, but the means by which it is translated into policy and implemented. Building off of this thesis, I will engage with deliberative theory, Indigenous critical theory, and structural critiques of industrial development, all of which have been used to both defend or critique co-management in theory or practice, to understand the flaws of the NLUP process. Despite the intention that the creation of Nunavut would vest increased levels of power in communities, much of the decision-making and implementation, I will argue, remains centralized in what are essentially technocratic institutions that are not only dependent on the colonial state for their authority, but also reinforce the power of the state in their decisions. The normative aspect of colonial power with a mandate to regulate the behaviour of the colonial economy is interesting, but ultimately irrelevant from a practical standpoint: even when these institutions actively seek to limit the excesses of capital, they are ineffective at doing so owing to a combination of limited resources and the general failure of colonial power in implementing effective governance in the Canadian North.

According to the Nunavut Planning Commission (NPC), the body responsible for developing the NLUP, the NLUP will be the largest legally-binding land use plan in the world (Nunavut Planning Commission, 2016b). This is hardly a bold claim given that Nunavut is larger than almost all the world's states. The only potential contender for a plan covering a larger area is the European Spatial Development Perspective (European Commission, 1999), which provides only general, non-binding development guidelines for the entire European Union. The size of the plan is not the only thing unique about the NPC: unlike co-management boards in other parts of the Canada, the NPC and its companion Institutions of Public Government (IPGs) cover the entire geographical jurisdiction of the territorial government that they are separate from and not constitutionally accountable to. Essentially, Nunavut has a separate government body whose sole purpose is land use planning that is legally accountable directly to the federal government. This government duplication is the result of the assumption by Inuit negotiators that the federal government would not permit the division of the former Northwest Territories in land claims negotiations. When the federal government changed its position on division late in negotiations, Nunavut was left with the unprecedented situation of having multiple independent government bodies that do not clearly fit into the federal-territorial binary but have jurisdiction over the entire territory (Hicks & White, 2015). This situation is not necessarily problematic, but has created a peculiar political situation where it is not clear who decides what is in the interests of Nunavut Inuit and the public as a whole, and how competing visions of these interests are managed. Questions of accountability, and competing understandings of accountability are at the heart of my exploration of the politics of land use planning and regulation in Nunavut.

Politics is a process of decision-making that requires the assessing and balancing of competing values and priorities (Easton, 1963). This is especially true in planning and environmental assessment, where review agencies must consider impacts and benefits and come to some conclusion that considers all of these factors and produces a justifiable determination of their significance. In Nunavut and much of the rest of the world, many elected officials and private sector elites operate with the assumption that there is some level of achievable balance or compromise in development. In practical terms, this assumption holds that government bodies are able to effectively consider all economic, social, environmental, and economic factors and produce a result that satisfies all, or at least most parties while protecting all values worth protecting to an acceptable level. For this reason, drafts of the NLUP provide for the protection and promotion of Nunavut's "mixed economy" (Nunavut Planning Commission, 2016b, p. 41) that balance the cash economy alongside subsistence land use. The bodies and their staff tasked with coming up with this ideal balance have no formula to guide them. Instead, they have had to devise their own methods and goals, and then justify them to stakeholders. This is an enormous and possibly unfair burden, but it is the nature of planning and decision-making.

In Canada, Indigenous peoples have long been excluded from the process of political decision-making. Co-management is an attempt to address this. While there are many critiques and defences of co-management in theory and practice, co-management scholars have not effectively engaged with issues of structural power or the norms of deliberative theory that justify co-management within the traditions of Western governance (Henri, 2012; Nadasdy, 2005). By filling these analytical gaps using the NLUP as a case study, I argue that the deliberative approach to governance, despite its critical roots, has actually reinforced

technocratic governance in the Canadian North. While critics of co-management have extensively critiqued the balance of knowledge in co-management boards, I argue that even the progressive norms of policy-makers involved in co-management have produced a regime that is ineffective and does not consider the priorities and politics of local communities.

## **Methods**

The assumption of co-management is that the state is technocratic, centralized, and does not consider the knowledge and interests of local resource users by default, and instead operates with a Eurocentric approach that needs to be complemented by Indigenous Knowledge (Armitage et al., 2007; Simpson, 2004). However, as Nunavut is overwhelmingly Inuit, it serves as an interesting case study in co-management since the public territorial government has a mandate to act in the interests of Inuit and the public as a whole, meaning that the public interest and Inuit interest, if such things exist, ought to be the similar if not identical. I began first effectively exploring these questions of accountability in October 2018, when I spent slightly over three weeks in Baker Lake, Nunavut, a small (though not by the standards of Nunavut), inland, predominantly Inuit community in the Kivalliq district. No community in Nunavut has dealt with these issues of competing values and priorities around land-use and extractive development more than Baker Lake. Baker Lake, known in Inuktitut as Qamani'tuaq, was where local concerns around intensive resource extraction in what would become Nunavut were first brought to the attention of the federal government.

In the late 1960s and early 1970s several large mining companies began to explore for uranium in the area around Baker Lake. Local residents concerned about the stability of caribou populations requested a land freeze from the federal government. Although their requests were

initially denied, the Minister granted a limited one-year freeze on the issuance of new development permits around Baker Lake in 1977. When this freeze was not renewed, the Baker Lake Hunters and Trappers Organization (BLTHO), the Hamlet Council, and the Inuit Tapirisat of Canada (ITC; now Inuit Tapiriit Kanatami) sued the federal government seeking a freeze on land permits and a declaration that their aboriginal rights were to be considered in land use decisions. Like the earlier *Paulette* case concerning the Mackenzie Valley (*Paulette et al. v. The Queen*, 1977) the court did not grant the plaintiffs in the Baker Lake case the remedy they sought of a long term injunction against exploration, but established the existence of their unextinguished Indigenous land rights (*Hamlet of Baker Lake v. Canada (Indian Affairs and Northern Development)*, 1979; McPherson, 2003). This gave the Inuit a clear path to negotiate a land claims agreement with the federal government (McPherson, 2003). But the ongoing land claims negotiations did not diminish the controversy over uranium mining near the community. In the mid 1980s German mining firm Urangesellschaft began to explore the Kiggavik property southwest of the community and by 1988 had proposed a mine to the federal government. The Kivalliq Inuit Association (KIA) was opposed, citing concerns about cancer in humans and wildlife, tailings management, and the use of uranium for nuclear weapons. The Northern Anti-Uranium Coalition, consisting of local Inuit and Qallunaat policy elites opposed to the project organized public forums in Rankin Inlet and Baker Lake where several Canadian and international anti-nuclear activists spoke about the issues of uranium mining (Bernauer, 2011; McPherson, 2003). In May 1990, the residents of Baker Lake rejected the Kiggavik proposal in a non-binding plebiscite by 90%, and soon after Urangesellschaft abandoned the proposal citing

the plebiscite and regulatory concerns, though exploration for uranium in the Kivalliq continued (McPherson, 2003).

A decade later, Cumberland Resources (now Agnico Eagle Mines) proposed a gold mine near Meadowbank Lake, approximately 100km north of Baker Lake. While Meadowbank and its related projects have not been without controversy and there are significant outstanding issues involving the mine's impact on the community and wildlife, the projects were significantly less controversial than the uranium proposals. The Baker Lake Hamlet Council supported the project and subsequent to the opening of the mine the BLHTO negotiated an agreement with Agnico Eagle to support the expansion of the project (Aksawnee, 2017; Hamlet of Baker Lake, 2006; *Meadowbank Final Hearing Transcript Vol. 4*, 2006).

As the Meadowbank mine was beginning production, the Kiggavik mine proposal, now owned by Areva, was resurrected. In the post-NLCA era, organized opposition to uranium mining was much more muted, with the KIA and NTI openly advocating for the project and uranium mining in general. The BLHTO was the only existing organization that was strongly opposed to the project, while the Hamlet Council took no explicit position, and community surveys showed that members were divided on the project (Bernauer, 2011; Kulchyski & Bernauer, 2014). Unlike the original Kiggavik proposal, there was no community plebiscite as the IPGs considered public hearings and hamlet council resolutions to be an adequate measure of community support for uranium mining in general (Bernauer, 2011). Despite the support of Inuit organizations, the project did not go ahead: as uranium prices declined, Areva was unable to commit to a timeline for starting operations. After the BLHTO objected that the open-ended timeline was inappropriate, the NIRB found that it could not fully consider the impacts of the



project without a timeline, and rejected the project, causing Areva to abandon the project (Bennet, 2016; Rogers, 2016; Rohner, 2015).

At the time of my visit, Baker Lake was the only community in Nunavut connected by road to a productive mine, and mining remains a contentious issue in the community. I was not there to study attitudes to mining, but was practising “engaged acclimatization” (Grimwood, Doubleday, Ljubicic, Donaldson, & Blangy, 2012, p. 213): preliminary work that guides research, builds relationships, and gives the researcher a stronger understanding of the local context. I did not set out to do this, as the limited window of time in a Master’s degree does not allow for multiple stages of expensive and time-consuming field research, but upon arriving in Baker Lake I gradually discovered that not only was engaged acclimatization the only effective way to work, it was also the most productive. While I had set out to do interviews of those involved in the regulatory process, I discovered that there were very few people in town with the applicable experience, and by the time I left I had formally interviewed two people and had reached interview saturation. Instead, I was able to engage myself in the regulatory process by doing consulting work for the BLHTO. While the work I do for them is not directly related to my research and has not directly involved the NLUP or the NPC at all, it allowed me to develop a deeper understanding of the actual workings of the regulatory process in Nunavut than I could have developed solely by conducting formal interviews and reading documents.

On one day in Baker Lake, while reading publications on Community-based research, I encountered Castleden, Morgan, and Lamb’s article “‘I spent the first year drinking tea’: Exploring Canadian university researchers’ perspectives on community-based participatory research involving Indigenous peoples” (2012). It was hard not to find the title of this article

validating, as in my short stay in Baker Lake I probably consumed more tea than I had for all the rest of year. While effective research is not measured in tea consumption, the time I spent drinking tea, either in homes or at the Tim Hortons counter attached to the Northern store, was highly significant in the development of my research. I could not practically spend all, or even most, of my time doing traditional field work, and I still had documents and books to read, so on my second day in the community I decided that it was important that even if I could not always be doing research with the community, I should at least be doing research visibly, and one of the few spaces in town that would allow me to work visibly was the Tim Hortons counter, which in typical Northern fashion, also serves KFC, Pizza Hut, Chinese food, and various other short-order meals.

I spent most mornings at the counter, reading and talking with whoever engaged me in conversation, and it was incredibly fruitful in that people began to recognize me, invite me to events, ask me questions, and talk about their concerns and interests, which regardless of their relevance to my research topics, provided a helpful introduction to the community priorities and challenged me to be reflexive about the significance of my research to the community. I have no pretense that my thesis research is of substantial importance to the community, and indeed much of the work I have done for the BLHTO, which is based on requests coming from the community and not the direction of my research, I did in Edmonton or other southern locations<sup>1</sup>. But I could not have done this work, or at least not as well, without my modest acclimatization in Baker Lake. Still, I devoted a considerable amount of time worrying that I was simply taking up space in the community. At times this was a very literal concern: there was limited table space adjacent

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1 My work for the BLHTO has primarily involved screening regulatory filings from exploration companies and providing advice on negotiations with mining firms.

to the Tim Hortons counter, and while I made an effort to ensure that I was not taking up space that was needed by others, I was frequently concerned about what I dubbed “Tim Hortons terra nullius.” (field notes, 24 October 2018) I struggled, and continue to struggle, to properly define my ethical obligation to the community.

At the same time, people in the community made efforts to define their relationship with me as a Southern researcher. The BLHTO, for example, has an established framework for working with researchers. But I was also the subject of the community’s informal ethnographic research. This was particularly noticeable with children and youth, who would approach me in any situation they encountered me and ask me questions about such diverse subjects as my identity, my sense of place, my thoughts on various things, and the significance of my eyebrow piercing. They would often also attempt to teach me Inuktitut words, sometimes in good faith, sometimes with the hope that they could get me to unknowingly say something embarrassing. But adults as well would introduce concepts or actions to me to watch my reaction. I have enough cross-cultural experience to know that having a little fun at the expense of an interloper is a standard experience in smaller communities, but I believe there was also a desire to better understand who I was and what I was really up to. In a sense they turned the lens of the researcher back on me. Policy makers of various traditions, like researchers, often see themselves as collectors of information from the outside world. But neither are exempt from the double hermeneutic: their work is shaped by society, but especially with policy-makers their work also shapes society (Bishop, 2007; Giddens, 1984). Taking inspiration from my experience of both studying and being studied in Baker Lake, I am focusing on the politics of the regulatory bodies

in Nunavut, and how they are both shaped by external forces and structures, and how they have defined their own frameworks and structures in their planning.

I should acknowledge that I did not seek direct access to any of the staff of the NPC or any of the other IPGs, and they were often not forthcoming in my requests to get records. My knowledge comes from my experience of engagement with the regulatory processes in Nunavut, conversations with and the writings of those who have engaged with these processes in various capacities, and documents published either on the public registries of the IPGs or obtained from external sources. My picture is not a complete one, but as much of my research involves examining the publicly articulated rationales for regulatory decisions, I have access to all the necessary information to support my argument.

### **Outline**

The details of the NLUP process, and the history of land use planning and regulation in Nunavut in general are the focus of my next chapter. I then lay out the principles and critiques of co-management, and interact with theories that are commonly used as rationales for co-management, are also potential sources for critiques of co-management: deliberative theory, Schnaiberg's theory of treadmills of production (Schnaiberg, 1980), and Indigenous critical theory. In Chapter 4, I apply these theories to the NLUP process. I look specifically at the practice of the NPC and the other IPGs, and conclude that while the NPC is an institution of the Canadian state and therefore a colonial entity, much of the NLUP process is driven by the desire of the NPC to restrain the historically reckless practices of industrial extractive development in the North. In Chapter 5 I conclude with the broader implications for politics in Nunavut and the practice of co-management. Despite the intention of the NPC to limit the excesses of industrial

capital, the NLUP is a failure because it relies too heavily on centralized, technocratic governance in a way that is contrary to the founding and contemporary visions of Nunavut, has no basis in Inuit ways that I could find, and has constantly failed to produce policy that serves its intended purpose in the North. Despite this, there is potential for better resource governance in Nunavut by growing existing community-based monitoring initiatives. Consequently, both practitioners and critics of co-management need to be aware that co-management extends beyond knowledge sharing, and it is important to be aware of how local people are integrated into all aspects of the policy cycle.

## **Chapter 2: A Narrative History of the Nunavut Land Use Plan**

The NLUP process began in 2007, and the NPC was established in 1996, but the issues the NLUP addresses are much older than the brief history of land use planning in the Canadian North, and have relevance far beyond even the vastness of Nunavut: the relationship between Indigenous peoples and the Canadian state; the role of politics and technocrats in natural resource governance; and the politics of development and community agency. To understand how the NLUP fits into these larger, pan-Canadian issues, I am going to present the process of the NLUP up to the present as a narrative or a story. Many of these formal policy stories have emerged out of the Canadian North as the result of the work of academics, governments, and communities themselves, and many are well written narratives that are the product of hard work and collaboration between community members and outsiders that are worth reading. While I received much assistance from people in Baker Lake, this is not one of those narratives. Instead, following Tallbear (2014) my research experience has taught me that the interactions between institutions is more interesting and relevant to policy development in this case, and that the story to be told needs to be the result of “studying up[wards]” by examining the dynamics of power relations instead of simply retelling the concerns and interests of community members that have been better documented elsewhere. While many communities are very interested in the NLUP process and outcomes, communities have consistently played a marginal role in the process. There is also a theoretical reason for my choosing a narrative: policy-makers, particularly planners, who are influenced by the deliberative turn in policy and planning often see themselves as storytellers presenting narratives collected from the public through an engagement process, but while the theoretical grounding of the deliberative turn rejects claims of objectivity, the

concept of policy-makers as storytellers assumes that they are apolitical (Versteeg & Hajer, 2010) but also that they are external observers of the public. As a lover of both stories and public policy, this understanding appeals to me, and as an exercise in reflexivity, I want to explore it more by turning the lens of the storyteller on to planning as a practice.

I do not wish to diminish the agency and efforts of communities and the significance of inter-community politics on the issues of land management in Nunavut, but it would be disingenuous to represent the NLUP as a process in which community politics was significant. Instead, my interest is in the policies and the politics within governance institutions that shape them. This is a narrative about institutional power and planning.

The NLUP arose out of Article 11 of the Nunavut Land Claims Agreement (NLCA) (NLCA, 1993), the land claims agreement between the federal government and the Inuit of what would become Nunavut, as represented by the Tunngavik Federation of Nunavut (TFN; now Nunavut Tunngavik Incorporated (NTI)). The NLCA is a broad and ambitious agreement that led to the establishment of the Territory of Nunavut with a unique governance system that was intended to protect the rights of the Inuit and all Nunavummiut and enhance the position of Inuit who had long been excluded from both the public and private sector in the NWT (Kulchyski, 2005). It gave the Inuit fee-simple ownership of vast surface lands as well as a lesser amount of mineral rights, lands referred to as Inuit-owned lands (IOLs). One of the governance tools used in the NLCA is the uniquely northern Institution of Public Government (IPG), of which there are five: The Nunavut Wildlife Management Board (NWMB); the Nunavut Impact Review Board (NIRB); the Nunavut Water Board (NWB); the NPC; and the Surface Rights Tribunal (SRT). The use of the word “public” here is significant: while 83% the population of Nunavut is Inuit

(Statistics Canada, 2017), Qallunaat<sup>2</sup> (non-Inuit) maintain the same formal political rights that they would otherwise have in southern Canada, including the right to have their interests considered in decisions around environment and land use management and in development reviews.

Article 11 of the NLCA requires the creation of land use plans for Nunavut that consider the “interests of all Canadians,” the “well-being of the Inuit and Inuit Owned Lands,” and reflect “the priorities and values of the residents of [Nunavut]” (“NLCA,” 1993, pt. 11). The NPC was established to create these plans, beginning a new era in the short but tumultuous history of land use planning in Nunavut and the rest of the Canadian North, and it began to develop the NLUP in 2010.

While the current NLUP process is less than ten years old, government engagement on land use issues in what is now Nunavut began with the commissioning by the federal government and the ITC of the 1976 Inuit Land Use and Occupancy Project (M. M. Freeman, 1976, 2011). The study, which documented historical and present Inuit hunting, fishing, and other resource uses throughout the former Northwest Territories, was a product of a convergence of two factors: increased levels of formal political organization among Inuit, most notably represented by the formation of the ITC, and a growing recognition by the federal and NWT governments that the existing ad-hoc approach to land management in the North was not

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2 Because Inuit has many dialects spoken over a wide area and is in most cases not written using roman script, there are numerous ways to both pronounce and spell this word. Local pronunciation in Baker Lake is in my experience closer to Kabloonaq or Kabloona. For simplicity’s sake I am using the spelling most commonly used by English speakers in Canada which was introduced to Qallunaat in 1978 by Inuk author, linguist, and ethnographer Mini Aodla Freeman in her ethnography of southern Qallunaat society (M. A. Freeman, 2015), with the exception of direct quotes where I preserve the original spelling.



working. In 1975 the Minister of Indian Affairs and Northern Development rejected a request from the community of Baker Lake to impose a freeze on new mining and exploration work in the area to protect the caribou, on the grounds that the existing territorial regulations were sufficient to protect the caribou (McPherson, 2003). A few years later this conclusion appeared foolish: the publication of the Berger Report into the Mackenzie Valley and Arctic Gas Pipelines (Berger, 1977) laid bare Indigenous frustration with government regulatory processes that they felt did not consider their interests or wishes, and the Inuit in what is now Nunavut expressed similar grievances about the Polar Gas project (McPherson, 2003; Tester, 1979). The federal government was not aware that the majority Indigenous population in the North had a strong sense of ownership of the land and its resources, and would mount a challenge to any project they felt did not respect their rights and wishes. The federal and territorial governments began to recognize that they had difficulties effectively engaging with Indigenous peoples in the North on issues of development and land use, and even when they made attempts at community consultation these efforts were poorly implemented (Naysmith, 1976; Richardson, 1989). For the Federal Government, land use planning was the solution to the problem of constant political skirmishes over intensive resource development. A 1982 federal policy paper stated:

The government's current approach to northern land management is not adequate to deal with increasing conflicts involving industrial, environmental and traditional native interests in land. These conflicts are causing uncertainty amongst proponents of northern development, frustration amongst proponents of environmental conservation and apprehension amongst native people who wish to continue a traditional lifestyle while adjusting to modernity.

[...]

During the next decade, northern resource development will significantly expand, creating further potential for land use conflict.

To reconcile land use conflicts, systematic land use planning is required which would involve several federal departments and the territorial government (Indian Affairs and Northern Development Canada, 1981, p. 16).

Planning was also on the mind of the ITC: it proposed that the future territory of Nunavut should have a single planning agency develop a plan for Nunavut that would cover not only land use, but also education and social welfare (Inuit Tapirisat of Canada, 1979). There was a consensus held by both the federal government and ITC that land use planning was the solution to many of their troubles.

For this reason, when the land claims in the Territories were negotiated, land use planning bodies were created with the intention that development would be sensitive to local needs and concerns. The NPC was established in 1996, preceding the formal establishment of Nunavut by three years, and began to revise the two existing land use plans for Nunavut, which also represented the areas with the strongest extractive potential to bring them into compliance with the NLCA. These plans covered the district of Keewatin (now Kivalliq) (Nunavut Planning Commission, 2000a), which is the portion of Nunavut along the shore of Hudson's Bay; and the northern portion of Baffin Island (Nunavut Planning Commission, 2000b). Most crucially, while land use plans would apply to both Crown and Inuit-owned land, the NLCA required that the NPC consider Inuit goals for IOLs in its plans. I should be clear here to those familiar with land use plans in the South or even with the current draft version of the NLUP that these plans were not zone-based. Instead, they provided a set of principles and guidelines for the NPC to consider when asked to evaluate the conformity of a project to the land use plan. This approach relied to an extent on the demarcation of certain areas, but these areas were mapped outside of the NPC planning processes either through designation as IOL during the NLCA negotiations, or by

government data based on the observation of natural phenomena, such as caribou calving grounds.

The NPC also began to work on a land use plan for another area of high exploration activity: the western portion of the Kitikmeot region. A draft was ready by the end of 2003 (Nunavut Planning Commission, 2003). In July of the same year, Luke Coady, the Executive Director of the NPC responded to complaints that the conformity review for the now-active Meadowbank Gold Mine north of Baker Lake was taking too long because of communication difficulties between the NPC and the federal government. He stated in a letter to the editor that Nunavut's regulatory system for mining approvals was a model of both efficiency and effectiveness (Bell, 2003; Coady, 2003).

If Coady's claims were true, they did not hold. Within a year the NPC was in turmoil: both Coady and the NPC's chair Bob Lyall stepped down after allegations of financial mismanagement and a lack of accountability on the part of management from members of the NPC's board. These allegations were largely substantiated by a consultant's report (Aarluk Consulting, 2005). Additionally, the federal government stopped appointing representatives to the NPC's board, meaning that the board lacked the quorum necessary to make decisions (Bell, 2005). The NPC's planning processes stalled while it reorganized, and a year later it introduced a 10-year strategic plan that abandoned the Western Kitikmeot plan in favour of a process to develop a single land use plan for all of Nunavut to be completed by 2015 (Government of Nunavut, 2007; "Nunavut Planning Commission turns new leaf," 2006). This process was intended to address deficiencies in the NPC process, particularly a lack of general land use planning policies, objectives, and goals (Government of Nunavut, 2007).

The first draft of the NLUP was released in 2012. It divided Nunavut into 5 land classes: One for sensitive wildlife areas; one for current and future managed conservation areas; one for current or future infrastructure, contaminated sites, and military facilities; one for areas with potential for commercial renewable or nonrenewable resource extraction; and a mixed use zone for areas that serve no particular purpose, with additional guidelines applied to specific areas as necessary (Nunavut Planning Commission, 2012). This was the first attempt at creating a zoning system for regional land use in Nunavut. A review of the 2012 draft by a consultant (Dillion Consulting, 2012) concluded that there were significant issues around the design of public participation, and that there were substantial communication and widely different visions of what the plan ought to look like between the federal and territorial governments, the NPC, and NTI. As well, the consultants noted that there was an expectation held by some in the federal and territorial governments that the NLUP would provide definitive solutions to the political challenges of land use in Nunavut that governments had been unable or unwilling to solve. The consultants argued that this was unfair and unrealistic given the limited resources of the NPC and its role as an independent, non-political agency, and the fact some issues required an evaluation of both Western technical knowledge and IQ that was outside the professional scope of NPC staff, and any such knowledge that was available was often not sufficiently comprehensive to make a sound decision regardless. The report concluded by stating:

All Parties recognize that these relationships need to be improved, which will require effort from everyone involved. In our opinion, each of the Parties has the ability, within the coming months and years, to make decisions that at the very least could seriously compromise the chances of success for the planning initiative that has been ongoing since 2007. In fact, the Parties' positions to date and the mistrust and lack of mutual respect that was evident from some of our interviews suggest to us that, unfortunately, these decisions would be very easy to make.

It will be more difficult for the Parties to find the wisdom, discipline and foresight to break from the current patterns of interaction and make the decisions that are needed to put land use planning in Nunavut back on track. These decisions will, in some cases, require a rethinking of entrenched positions and a renewed effort to identify and further individual and collective interests. They will also require a willingness to rewrite the adversarial narratives and look beyond the past frustrations and disappointments that currently define relationships among some of the Parties. (Dillion Consulting, 2012, pp. 116–117)

The 2012 consultant's report is the most thorough public examination of the strained relationship between the NPC, NTI, and the Federal and Territorial governments. These relationships would become increasingly important to the functioning of the NPC with the passing of the *Nunavut Planning and Project Assessment Act (NuPPA)* in 2013, which formalized the mandate of the NPC. The approval process for land use plans in the *NuPPA* is slightly different from, though in compliance with, requirements of Article 11 of the *NLCA*. The *NLCA* requires the NPC to hold public hearings and solicit comments from governments, Inuit organizations, and the public. The final plan would then be sent to the responsible federal minister for approval or rejection (*NLCA*, 1993). Section 54 of the *NuPPA* requires the land use plans be approved not only by the federal minister, but by their territorial counterpart and by NTI. This means that NTI, the federal and territorial governments each have a veto over the NLUP, and the final draft must be to their satisfaction. For the NPC, the most difficult party has generally been the federal government, which, as the sole source of funding for the NPC, has considerable control over the operations of the organization. Disputes between the NPC and the federal government over funding have been a major source of delays of the NLUP. In September 2012, the federal government informed the NPC that it was unilaterally altering its funding agreement and the NPC would no longer be permitted to retain any budget surplus (Notice of Application filed 11 October 2012 in *Nunavut Planning Commission v. Canada (Attorney General)*, 2012). The NPC filed for judicial review of

this decision, but would later withdraw its application for reasons that have not been publicly disclosed.

In the meantime, the NPC was presented with two major mining projects in the two regions with in-force land use plans: Kiggavik uranium mine in the Kivalliq and Mary River iron ore in North Baffin. The Kiggavik proposal was particularly important because uranium mines are subject to special conditions in the Keewatin Land Use Plan. Because of long-standing concerns over the effects of previous uranium mine proposals on the land, water, and wildlife in the Kivalliq, the Keewatin Land Use Plan required that the IPGs would have to review the issues of uranium mining in general, particularly concerns around public health, before a uranium mine could be approved. Additionally, “any future proposal to mine uranium must be approved by the people of the region” (Nunavut Planning Commission, 2000a, p. 89). The NPC declared these requirements satisfied after holding a meeting in Baker Lake and receiving formal declarations of support from the Kivalliq Inuit Association (KIA) and the Hamlet Council; much to the frustration of residents opposed to the project, who felt that a plebiscite was the only accurate measure of community support (Bernauer, 2011). Regardless, the Kiggavik project was rejected by the NIRB on a technicality, and with uranium prices in decline the proponent indefinitely suspended the project.

While the Mary River iron ore project lacked the contentious regulatory triggers that came with Kiggavik, and—unlike Kiggavik—was approved by the NIRB and is now an operating mine, the project produced its share of controversy and it worked its way through Nunavut’s regulatory system and continues to a source of contention in Nunavut politics. The original mine was approved by the NIRB in 2012, but Baffinland, the mine’s owner, requested an

amendment to its operating license to significantly increase the amounts of ore mined in the early years of the mine and shipped out over sea, as the firm was unable to secure the financing it needed to build a railway to the other end of Baffin Island which would allow more efficient shipping due to a longer open water season (Baffinland, 2014; ENFOTEC, 2010). This plan would require the use of icebreakers, which would affect wildlife and hunters travelling on over-ice routes. The NPC rejected this proposal, holding that a failure to consider the effects of icebreaking on wildlife and subsistence harvesting was inconsistent with the NBLUP. In its decision, the NPC stated that the NBLUP regarded ice as important not only to wildlife population and Inuit subsistence economics, but also considered sea ice to be important to Inuit culture, values, and history, and the failure of Baffinland to consider this was grounds for it to reject the proposal (Nunavut Planning Commission, 2015). Baffinland requested the NPC amend the NBLUP to grant it a variance, but the NPC said it could not afford the procedural requirements to amend the plan in a timeline Baffinland needed, as new procedural requirements in the recent *NuPPA* were beyond its resources (Gregoire, 2015a; “Nunavut boards say they can’t pay for Bill C-47 obligations,” 2013; Nunavut Planning and Project Assessment Act, 2013). So instead Baffinland requested that the Minister of Aboriginal Affairs and Northern Development grant it an exemption from the land use plan, which the federal minister is empowered to do under Part 5 of Article 11 of the NLCA, provided they give written reasons for their decision. The Minister, Bernard Valcourt, granted the exemption, arguing that there was a need to ensure the project was viable to protect jobs, and that the NIRB process was the best venue for resolving these concerns. NTI and the regional Inuit association were opposed to the exemption, arguing the concerns of residents in Pond Inlet, the nearest community to the mine, were too significant

to be simply set aside (Bell, 2017; “Valcourt exempts Nunavut iron mine expansion from land use plan,” 2015).

2014 and 2015 would prove to be tumultuous years for the NPC. After considering feedback on the 2012 draft of the NLUP, the 2014 draft, intended to be the final draft, was released within the 2-year deadline set by the federal government (Nunavut Planning Commission, 2014a; Amended Notice of Application filed on 18 December 2014 in *Nunavut Planning Commission v. Canada (Minister of Aboriginal Affairs and Northern Development)*, 2014). The 2014 draft augmented the objective-based zoning system with a simpler and more prescriptive approach: the entire territory was divided into three zones: protected areas, which prohibited almost all industrial development; special management areas, which set parcel-specific rules to ensure that specific values were protected, and included many important seasonal wildlife areas, military facilities, potential hydroelectric sites, and contaminated areas; and mixed use, which had no land use restrictions. But the NPC was unable to afford the cost of the final hearing necessary to submit the plan for approval (“Nunavut planning body accuses Ottawa of blocking updated land use plan,” 2014). Without a land use plan, the NPC would essentially be unable to fulfill its role of providing effective land management and assessing the cumulative effects of development outside of the Kivalliq and North Baffin regions in the face of increased mineral development in throughout Nunavut (Government of Nunavut, 2007). The NPC sued the federal government, arguing that the federal government had abused its discretion by refusing to fund the final NLUP hearing, and that minister had negotiated in bad faith with the NPC over funding issues (Amended Notice of Application filed on 18 December 2014 in



*Nunavut Planning Commission v. Canada (Minister of Aboriginal Affairs and Northern Development)*, 2014).

The federal government also ordered an audit of the NPC, ostensibly to determine why the organization was chronically financially challenged. The review that would eventually conclude that while there were significant issues with staff turnover and that salaries were below competitive rates, the NPC's spending practices were generally reasonable (Gregoire, 2015c; Indigenous and Northern Affairs Canada, 2016). Media lines provided to federal communications staff stated that the audit decision was made independently of the Mary River exemption order (Aboriginal Affairs and Northern Development Canada, 2015). This was the third external review of the NPC in ten years. But by the time the auditor's report was published, almost a year after it was due, there was cause for optimism at the NPC: the lawsuit against the federal government had been dropped, as the resolution of a separate lawsuit filed by NTI led to a 25% increase in the NPC's funding, and the NPC was negotiating for additional funds to cover the necessary hearings (Gregoire, 2015b). Further good news would follow: Baffinland had revised its proposal to remove winter shipping plans, and the NIRB sent the revised plan back to the NPC for review ("Nunavut review board sends Mary River scheme back to the NPC," 2016), essentially negating the exemption order while removing the largest obstacle to conformity; the 2016 Final Draft of the NLUP was due for release; and there was a change in government in Ottawa. Of special significance was the fact that Hunter Tootoo, who was the chair of the NPC during the most difficult period of its relationship with Ottawa, had been elected MP for Nunavut and would briefly serve as Minister of Fisheries and Oceans.

But this moment of optimism would not last; the era of contention was far from over. This time however the contention was primarily within Nunavut, with the NPC's relationship with Ottawa moving, at least temporarily and superficially, to the background.

The 2016 version of the NLUP (Nunavut Planning Commission, 2016b) was the NPC's second attempt at a final draft. The 2016 draft designated 499,741 square kilometres as protected from any development, an area larger than Sweden. While this was a slight decrease from the 510,737 square kilometres of protected area in the 2014 plan, the 2016 plan removed several large areas for technical reasons. Protected areas removed from the 2016 draft included 30,256 square kilometres of proposed protected area that had been declared national parks, putting them outside of the NPC's authority, and 21,355 square kilometres of land claimed by the Denesuline in Manitoba. The later parcels were undesignated in the 2016 draft because although the intention of the NPC designation was to include the federal government's temporary land withdrawal to ease negotiations of the Denesuline's land claim, the NLUP's rules were inconsistent with the withdrawal order and both the federal government and the Denesuline requested that the lands be undesignated, as a protected area designation could stall the land claims negotiations (Ghotlenene K'odtineh Dene, 2016; Government of Canada, 2015). When these areas removed for technical reasons are excluded from the protected area total of the 2014 draft, the 2016 plan represents an increase of 40,615 square kilometres, or 8.8% of protected area, an area slightly smaller than Switzerland. Much of this area was in caribou calving and post-calving grounds where caribou birth and nurse their young. In the 2014 draft, calving and post-calving grounds with a high mineral potential were designated as special management areas with direction to regulators to consider the cumulative impacts of development and the

mitigation efforts when reviewing proposals (Nunavut Planning Commission, 2014a), the 2016 draft reclassified these areas as protected. Large blocs of newly proposed protected areas were designated south of Wager Bay, on the Adelaide and Boothia peninsulas, and east of Kugluktuk. But a particularly large block surrounded the calving area south of Baker Lake and west of Arviat, where the calving and post-calving areas created a 44,233 square kilometer block closed to development in an area with high mineral potential and significant amounts of surface and subsurface IOLs. This was met with significant resistance from the NTI and the regional Inuit organizations, who felt that this compromised their ability to take advantage of the development opportunities offered by subsurface IOLs in the newly proposed protected region which had been selected for their mineral potential and were now off-limits to mining (Bell, 2017; Nunavut Tunngavik Incorporated, Kitikmeot Inuit Association, Kivalliq Inuit Association, & Qikiqtani Inuit Association, 2017). The comment process also revealed one of the consistent problems of policy in Nunavut: a lack of capacity and resources throughout the public sector at the local level that severely limits participation: many municipalities and HTOs did not provide comment. Notably, this included Nunavut's largest community and capital Iqaluit, which stated that it lacked the time and money to respond to the plan and was disappointed that there was no assistance provided to municipalities to hire consultants to prepare a report (Redfern, 2017). Many of the issues that were identified in the review of the 2012 draft had not been addressed: there were significant issues with community participation, and the relationship between the NPC, NTI and the federal and territorial governments, all of whom were required to approve the final version of the NLUP, remained tense.

Since it was clear that the 2016 draft would not be approved, the NPC stopped accepting comments. The federal government refused to fund additional public hearings as it was unsatisfied with the plan, essentially stalling the planning process as it had in 2014 (Nunavut Planning Commission, 2018b). While the NPC would reopen comments in 2018, it will likely have to significantly rewrite the NLUP before submitting it for approval since the approving parties have expressed their dissatisfaction with the 2016 draft, and the NPC has stated that the NLUP will not be complete until 2022 (Ducharme, 2018). In early December 2018, the NPC announced that it would request funding from the federal government to conduct regional public hearings and community engagement sessions to guide the revision of the 2016 draft plan, but that if the federal government would not provide funding for consultations, it would revise the plan based on the existing record, stating that “the planning process [will] move forward with or without funding” (Nunavut Planning Commission, 2018b).

There is no one party that is solely responsible for the delays in the NLUP process, though the federal government refusal to fund the process is the largest cause of delays, there are valid critiques of the process and substance of the various drafts of the plan and the NPC itself. In engaging with these critiques to better understand the deeper issues of the plan, the process, and the politics of natural resource management in the Canadian North, I first need to examine the political logics and movements that underlie the policy process, which is the focus of my next chapter.

Figure 1: Protected Areas in 2014 Draft NLUP

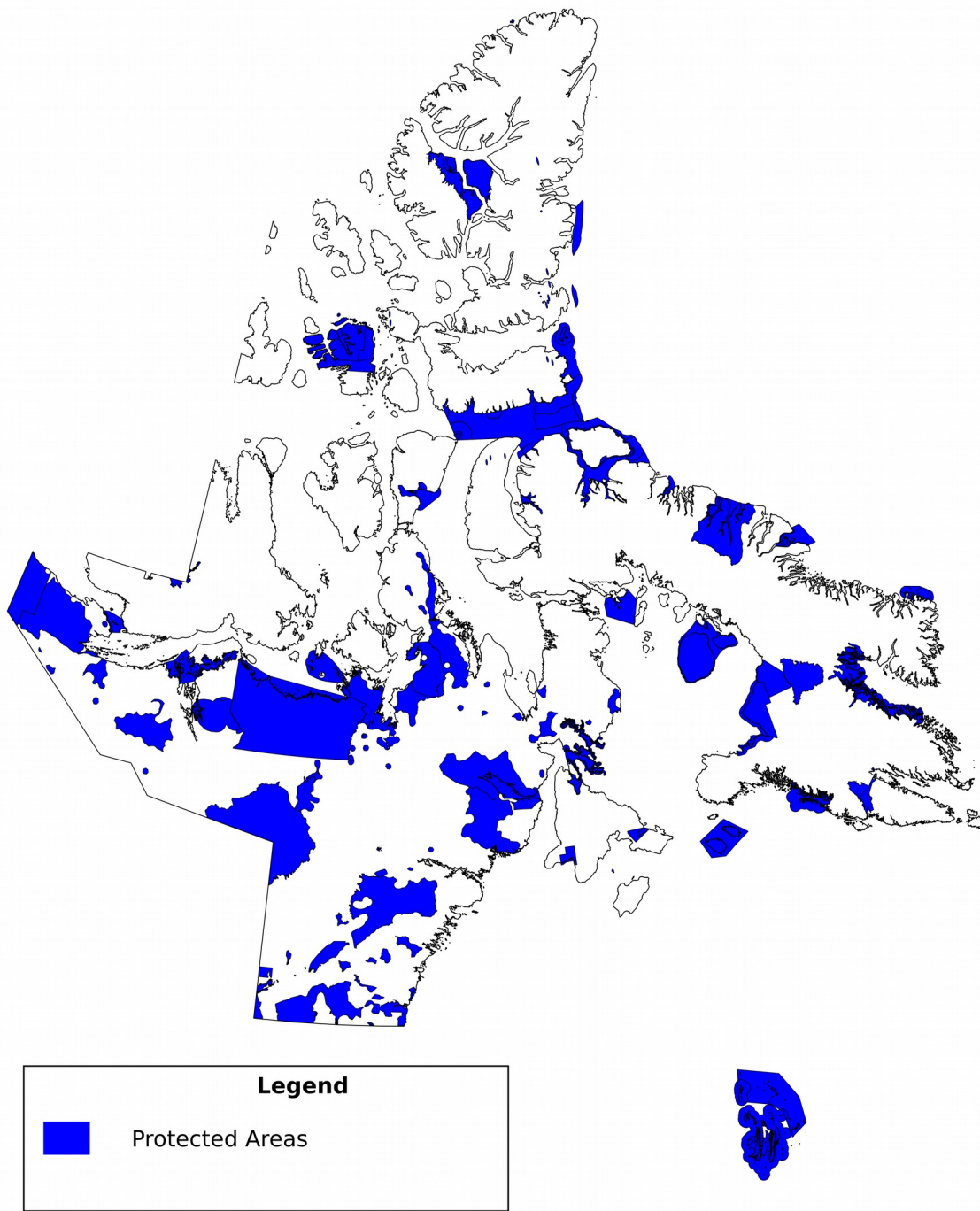


Figure 2: Protected Areas in 2016 Draft NLUP

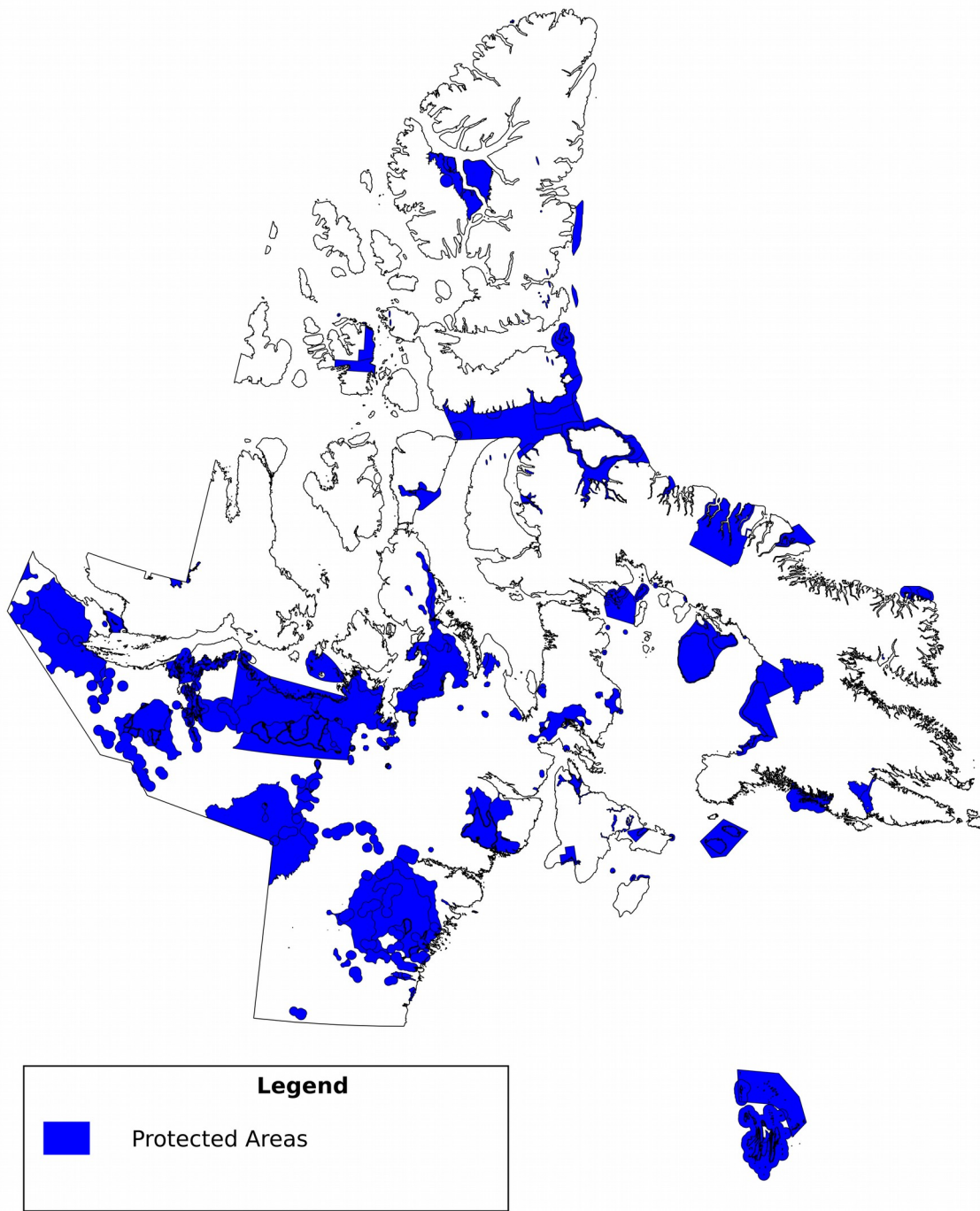
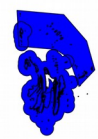
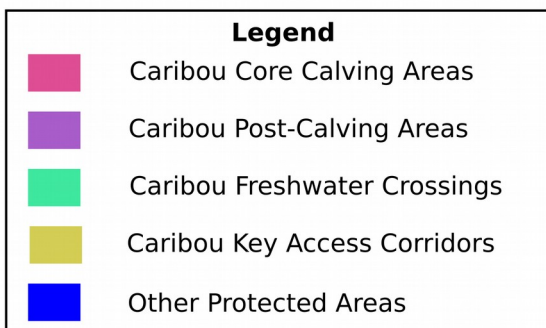
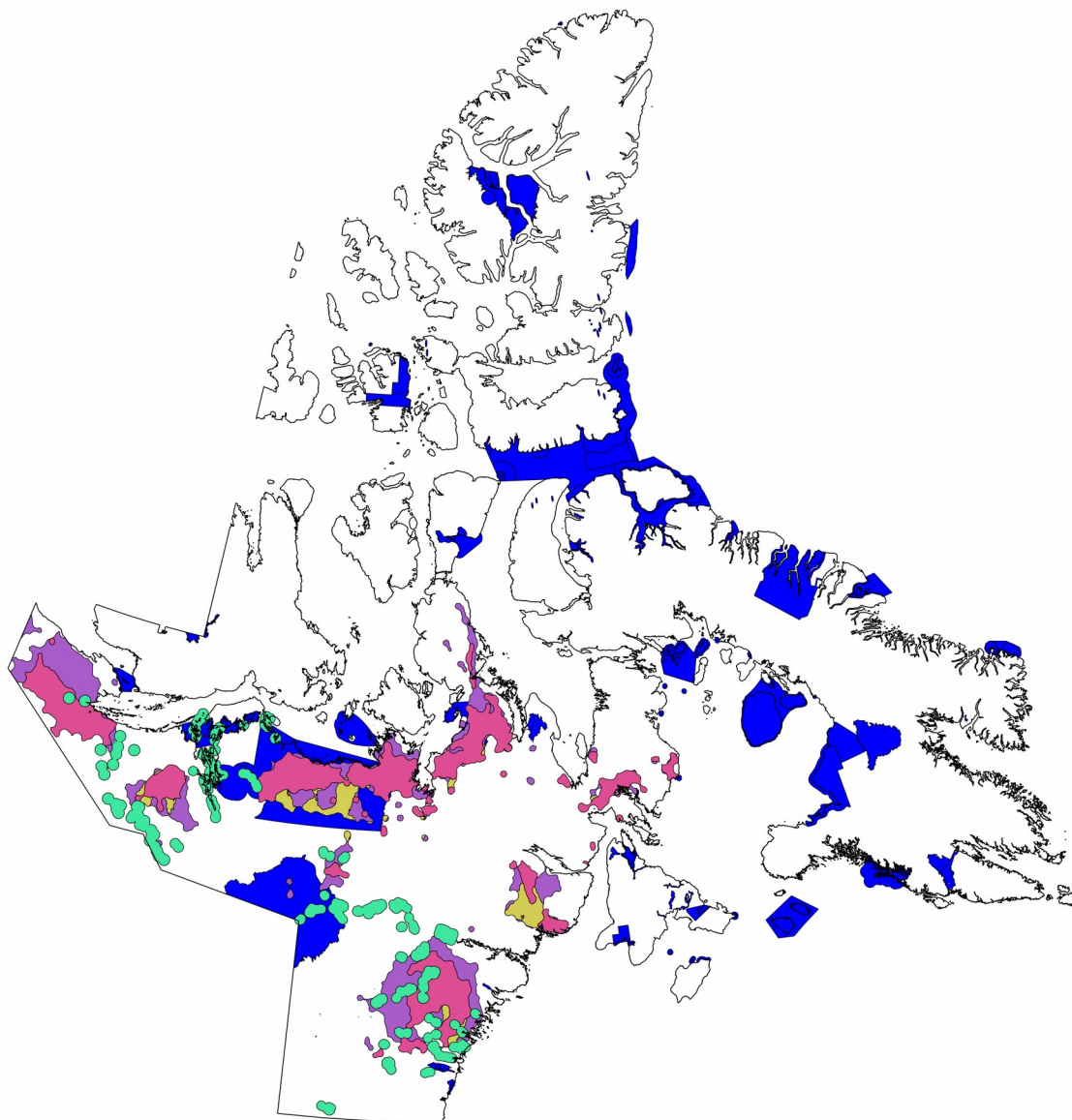


Figure 3: Protected Areas in 2016 Draft NLUP by type



Data: Nunavut Planning Commission

## **Chapter 3: Co-Management, deliberation, treadmills and technocrats: A literature review**

### **Co-management and technocratic agency**

The NPC and other IPGs are co-management boards, a practice common, though not exclusive to northern land claims agreements. Co-management generally defined is a political process of sharing power and management responsibility between the technocratic state and local resource users (Armitage et al., 2007). Co-management aims to capture the “benefits of the commons” (Berkes, Feeny, McCay, & Acheson, 1989, p. 91). It both explicitly rejects classical liberal theory’s assumption of the strictly self-interested individual, and the Weberian representation of a rational bureaucracy pronouncing decisions from on high. In Nunavut, the institutional structures of co-management boards are somewhat different from those in other parts of Canada, but the practice and principles of co-management stretch far beyond the institutional models used in the North. Co-management in Northern Canada is a product of both the deliberative turn in public administration, itself a product of the understanding that rational-scientific, top down approaches to governance were both problematic and ineffective (Armitage et al., 2007) and Indigenous insistence, occasionally backed by legal decisions, that their voices be considered in decisions that affect their rights.

While studies of co-management in Canada and elsewhere have looked extensively at issues of institutional power, they have not until fairly recently critically and substantially engaged with deliberative theory (Henri, 2012). Furthermore, scholars of co-management have not effectively engaged with the question of structural power: how the push for economic growth



limits the scope of development review (Nadasdy, 2005). Part of this is the nature of disciplines: co-management typically deals with empirical information and natural systems, and academics who study them tend to come from a natural science tradition. However, properly considering the functions of co-management requires examining the questions of structural power explored by deliberative theorists.

Deliberative theorists are to various degrees critical of the modern state's role in maintaining power relations under contemporary capitalism. Scholars of policy practice from this tradition consider it important that their theories of must be "ethically illuminating" (Forester, 1989, p. 18) in how they consider power relations. Therefore, they accept that individuals within the state can effectively challenge power structures to a finite extent. In this way deliberative theory re-politicizes the technocratic bureaucracy: decisions are no longer understood as made according to the objective, technocratic logic of the unitary black box of the state, but by political actors within the state according to their political logics. As Forester puts it in the title of the first chapter in his seminal book on the state planner as a political actor, the planner should "recognize problems [and] seize opportunities" (1989, p. 1).

Deliberative theory rejects three major conceptions of the state: the structuralist Marxist interpretation of the state as an instrument of capital, drawing on Marx's conception of the modern state as an entity imposed on society (Marx, 1970); Weber's thesis that the most efficient state under capitalism is one that removes any human element or normative values from decision-making in favour of formalistic rules (Weber, 1968); and the pluralist assumption of different interest groups with relatively equal quantities of power organically maintaining stable political compromise (Dahl, 1961). Dahl (1961) largely ignores the role of the bureaucrat, and

even limits the agency of the politician to challenge norms within political structures. But for Forester (1989), the technocrat has a degree of agency to challenge power structures within government: an argument that has been extended to the point where there are now publications that encourage and celebrate civil servants who in the course of their jobs undermine their departments and break the law in the name of social justice (Yu, 2015).

Forester's focus on the agency of the technocrat brings out Habermas' (1989) critique of Weber: technocrats have always made subjective decisions according to non-rational frameworks, and are not constrained by objective, rational structures. In the North, and indeed in any examination of state policies towards Indigenous people in Canada, Habermas' thesis is profoundly relevant: going back to the report of the Royal Commission on Aboriginal Peoples (1996), there has been a growing trend towards understanding the centuries of various policies of assimilation, genocide, or simply paternalistic policies not as just morally wrong, but as policy failures that did not accomplish their intended ends. In the North, where colonialism took a different form and followed a different timeline than it did in much of the rest of Canada, the colonial policy "mistakes" (Tester & Kulchyski, 2011) were justified using technical, natural-scientific knowledge, expertise, and logic held by distant technocrats and still caused humanitarian crises. While the overarching failure of these policies is typically understood by Indigenous and non-Indigenous scholars as the product of Indigenous peoples' resistance to them (Simpson, 2017), narratives of policy failure mean something different to both deliberative theorists and proponents of co-management; they confirm their argument that effective policy-making requires deliberation, collaboration, adaption, and information sharing (Olsson, Folke, & Berkes, 2004). Thus instead of viewing policy failures as sites of resistance to colonial or other

structural forces, deliberative policy views policy failure as an opportunity to shape better policy. This approach is a key example of what Robert Cox termed “problem-solving theory,” as it takes the structures and institutions as they are and seeks to make them work more smoothly (Cox, 1981, pp. 128–129).

But there are more than enough policy failure narratives to go around: the literature on the failures of deliberative policy-making and co-management, particularly around impact assessment and natural resources, is itself quite extensive. Critics of specific exercises in deliberative policy making have argued that they are intentionally narrowed exercises designed to legitimize prior political decisions (Masuda, McGee, & Garvin, 2008); that they can prevent meaningful consideration of important issues by burying political issues under technocratic logics and bureaucratic formalism (Bernauer, 2016; Nadasdy, 2005); that they serve to disempower citizens by shifting responsibilities best handled by the state onto the ill-equipped public (Johnson, 2015); that they ignore local informal networks (Clever, 2001); and that they reinforce existing hierarchies because they are more accessible to the educated middle class (Lee, 2017). In the context of environmental issues critics argue that the failure to foster local agency leads to mismanagement of resources and potential ecological disaster (Mackenzie & Krogman, 2005; Nadasdy, 2005). Many of these critiques rely on Allan Schnaiberg’s (1980) theory of treadmills of production. For Schnaiberg, treadmills arose in the mid-twentieth century as increased levels of capital-intensive investment in expensive technologies. Because investments in technology are sunk costs that could not, unlike labour, be cut back in the face of disappointing returns, this shift necessitated high levels of production at any cost (Gould, Pellow, & Schnaiberg, 2008). Schnaiberg’s theory is not Marxist per se, although it is heavily influenced

by Marxism (Foster, 2005; Mol & Spaargaren, 2002). Schnaiberg, however, is explicitly structuralist: structures of transnational capital constrain the agency of community members (or “citizen-workers” as Gould, Schnaiberg & Weinberg refer to them), civil servants, and states (Gould, Schnaiberg, & Weinberg, 1996). States do regulate environmental “additions” such as pollutants to a limited degree, but because of pressure to continue economic growth have generally avoided regulating ecological “withdrawals” or depletion of ecosystems (Schnaiberg, Pellow, & Weinberg, 2002). The solution to ecological degradation is not to attempt to place social and environmental factors at the same level as economics in state and corporate decision-making, but to deindustrialize (Schnaiberg et al., 2002). Recent conflicts over non-renewable natural resource infrastructure are sharp reminders that transnational capital has significant power to ensure that the treadmill of production and extraction continues unrestrained. In Nunavut, however, the regulatory process run by the IPGs has been highly politicized and has come under intensive criticism when it appears to stall development, but the end result has not always favoured industry. The lack of public consultation should, according to critical narratives of environmental regulation and deliberative theory produce a rushed plan that heavily favours industry, when in fact it has produced no plan much to the frustration of industry. The processes that shaped these decisions are the focus of my next chapters, and the broader implications are the focus of this thesis.

### **Political Rationality and Indigenous critical theories**

Understanding that technocratic decisions are inevitably normative does not explain the origin of these norms. Here Habermas is also helpful. Habermas argues that an idea becomes rational when it can be explained to others, therefore modernist technical rationality is simply

another form of communicative rationality (Chambers, 1996; Habermas, 1984). Habermas's theory of rationality is evident in the NLCA: every time a minister is granted the power to reject or overrule the decision of an IPG, they must provide reasons for their decision (*NLCA*, 1993). This offers the public and Inuit organizations the opportunity to rebut the minister's decision, and gives the IPG a chance to propose changes that might satisfy the minister. Similarly, the NPC cites government policy documents and submissions by stakeholders to justify its decisions (Nunavut Planning Commission, 2016a). Co-management, consultation, and communicative rationality have become part of the rituals of governance in Nunavut. The role these practices play in actual decision-making is debatable and inconsistent, but they are undeniably entrenched within the procedure of policy making.

Colonial scholars who engage with these deliberative rituals are generally critical of the process of deliberation and the ontologies that justify them. While they take a diverse selection of theoretical approaches in their criticism, their core argument is that the Canadian state as it is currently structured is inherently colonial and that engagement with state structures serves only to legitimize colonialism (Coulthard, 2014; Simpson, 2011). Coulthard's critique, which engages with liberal theories of mutual recognition, is particularly relevant. Coulthard argues that the state recognizes Indigenous knowledges and rights only to the extent that they do not trouble the legal, political, and economic structures of the colonial project (Coulthard, 2014). Coulthard's critique problematizes co-management, bureaucratic subversion, and Indigenous engagement in the rituals of governance in Canada. Stevenson is even more direct and specific: "it would be difficult to conceive of a more insidious form of cultural assimilation than co-management as currently practised in northern Canada" (Stevenson, 2004).

While I can produce empirical cases that either demonstrate or critique any of the theories I have engaged with, it is not clear to me that any of them accurately reflect an Inuit understanding of politics. There have been no substantive engagements by Inuit with Western theory to the same extent as Coulthard's: a reflection of the very limited number of Inuit in academia even compared to other Indigenous groups, but also a different political culture; the Inuit have traditionally had different visions as to what constitutes self-government, and have generally been less interested in challenging the legitimacy of the Canadian state than other Indigenous groups in Canada (G. Christie, 2011; Kulchyski, 2005). But echoing Simpson (2011), there is no need to make Indigenous perspectives and understandings legible for colonial society. There is however a small corpus of Inuit political thought available in English. I engage with these works with hesitation, as the non-Indigenous Canadian who has scooped the supposedly authentic Indigenous perspective and manages to massively misrepresent it and all Indigenous people is a common enough phenomenon that it is in danger of becoming a trope. The absurdity of reading about the world view of an oral culture is not lost on me either. Nonetheless, I feel that cautious engagement with Inuit Qaujimagatuqangit (IQ) is necessary to effectively analyze and critique the art of governance in Nunavut. I do this because I am just as uncomfortable taking Habermas and planning theory that emerged in southern cities up North as I am taking colonial theory that largely draws on Western notions of emancipation via Fanon and Marx. There have been many studies conducted by Western-trained scholars into the IQ of wildlife and the natural world, and natural scientists going into Nunavut are encouraged to engage with the relevant IQ. Social scientists from both mainstream and critical traditions, who as Kuhn (2012) noted do not have the same paradigmatic uniformity as the natural sciences, are sometimes very committed to

their theoretical approaches and may struggle to see that they may not as easily apply to the real world, especially across cultures, as they would like. As Lakota scholar Vine Deloria Jr. argues,

Western technology largely depletes resources or substitutes a monocultural approach to a complex natural system. We tend to hide this fact by talking about production rather than extraction, but this linguistic acrobatics is not sufficient to escape Indian critique. Social science in the Western context describes human behavior in such restrictive terminology that it really describes very little except the methodology acceptable to the present generation of academics and researchers (2001, p. 125).

I cannot pretend that I am able to set aside my entire theoretical and disciplinary viewpoints, but by attempting to put IQ about governance in dialogue with more familiar sources, I am seeking to approach the application of different Western approaches to governance in Nunavut, with at least nominal attempts at engagement with Inuit tradition, critically.

Inuit discussions of Western legal systems tend to express frustration at rules, procedures, and institutions that do not appreciate the northern context and do not integrate Inuit values or appreciate the Northern context (Aupilaajuk, Tulimaaq, Joamie, Imaruittuq, & Nutaraaluk, 2017; Bruce, 1978). The exclusion of Inuit ways of being and knowing has caused considerable damage to Inuit society, and elders interviewed state that the solution is to restore, or at least better integrate, Inuit ways. Inuit society pre-settlement was based on camps without formal centralized authority, and each camp would have informal customary leadership who would together with elders serve as an authority figure. Disputes and offences against the community were typically dealt with by elders informally, and various forms of kinship and sharing governed social relationships (Aupilaajuk et al., 2017; Bennett & Rowley, 2004; Inuit Cultural Institute, 1983).

Inuit institutions would be unfamiliar to Habermas or any of the other Western theorists I discussed above. As Kulchyski notes Habermas' framework of communicative action is helpful

in analyzing community politics, but Habermas imports the “worst of Marx’s historical materialism” in a way that privileges contemporary Western forms of formal political discourse (Kulchyski, 2005, pp. 254–255). As elder Akisa Joamie notes “our land, Nunavut, is different from the land down south, in the same way the culture of the two people is different from each other.” (Aupilaajuk et al., 2017, p. 71). But the land is not completely unfamiliar to a Southerner: the treeless vastness looks somewhat familiar to someone from the prairies, and in the summer the low shrubs and flowers of the tundra carpet the ground in rich colours that defy the clichéd description term “barren.” In the same way, the elders interviewed about Inuit laws in the 1999 Arctic College seminar appealed for syncretism of Western and Inuit ways, just as the Inuit absorbed Christianity into their culture but maintained some, though certainly not all of their traditional cosmology (Aupilaajuk et al., 2017; Tungilik & Uyarasuk, 1999).

The term ‘syncretism’ is most developed in the anthropological study of religious practice, where it refers to a combination of rituals, beliefs, and traditions from an external source, typically some version of Christianity or Islam, and a society’s existing cosmology, often as a result of a colonial process. Crucially, syncretism is not about the mere translation of external religious elements into a local culture, but the integration of rituals in a way that internal and external purists might consider incompatible (R. Shaw & Stewart, 1994). In the Nunavut context, elder Mariano Aupilaarjuk offers a case for syncretism:

From what I understand, some parts of qallunaat and Inuit morals and customs don’t mix. For example, the south has trees, the North does not. The rules and regulations were brought up to the North recently. Without fully understanding these rules, Inuit started attempting to follow them, which caused disruptions in the family. I know this for a fact. Today, people that have been to school understand these rules, but they don’t know Inuit values and morals and customs. We have to ensure that we give young people this knowledge, because this pattern has been set. It is now up to us



elders to impart what we know. Our maligait [laws] are still there, but we have not brought them into the open. It is now time to expose young people to our maligait. They know *qallunaatitut*, the manner of qallunaat, and if they also know the way of Inuit, they will be much stronger people (Aupilaajuk et al., 2017, p. 41).

I cannot construct elaborate dialogues between Inuit elders and Western theorists, but syncretism is a concept that I can work with because it connects both with colonial scholarship and with theories of relational governance and reciprocity from the Western canon. But it is also important to engage with syncretism because it has become part of the official discourse of Nunavut. In *Iviqtippalliaju*, the Government of Nunavut's 2018 strategy for incorporating Inuit social values into governance and policy making, this is laid out explicitly in the introduction:

The vision that led to the creation of Nunavut included the establishment of a government that, among other things, is shaped by and belongs to the people of Nunavut, offers programs and services in an integrated and holistic manner, promotes harmony amongst people, and incorporates the best of Inuit and contemporary government systems (Government of Nunavut, 2018).<sup>3</sup>

In Nunavut, the discourse of syncretism has been particularly strong when discussing economics: the NLUP states that as a key objective preserving the Territory's 'mixed' economy: a mix of land-based renewable harvesting and paid employment (Nunavut Planning Commission, 2016b). Both orthodox and critical scholars who have studied the Inuit have often privileged those who conform to their image of authenticity through factors such as a land-based lifestyle at the expense of the many Inuit who fall short of this picture but are still Inuit (Searls, 2006). In looking at the idea of syncretism, I am not interested in making a critical judgment or advocating for or against it, but simply acknowledging it as more than an elite discourse and suggesting therefore that it should be taken seriously. Instead, I want to engage with a question that is often

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3 Referring to western ways of governance as "contemporary" is somewhat problematic, but reflects the reality of their current dominance institutional governance in Nunavut.

unasked, which best posed by the subtitle of a report produced by the Inuit's eastern relatives the Yupik: "Does one way of life have to die so another can live?" (Yupiktak Bista, 1974) While this can be read as an economic question, it could be read as a political one: Does one social and political order have to die for another to live?

Many of the discussions of syncretism generally assume the dominance of *qallunaatitut* in Nunavut and call for a restoration of Inuit ways through syncretism. For example, in Tester's socioeconomic study of the potential Polar Gas Pipeline, Baker Lake resident John Nukik remarks:

"[The pipeline] will be really bad for Inuit because the people from the south will bring many problems. I can't say what will happen to the young people. When they have education and the white man's side of things, they just lose their identity. [...] Years ago the Kabloona who came to the Inuit country should have learned the Inuit way instead of bringing everything with them."

But he concludes with a statement of economic syncretism that is similar to the mixed economy principle contained in the drafts of the NLUP: "For the people in the south, the only way of making a living is wages. The people in the north have two ways. They can hunt and make money too" (quoted in Tester, 1979, pp. 141–142). The co-management approach posits that managers and Indigenous-resource users can learn through collaboration and sharing of perspectives (Armitage et al., 2007) that syncretism can be institutionalized. When the principles of co-management are implemented through the establishment of a body such as the NPC, there are inevitably struggles as to how syncretism is actually manifested. These struggles and questions are the focus of my next chapter.

## **Chapter 4: The politics of Co-management in Nunavut**

Co-management boards are in a somewhat ambiguous position politically: their membership is appointed by both the colonial state and Indigenous bodies. The agreements that establish them tend to contain provisions intended to limit the power imbalance between the state and Indigenous organizations. For example the NLCA prohibits the federal government from appointing its own staff to the IPGs. Their decisions are technically advisory, but in practice tend to be binding: with the key exception of the NPC's 2015 decision on the Mary River Mine that was overruled by the minister, the IPG's decisions are generally respected by the government even when industry considers them unfavourable (Berger, 2005; White, 2001). However, the NPC, and co-management boards in general, are not only tied into Canadian political logics and institutions, but actually reinforce the power of the Canadian political state. This is not a normative judgment, but an empirical fact of land claims agreements, for in both mainstream Canadian political discourse and legal fact, the NLCA is considered a guarantee of Canadian sovereignty in the Arctic (Byers, 2009).

In all my research, all the discussions of land use planning in the North presented it as a solution to a problem. There was considerable diversity of opinion as to what the problem was, but land use planning was the solution: it was a tool of agency, a guarantee of investment certainty, or an important procedural mechanism in the complex review and consultation process. Criticisms of Northern land use planning are generally of the process and the implementation, and not of the applicability of what is indisputably a Western approach to land grounded in a rational-scientific approach (Cullingworth, 1993) in a region and among a people that have had a

well-documented relationship with Western rational-scientific management that has been at some times difficult and at other times disastrous (Tester & Kulchyski, 2011).

After the signing of the NLCA, while the nature and substance of the deeper problem was still debatable it became clear that the issue land use planning was intended to address was development, particularly mining and its precursor exploration. Land use planning would not directly affect traditional Inuit rights over wildlife, fish, flora, or carving stone, nor their right to establish and live in camps on Crown lands. These rights of usufruct were protected in the NLCA, which is a treaty under Section 35 of the *Constitution Act, 1982*, and they legally cannot be planned away or confined to certain areas. The NLUP is in this sense of little relevance to Inuit traditional uses in that it does not govern them. It is a plan for outsiders and interlopers.

A focus on regulating outsiders also addresses one of the classical challenges of governance of Indigenous peoples in Canada, especially in the North. While Indigenous people in Canada are in general over-policed (Pasternak, Collis, & Dafnos, 2013), the remoteness of many communities, whether geographical in the North or merely psychological in the case of reserves in the South, has meant that the state has struggled to ensure compliance with its laws, and Indigenous people have either remained wilfully ignorant of such laws or deliberately broken laws they regarded as unjust or inappropriate impositions (Barron, 1988; Kulchyski & Tester, 2007). While land claims settlements are supposed to address the precariousness of Canadian sovereignty created by Indigenous claims of ownership, the state is still unable to fully assert its sovereignty in the vastness of the North, where Indigenous people have the advantages of numbers, knowledge, and geography. In wildlife management for example, while the Canadian state asserts sovereignty over Inuit wildlife use by dominating the monitoring of

wildlife populations and asserting the superiority of its knowledge (Parlee, 2018), the enforcement of the regulations that stem from this claim is another matter: detecting and investigating violations requires substantial resources that are often beyond the capacity of the small number of wildlife officers in Nunavut.

By establishing a governance regime that exempts sites of resistance, the state is able to effectively assert its sovereignty: Inuit camps are legal not because their Indigenous rights to the land originate outside of Canadian law, but because the government has given them the general right to establish camps on crown land under the NLCA (*NLCA*, 1993). The fact the government would have a significant challenge restricting Inuit hunting and camping if it wanted to is no longer an effective critique of state claims of sovereignty. While this represents an evolution of colonial power, it is important to acknowledge that this shift is the result of an expression of Inuit agency that curtailed the power of the Canadian state, and the Inuit, in general, remain uninterested in complying with wildlife management regimes they feel are not in their best interests or do not accurately reflect the conditions on the ground.

At the same time, governments quickly recognized that there was some value in consulting with Inuit about issues important to them: from Baker Lake alone you can find reports of government funded engagement initiatives that address the socioeconomic impacts of the Polar Gas pipeline (Tester, 1979), solutions to the problem of snow-drifting in the community (Templeton Engineering & Hilderman Fier Witty & Associates, 1980), and the potential cumulative impacts of exploration and development on renewable resource harvesting

(Interdisciplinary Systems, 1978).<sup>4</sup> All of these studies occurred within a few years of each other during a time of significant local concern over multiple proposed industrial developments.

### **The Dynamics of Environmental Policy in Canada**

There are two dynamics to most environmental management questions: the technical and the political. This is a highly Weberian understanding of processes, but it remains a common assumption in environmental processes (Lawrence, 2007). The link between the two is in reality often somewhat ambiguous as members of the public can have technical knowledge, but the technical realm is dominated by professionals with natural-scientific credentials who prioritize certain kinds of knowledge and considerations. In bureaucratic decision-making, the technical realm has long been dominant (Wynne, 1996, 2014). Indeed, the public often only hears about political decision-making about environmental issues when an elected official over-rides or disregards the advice of expert civil servants, such as when the Nunavut cabinet changed the territory's policy on development in caribou calving grounds to be more favourable to industrial development to the dismay of its staff (Murray, 2017). But politicians do not have a monopoly on politics: public engagement and public support are significant factors in any discussion of resource development, and while the assessment of social impacts is marginalized compared to ecological impacts (Burdge, 2002), social impacts are still considered by impact review processes in Canada and have been for over forty years.

In Canada, and particularly in the North, there is a third dynamic to environmental issues: an Indigenous dynamic. It should come as a surprise to no one who tracks issues around

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4 Often, it is easier to find these studies in at the in southern university libraries or the in the legislative or Arctic College library in Iqaluit than in the actual community where the study was conducted, a point of frustration for some local policy elites.

development in Canada, that while Indigenous people and politics are not completely neglected by the state and the private sector, they are often dramatically mishandled. While when dealing with non-Indigenous constituents, the question of what constitutes effective and proper consultation is more theoretical and political, with Indigenous peoples the courts have established there a quantitative and qualitative threshold for consultation, and that any project that fails to meet that threshold cannot proceed. But a judicial standard of appropriateness has not led to productive discussions about appropriate levels of development between Indigenous people and the Canadian state. Instead, we have had decades of litigation, protests, blockades, police raids, community division, uneven agreements, public inquiries, and implementation disputes. Much of this stems from the failure of the state to effectively engage with Indigenous peoples as more than simply another constituency: while many governments, even at the local level, in recent years have made efforts to engage Indigenous people on development issues, they do so as though Indigenous peoples are one stakeholder amidst many. Consultation becomes a tool to legitimize an existing decision and mitigate potential political strife.

### **Land use planning as the solution and the problem**

There are very few critiques of land use planning as a concept in Canada. Indeed, there is a broad consensus among policy elites in Canada that land use management is the solution to the problems of Northern development. Therefore critiques of land use planning are usually about the implementation, not the concept itself or its techniques. As I noted above, there is not always agreement on what the “problems” of northern development are, but whatever they are land use planning is the solution. It is many things to many people: a way to reduce conflict between the state, Indigenous nations, and proponents (Indian Affairs and Northern Development Canada,

1981); a way to ensure that Indigenous rights are properly implemented (Berger, 2010); a tool of community agency (Hughson, 2017); an opportunity to apply management theory to ensure orderly development of Northern resources in a manner that benefits everyone (Kennett, 2010); a system to allow Northern communities to better capitalize on the unstable extractive economy (Rees, 1987); or a source of regulatory stability for industry (Ducharme, 2018). These conflicting visions are a result of the fact that there is no consistent approach to land use planning, especially not in large, sparsely populated areas with an Indigenous majority. Consequently, everyone imagines the land use planning approach that they prefer producing outcomes they desire. Land use planning is what we make of it. However, there has not been serious discussion of what approach to land use planning is even appropriate for Nunavut. Before moving on to the broader issues in the final chapter, I will address this issue.

The most common land use planning tool, and the primary tool used by the NPC, is zoning. Despite the complaints of urban property owners that zoning as a planning practice devalues their property by restricting allowed use, the primary purpose of the zoning approach used widely in Canada and the United States is to preserve property values (Cullingworth, 1993). For example, prohibiting industrial uses in a primarily residential area might slightly reduce the hypothetical value of an individual parcel of land, but it also protects the sale and use value of the entire area by preventing the owner from building a rendering plant, asphalt factory, or any other noxious use which would make life in the residential area unpleasant. There is extensive literature on the politics of land use (Cullingworth, 1993), but there is a significant context mismatch: it is primarily Southern, and more significantly urban. I am attempting to apply a largely urban framework in one of the least urban places on the planet, and the mechanisms of



industrialized settler politics in a region with a majority Indigenous population and a mixture of cash and subsistence economies.

Land-use planning as practised in the NLUP appears strangely out-of-place in Nunavut. The reality of deliberation in Nunavut is different from Southern Canada: the fact that the overwhelming majority of the population is Inuit means that the line between Indigenous consultation and public consultation is blurred, and every organization that is mandated to act in the public interest should presumably be acting in the interest of Inuit. The result is that the NLUP process involves a mix of assumptions as to what the public and Inuit interests are that draw on both Western and Inuit logics, and arguments framed in claims of both general rights from a western philosophical understanding, and Indigenous claims to land rights.

An important example of this is NTI's main critique of the DNLUP: that NPC is reducing the value of IOLs by restricting economically valuable use. In Anglo-American planning law this concept is known as the "takings issue," and while it is a significant issue in the United States, it is broadly understood in Canada that governments have no legal or political obligation to ensure that landowners are compensated for direct but incidental losses of land value as a result of planning decisions (D. R. Christie, 2006; Cullingworth, 1993; Lapping, 1987). There are of course still political considerations outside of legal obligations: landowners may be unlikely to passively accept significant imposed reductions in the value of their properties, and may lobby elected officials to rescind the changes or grant a variance (Cullingworth, 1993), but the state's legal authority to zone is considered unquestionable. This conventional approach to government management over private land treats it as either a technical question relating to the powers the law gives to the state, or a political one, namely the right of citizens to object to any governance

decision even if legally valid. But an additional element to consider is that Canadian customary planning law does not generally consider Indigenous rights to land. The NLCA is of little help either: it establishes the NPC's right to include IOL in its plans, but says that it must consider Inuit goals for IOL in its plans (*NLCA*, 1993).

### **Planning, modernism, and Inuit land management**

The lack of a tradition of serious engagement with Indigenous rights and issues raises the question of the appropriateness of zoning as a planning technique in Nunavut. While there are undoubtedly significant procedural issues with the NPC, the design of the draft itself may not be problematic. As I noted before, the 2014 and 2016 drafts deviated from previous drafts and earlier land use plans by shifting from a series of general guidelines built on external data to a prescriptive zoning approach that delineated acceptable and unacceptable uses in specific areas. This approach, commonly known as Euclidean zoning after the US Supreme Court case *Euclid v. Ambler*, is the most common land use planning tool in urban municipalities in North America. But Euclidean zoning is under attack. Critics have argued that it creates inefficient communities, promotes urban sprawl, and is inappropriate for both regional and urban planning (Hall, 2006; Lemmens, 2009).

While Euclidean zoning as practised in Southern Canada has significant problems, its overall prescriptive approach that dictates specific acceptable and unacceptable uses instead of general guidelines for appropriate uses has value. If regulations are in the form of planning guidelines designed to be applied on a case-by-case basis, proponents, aided by pro-growth attitudes among elected officials and civil servants (Stone, 1989) will avoid the intended level of professional scrutiny. The impact assessment systems in various jurisdictions in Canada have

often failed to prevent significant environmental impacts even when the process itself is thorough (Booth & Skelton, 2011). It is quite common to hear narratives of regulatory review as obstructionist and overbearing from developers, politicians, and opinion columnists. For example, on January 15, 2019 the Nunavut general manager for the N.W.T. and Nunavut Chamber of Mines published an opinion piece complaining that the permitting process for exploration was softening investor confidence in Nunavut mining projects (Dobbin, 2019). A few days later in a very different context, an opinion columnist in the *Edmonton Journal* complained that City staff were taking too long to consider a privately funded proposal to build a gondola. The article quoted a City Councillor in agreement and suggested that the pace of the process showed Edmonton's failure to embrace bold new ideas (Stolte, 2019). Two very different contexts produced similar complaints.

In the context of Nunavut it is tempting to view the NLUP's approach, and arguably the entire process of land use planning as a technocratic colonial imposition. In many ways, it is. Planning as practised in Canada is a discipline that grew out of southern cities, blending the British tradition of town planning, the Lockean understanding of land that prioritizes specific forms of intensive economic productivity, technocratic instrumental rationality (Cullingworth, 1993), and Canadian law. Additionally, prescriptive planning has been used for terrible ends. The reserve system, segregation in the Jim Crow South, redlining in the northern United States, Apartheid in South Africa, the construction of Israeli settlements in Palestine, and similar schemes elsewhere have all relied on prescriptive, technocratic planning. In a similar vein, James Scott's (1998) critique of technocratic attempts to make the natural and human world legible for the purpose of governance resonates strongly in Nunavut where the federal government forcibly

relocated semi-nomadic camps into central communities complete with all the institutions of the state and colonialism: schools, wildlife offices, RCMP, churches, Hudson's Bay Company stores, and the small army of Qallunaat officialdom who staffed them.

But representing the planning and regulation of human interaction with the environment as inherently colonial problematically reproduces the noble savage of early modern European political theorists: a whimsical individual who lives without regulation, governance, or separation of spheres. This is not the case: Indigenous people in North America practised agriculture, terraforming, controlled burning, and maintained systems of laws, justice, and diplomacy prior to contact (Corntassel, 2012; Simpson, 2017). To assume that Western forms of ordering the world are incapable of being translated or do not already make sense to Indigenous people is to further these colonial ideas. For example, when the government relocated Inuit to permanent communities in the Kivalliq during the middle of the 20<sup>th</sup> century, it published a book in English and Inuktitut that explained that the houses provided had different rooms for different purposes (Indian Affairs and Northern Development Canada, 1966), on the assumption that the Inuit were unfamiliar with spaces having distinct uses. This was a false assumption: Inuit folklore discusses different *iglus* set aside for distinct purposes (Kalluak, 2010), and a map drawn by an elder living in Baker Lake of his childhood *iglu* shows rooms that would roughly correspond to many contemporary Canadian houses: an entryway, a bedroom, a bathroom, a kitchen, and a porch in addition to outbuildings and storage areas (Hughson, 2010, p. 64). A federal government report published a few years after the housing pamphlet noted that the problem with government-provided housing stock was not the separation of space itself, but that spaces were not separated in a way that was useful to actual Inuit life: seals were being stored in

bathrooms and skidoos repaired in dining rooms when there ought to be spaces designated for these things, a position shared by community members interviewed for the 1980 Baker Lake planning study (Templeton Engineering & Hilderman Fier Witty & Associates, 1980; Thomas & Thompson, 1972).

There is documented evidence of Inuit establishing land use rules prior to the arrival of Europeans. In particular, the rules for places where caribou cross rivers during their migration are prescriptive and extremely restrictive, including prohibiting many common hunting activities, and regulating sightlines and noise levels (Aupilaajuk et al., 2017; Bernauer, 2015). Caribou water crossings are protected from development in the 2016 draft of the NLUP, and criticisms of the NLUP do not generally question this decision. Similarly, notices posted in community bulletin boards about inappropriate or illegal hunting by wildlife officers often appeal both to the authority of territorial law, which can be fairly regarded as a colonial imposition, and Inuit ways, which the wildlife officers cannot enforce. The history of colonialism is generally one of arrogant impositions of foreign ways and institutions in contexts where they do not work, but colonial institutions and Indigenous ways can work towards the same ends, though often precariously and uneasily.

### **Politics in Nunavut**

To deny Indigenous peoples the right to be strategically syncretic is epistemologically violent: Indigenous peoples have strategically built coalitions without being co-opted. There are empirical examples of this (K. Shaw, 2003), but the mere fact the Indigenous people in Canada have persisted as Indigenous despite several centuries of state policy whose explicit aim was either to assimilate or eliminate shows that while there is an indisputable power imbalance

between colonial forces and Indigenous people, and a legacy of colonial violence, Indigenous people cannot be viewed as mere subjects of colonial policy.

This does not mean I am unwilling to criticize Indigenous institutions, but that those criticisms require a degree of nuance. In my critique I am not willing to engage with questions of Indigeneity in the same way as critical Indigenous scholars because as a non-Indigenous person it is not my place. But to further explore politics in Nunavut requires me to acknowledge what is obvious to many observers within Nunavut: there is significant disagreement within communities about the appropriateness of extractive development, and the DIOs and the territorial government are often disconnected from community politics and tend to strongly favour development (Anonymous, 2018b; Ittinuar, 2008; The Pond Inlet, Mary River Phase 2 Review Committee, 2017). This is not a problem unique to Nunavut, but more of a symptom of polyarchy. Additionally, this disconnect does not necessarily mean that the elected officials in the DIOs and the territorial legislature are oblivious to the concerns of hunters and other established land users, but as Irlbacher-Fox (2009) notes, Indigenous leaders in Canada must struggle with the realities of economic scarcity and lack of resources and opportunities for youth in their communities. This makes it very difficult for them to reject projects because of the impacts on established ways of life when there might be tangible benefits to their communities. Even complaints of nepotism (Varga, 2013) are not especially unique. As scholars of politics in the global south consider such patrimonialism a symptom of scarcity (Bates, 2015) and Nunavut's small population and even smaller pools of Inuit business people and educated professionals means that hiring and procurement practices must inevitably differ from those in the South. But the DIOs are not always supportive of development, and they raise legitimate issues about the failure to

effectively integrate Inuit knowledge into hearings and make the process accessible to communities (Eetoolook, 2017).

### **Planning and Process**

The NLUP is not the first land use plan in Northern Canada that arose out of a land claims settlement. What is unique about the NLUP was that it was the first northern land use plan prepared by registered professional planners (Dillion Consulting, 2012). Planners, and planning as a discipline, have traditionally emphasized the development of plans that are approvable, and the process is a means to an end that is a final, approved plan (Perera, 2018). In this regard the much delayed NLUP process has been, and continues to be an abject failure. The lack of a land use plan for much of Nunavut has created a lack of regulation where there ought to be, meaning that the NPC is unable to fulfill its project screening role set out in the NLCA. It also means that both communities and proponents are uncertain about what developments will be approved where, and what lands and resources will be protected from intense development. At the 2018 Nunavut Mining Symposium, when a senior NPC staffer declared that the NLUP would likely not be complete until 2022, the audience groaned (Ducharme, 2018). The protests from industry about the delays in the process are peculiar, given that the Northwest Territories and Nunavut Chamber of Mines strongly objected to the 2016 draft of the NLUP.

The 2012 NLUP review found that planning theory did not provide a single answer to the complex issues raised in the NLUP process (Dillion Consulting, 2012). I am not interested in denouncing planning as a profession and practice, but if the intention was that the IPGs would be independent, non-political technocratic bodies this was unsuccessful: with the exception of the SRT, which has yet to hear a case, all of the IPGs have dealt with issues that are the subject of

intense political debate inside, and frequently outside of Nunavut, and in most cases have had their decisions publicly denounced by elected officials, community members or proponents (Bell, 2009; Berger, 2005). It is not clear if the IPGs were supposed to be “above” politics. Bernauer (2016) contends that the mandate of the IPGs is “anti-political,” in that it is structured in a way that converts political issues into technical issues towards colonial ends. But the NPC’s mandate is different from other IPGs in that it focuses on policy development, which is explicitly a more political process, rather than proposal review. However, the NLCA contains clauses that show that there were some aspects of the politics of the pre-Nunavut era that the Inuit organizations wanted to end: for each body or board created in the NLCA, the conflict of interest section includes a line stating that the mere fact that a board member is an Inuk is not a conflict of interest (*NLCA*, 1993). Regardless, much of the criticism of the NLUP process, and other IPG-led processes, is that they have become overly political (Anonymous, 2018b). While this criticism appears to contrast with the assumptions of deliberative theorists and post-modernist scholars, who generally reject the idea that such processes are ever capable of being apolitical, objective evaluations of the facts, in fact it affirms them. For the history of political decision-making in Nunavut is one of supposedly objective decisions imposed from elsewhere. Objecting to the politicization of the process is declaring it to be at the control of outside powers who do not know the community and who are unknown to the community. This claim has a particularly strong resonance in Baker Lake, where decisions made by Ottawa-based technocrats caused mass starvation in the middle of the twentieth century (Tester & Kulchyski, 2011).

While there are different conceptions of how decision-making in Nunavut ought to be structured, and how the complex variable nature of IQ can be accommodated in decision-making



(Bernauer, 2011), these discussions have not affected the institutional design of the IPGs. Instead, there is a strong appeal to evidence, typically, though not exclusively from the Western scientific tradition, in critiques of the NPC's decisions (Nunavut Tunngavik Incorporated et al., 2017). This occurs at many levels. In a community meeting conducted by the NPC in Baker Lake on the NLUP in 2013, a community member suggested that while there were many complaints about the impacts of exploration on caribou behaviour, there ought to be study commissioned to determine if Inuit were disturbing the caribou (Nunavut Planning Commission, 2014b). This appeal to evidence is a mechanism of depoliticizing the process by appealing for objectivity, for sure, but it is not necessarily an unreasonable one: while the change in designation from the 2014 draft is undeniably a contentious issue, the NPC justified its decision based on stated positions in the submissions it received from the NWMB, two regional wildlife boards, and several HTOs and external bodies; a principle in territorial development policies; and the recommendation by the NIRB that cumulative effects may be best dealt with outside of the project impact review process (Nunavut Planning Commission, 2016a). The NPC did not consider any of the research on effective measures of protection for caribou around mining development to be conclusive (Nunavut Planning Commission, 2018a). Instead, the NPC made a decision to protect calving and post-calving grounds based on the precautionary principle, as recommended by the NWMB technical review (Trailmark Systems, 2015); a justifiable decision, at least in the classical meaning of the word "justified," but undoubtedly a political one. The NLUP process has been one of technical information used to political ends.

### **Bureaucratic agency and political limitations**

The NPC and the other IPGs have the unenviable role of taking conflicting, politically charged information and translating it into policy according to some sort of rationale. NPC staff take a transcriptionist view of their role: in a 2015 conference Brian Aglukark, the NPC's Implementation Director referred to the organization as "the ears and the pen" of the many stakeholders present (*June 2015 Nunavut Planning Commission technical meeting transcript*, 2015, p. 9). However, the IPGs also communicate a desire to ensure there is no appearance of regulatory capture by any party, particularly industry. In the same conference, an NWMB staff member expressed reluctance to formally engage with Baffinland's caribou consultant in its technical sessions on mitigation because "We know the industry has a lot riding on these as well. But [...] our main concern was the protection of caribou." This remark earned him a rebuke from Baffinland's lawyer (*June 2015 Nunavut Planning Commission technical meeting transcript*, 2015, p. 187). In Nunavut, many community-based policy elites operate with the assumption that any exploration of mineral resources will inevitably lead to mining if economically viable deposits are found (Aksawnee, 2018; Anonymous, 2018b). For this reason the draft NLUP prohibits research related to mining in areas where mining is also prohibited. This assumption mirrors Schnaiberg, as well as the rhetoric of the mining industry, but it also a part of the reality of the functioning of the DIOs. DIOs derive significant financial benefits not only from mining on IOLs, but also from exploration. With the small amount of subsurface rights supposedly granted to the Inuit under the NLCA, there is a lot of pressure on the staff of the DIOs to ensure that as much of it as possible is open to mining and exploration to increase royalties they receive to fund important programs. The primary purpose of IOLs under the NLCA is to promote Inuit economic self-sufficiency (*NLCA*, 1993, Chapter 17). While not all subsurface rights in Nunavut

have extractive potential, and Inuit subsurface rights were generally selected based on mining potential, Inuit still own less than five percent of subsurface rights in Nunavut (McPherson, 2003). Since it is still not clear which subsurface IOL parcels could actually support an economically viable mine, there is significant pressure on the DIOs to ensure that there is as much exploration in subsurface IOLs as possible. They are not uncritically supportive of all development, especially when there is no clear economic benefit, but there is a strong pro-growth pressure within the DIOs.

The IPGs are in the position of having to hold this pressure in check without compromising the economic development of Nunavut. In that sense there is a clear ideological limitation in the breadth of the review process: there is no entity that is questioning the goal of capitalist economic growth through non-renewable resource extraction in Nunavut, a reality that is not significantly different from the rest of Canada. The IPGs have a mandate to review projects, and in the case of the NPC and the NWMB, consider the cumulative impacts of development. The purpose of planning is statist regulation of development (Howitt & Lunkapis, 2010). If there was no desire to regulate development, there would be no need for a land use plan or any of the IPGs. The staff of the IPGs are consequently in the business of (re)producing regulatory authority through their practices. Forester (1993), drawing on Habermas' theory of communicative action, argues that planning and policy development are social actions where planners attempt to organize attention towards particular needs, as well as reorganize social relations. In its planning process, the NPC staff must cope with the complex relationships between industry, the DIOs, the territorial and federal public, the Inuit and Quallunaat members of the public, as well as the complex relationship between Western technical knowledge and IQ. They

must engage in the rituals of consultation and justification. But they cannot ignore two significant limitations on their planning ability: that the federal government controls their funding and in the past has used that fact to communicate its displeasure with the NPC, and that the federal and territorial ministers as well as NTI must approve the final plan.

Yet the NPC has produced several drafts of a plan that the federal government and NTI found objectionable. With these plans they provide a longer companion document that explores alternatives and justifies their decisions. They have created a strong technocratic framework that engages effectively with power structures in asserting a role as independent regulators. At the same time, as the DIOs have repeatedly complained, the NPC has not conducted substantive community engagement sessions to evaluate priorities, and communities lack the resources to navigate the process on their own (Dillion Consulting, 2012; Redfern, 2017). Part of this is because the federal government has not funded full community engagement sessions as requested, but even the sessions the NPC has conducted have been primarily technical (Dillion Consulting, 2012). The NLUP plan process is deeply politicized. That is not a problem on its own, as resource development is a political issue, but the politics has largely been between the NPC, the federal and territorial governments, and the DIOs, and even if there is an awareness of the decision-making process and its implications at the community level (which often there is not) there is little capacity to engage with it. In the 2012 consultant's review NPC staff complained that the other parties were expecting the NPC to provide solutions to contentious and complex issues that they were unable or unwilling to resolve (Dillion Consulting, 2012). This is an unfair expectation of a small organization with limited staff and budget. The multitude of political pressures on the NPC is clearly behind its decision to focus on technical justifications

for decision-making. The critical question of any policy is not “how to?” but “what for?” (Forester, 1993, p. 39). The NPC has not engaged thoroughly with that question. But as I noted before, planners and other policy-makers create and recreate their roles through policy. Planners have traditionally focused on making approvable plans (Perera, 2018). But despite the pedigree of being the first northern land use plan developed by professional planners, the NPC is more than a planning body: it is a regulator. By producing conservative, restrictive plans, the NPC is (re)creating a role for itself as an independent regulator against a perceived relentless treadmill of production. The role of bureaucratic regulator is not new in Nunavut, though the federal wildlife technicians and RCMP who first brought Qallunaat regulation to Nunavut were unconcerned with, and even supportive of, the treadmill of production. To an extent the players have changed: Inuit now have significantly more say in how Nunavut is governed, both in the public government and through the representation provided by the DIOs. The regulatory function remains, but is applied to different ends, and with a more ambiguous relationship to capital. This is the co-management experience, and NLUP as well as Nunavut as a whole are one of the most ambitious experiments in co-management in Canada.

Foster, Clark, and York (2011) argue that Schnaiberg’s treadmill of production is a synonym of capitalism. But in committing to the regulation of a mixed economy, the NLUP process does not challenge capitalism. Instead, it seeks to apply the syncretic vision of Nunavut to land use planning using the techniques of co-management. But just as northern policy elites have competing understandings of land use planning, there are competing understandings of what principles from Inuit and Western systems are best applied to governance in Nunavut. I will

engage with these debates as competing Inuit and Western visions, and how they are answered in the NLUP process specifically and in Northern co-management in general in my next chapter.

## Chapter 5: Implications and moving forward

Returning to the question of “Does one way of life have to die so another can live?” (Yupiktak Bista, 1974) Coulthard’s answer to the rhetorical question is quite direct: “For Indigenous nations to live, capitalism must die. And for capitalism to die, we must actively participate in the construction of Indigenous alternatives to it” (2014, p. 173). Nunavik leader George Berthe takes a different approach: the transition to “hybrid capitalism” requires Inuit to embrace the concept of success. While accumulation would be problematic in a subsistence economy with a tradition of sharing, the new potential for abundance creates opportunities for Inuit to adapt and succeed (McArthur, 2009). These are two very different answers to the same question, but what is more interesting is not their differing attitudes towards capitalism, but difference in political economy. The idea of a “way of life” is, on its surface, primarily an economic concept, and the concept of living and dying are primarily materialistic, not values-based. In the draft NLUP ways of life are explicitly defined in economic terms: land-based subsistence, particularly hunting, and the cash economy. However, way of life refers not only to how one earns a living, but how a society is organized and how decisions are made and implemented. In Nunavut this is especially true: many of the dramatic shifts in Inuit ways of life were not the product of individual economic decision-making, but of centralized state planning.

Economics, in classical, neoclassical, and Marxist understandings, has no value but economy, and is explicitly and almost “monotheistically” (Moreton-Robinson, 2018) materialist; as *The Communist Manifesto* puts it, under capitalism there is “no other nexus between man and man [sic] than naked self-interest, than callous ‘cash payment’” (Marx & Engels, 1967, p. 222). While political science has often claimed to focus on the distribution of finite and material

resources (Lasswell, 1958), or has used a surrogate such as power to explain material inequalities (Dahl, 1957; March, 1966), I find Easton's values-based, ideational definition of politics and specifically policy-making to be more compelling: "the authoritative allocation of values for a society" (Easton, 1963, p. 129).<sup>5</sup> This is the definition I will be using when I refer to politics. The concept of a way of life in the above question focuses not just on production, but also on identity. I have heard throughout the North the importance of a land-based way of life to one's identity, and indeed having full-time employment does not preclude people from going out onto the land, because it is important to them beyond simply a way to feed one's family.

But both Coulthard and Berthe integrate economics and politics in their arguments. Berthe's invocation of the values of individualized success and collective sharing, though they are both approaches to resource distribution and play an economic role, are grounded in cultural norms first and foremost. Coulthard's invocation of values is less obvious in the short quote above, and he draws heavily on the materialist tradition of Marxism in his critique of colonial capitalism, but he writes of concepts utterly offensive to materialist economics: constructing an Indigenous alternative to capitalism is a relational process that subordinates production to engagement between Indigenous peoples, their lands, and non-humans (Coulthard, 2014). It is safe to say that when governments and academics deal with Indigenous people, their focus on either the economic and technical or the value-oriented and cultural is inappropriate and produces bad policy and bad theory. I am not the first person to make this claim (Agrawal, 1995; Bernauer, 2016; Nadasdy, 2005). However, Easton's definition of the political is not just about values, but the mechanisms that reify and institutionalize them. Again, there is an abundance of critiques of institutions that deal in some way with Indigenous peoples, but they tend to focus on

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5 Easton's use of the term "values" includes both the economic and the social meanings of the word.



goals or outcomes, addressing techniques only to the extent that they are related to outcomes. The classic colonial actors—the missionaries, the Indian or Northern Affairs agents, the police and wildlife offices, the explorers, and the settlers—are colonial to the extent that they implement colonial policy. Notwithstanding the fact that some chose to ignore or protest policies they found problematic, as Kulchyski and Tester (2007) document, they remain colonial because they were sent there to implement dispossession. But in Nunavut things have arguably changed: while the Canadian state—an indisputably colonial entity—remains, Inuit have a greater degree of institutional control. The staff of the IPGs and other government institutions have a track record, albeit an inconsistent one, of articulating resistance to treadmills of production. It is an open question whether—and if so how—such governance can be perhaps not decolonial, but uncolonial. As debates over the regulation of intensive industrial extraction in Canada continue and become more salient, this is an important question, and what happens in Nunavut, with its majority Indigenous population, is highly relevant for the rest of Canada. Answering this question requires engaging with the linkages between economics, politics, and governance.

### **The needs for certainty**

Much of the discourse surrounding Indigenous peoples and natural resource development, or indeed any interactions between developers and regulatory bodies is about the need for certainty. Certainty is an economic concept. The pre-approval stages of development: exploration, design, approvals, engineering studies, environmental impact assessments, and engagement with the regulatory process itself are often quite capital-intensive. Investors are often reluctant to finance these early stages unless they are confident the project will go ahead, and they will receive returns. This is not only a common narrative of industry and other

proponents, but is also core to Schnaiberg's theory of treadmills of production (Schnaiberg, 1980).

In Canada, the issue of certainty has been most significant on the Pacific Coast for two reasons: a lack of treaties between many of the Pacific Coast First Nations and Canada that makes the status of the land ambiguous at best, and the long history of litigation by Pacific First Nations challenging approved development. The recent Federal Court ruling (*Tsleil-Waututh Nation v. Canada (Attorney General)*, 2018) requiring the federal government to go through additional consultations with certain First Nations before approving the Trans Mountain pipeline, despite the government's claim that it had learned from a similar ruling over the cancelled Northern Gateway pipeline, shows that the federal regulatory process as structured in the South does not produce bankable certainty. For this reason, the private sector has sought to create certainty by negotiating Impact Benefit Agreements with Indigenous governments that often prohibit the community from filing an application for judicial review against the project (Cameron & Levitan, 2014).

But proponents are not the only ones seeking certainty. Indigenous peoples, including those in Baker Lake (Metuzals, 2018) have generally established their collective frustration with being subject to the whims of industry and other levels of government, spending years and thousands of dollars in litigation with an uncertain outcome, and the callousness of resource extraction in their lands. The need for certainty and consistency has become a key motivator in negotiations of land claims and self-government agreements (Irlbacher-Fox, 2009; Kulchyski, 2005; Natcher, 2000). While Indigenous peoples never get everything they desire from these agreements, the promise of certainty and predictability is a significant achievement.

The NLCA was supposed to provide this certainty to the economies of Nunavut by creating rules and institutions that governed the interactions between the extractive sector and established Inuit land uses. In some ways it has. The “native red tape,” a term coined by Inuit leader Tagak Curley to refer to the potential effect of unresolved land claims and other Indigenous claims to sovereignty to trouble development (quoted in Tester, 1979, p. 248), might have been a challenge for proponents of earlier projects in the former Northwest Territories, but it has significantly diminished as the DIOs have become increasingly supportive of, and even openly enthusiastic about projects where they receive royalty payments and other benefits. There are also bodies charged with establishing rules for developers, although enforcement and monitoring continue to be significant issues and undermine the authority of the IPGs.

The intention of NLUP was to create an effective framework that provided certainty for proponents and Inuit land users. It has only created uncertainty: most of Nunavut has no land use plan in place, meaning that significant lands are not protected from unreasonable levels of development; and a future land use plan could theoretically block active projects after significant capital has been invested, making investments potentially unattractive. The completion of a plan—any plan—should be desirable to industry and governments, and yet industry, governments, and the DIOs have repeatedly objected to NLUP drafts and actively obstructed the NPC. Much of this criticism has relied on claims of the inadequacy of the NPC’s justifications for its technical decisions, the failure to properly justify the plan by holding thorough consultation, or even the federal government’s repeated claims that the NPC’s fiscal practices are unjustified.

### **Regulation and deliberation**

In both academia and policy, there have been numerous failed attempts to situate Indigenous peoples within the dominant frameworks (Cruikshank, 1998; Deloria, 2001; Searls, 2006; Tester & Kulchyski, 2011). It should come as no surprise to those who monitor Indigenous politics that the Canadian state has not been able to fully conceive of Indigenous people as political beings. There is certainly an awareness of this problem among Indigenous peoples, and to a much lesser extent in government: the rhetoric of a “nation-to-nation relationship” that was appropriated by the future prime minister during the 2015 election strongly implies a need for a relationship that respects Indigenous political decision-making processes. The NLUP experience affirms this. The justification process has been heavily instrumental and technical, and the politics of communities has been marginalized by the federal government’s refusal to fund extensive consultation despite the complaints of both the communities themselves and the generally pro-development DIOs. Even when perspectives presented as Inuit are introduced, there are significant issues with the process, as the introduction of IQ to the process has often been left to experts with Western technical training who do not have first-hand experience with the land (*June 2015 Nunavut Planning Commission technical meeting transcript*, 2015).

The application of deliberative approaches to governance in the North through tools like co-management and consultation generally arose out of Indigenous resistance to governance regimes that excluded them and often operated against their interests. But the deliberative turn, which emerged at around the same time as the first co-management boards, had a significant influence as well: deliberative approaches to governance, adjusted somewhat for northern contexts, have become the go-to solution to Indigenous exclusion in decision-making.

Governments, after all, conduct consultation around policy issues in non-Indigenous communities as well.

The deliberative turn throughout the world arose because of growing global skepticism towards supposed objective and technical ways of decision-making. But there is also an ethical component (Forester, 1993; Versteeg & Hajer, 2010): a desire by civil servants to not be “just another bureaucrat” (Kenny, 2014, p. 58) The North was not exempt from this trend towards a more ethical, progressive, humanistic civil service (Kulchyski, 2005, pp. 73–74).

Much of the literature around co-management is focused around knowledge. Generally, the critique is similar to what I presented in the previous section: that Indigenous knowledge is devalued and the voices of Indigenous people are considered only if they conform to and validate Western ways of knowing and doing (Nadasdy, 2003; Simpson, 2004; White, 2006). The assumption often drawn from this is that the marginalization of Indigenous knowledge serves to promote intensive extractive development (Bernauer, 2016; King, 2010). Generally this is a reasonable assumption, as the history of development in Canada is one of the consistent marginalization of Indigenous peoples, voices, and ways. But even critics of the structure and practice of co-management such as Nadasdy (2003) acknowledge that some, though certainly not all bureaucrats involved in resource management are sincere in their efforts in engaging with Indigenous knowledge. The problem with co-management as I see it is not so much about how Indigenous knowledge is included in the process, but about the processes that translate that knowledge into policy that is implemented on the ground.

No person that I spoke to was willing to be overly critical of the NPC staff, despite any criticism they might have had of the process, and the critical literature often presents the issues

with Northern co-management boards as systematic while remaining sympathetic to the struggles of board personnel (Bernauer, 2016; Nadasdy, 2003). The failure of the process to produce a plan is primarily the fault of the federal government for failing to fund the necessary hearings. The NPC's staff, as well as those of the other IPGs, have made efforts to ensure that pressure from governments, the DIOs, or industry do not dilute the protection of particular values in their plans, and have made an effort to ensure that their decisions are broadly justifiable. For communities, however, there has been so much focus by all involved on the content and the end product of an approved plan, and less on the process and the approaches that underlie it. The process itself can be significant and impactful regardless of the outcome: it can mobilize people and entities around issues, identify concerns, and build political awareness and institutional knowledge both inside and outside the bureaucracy (Forester, 1993; Perera, 2018).

Instead of looking at institutional power or the micropolitics of knowledge in the NLUP process as most scholars of co-management do, the more significant and interesting question is how political structures have shaped both the process and the product. As I noted above, the NLUP is primarily about regulating the behaviour of outsiders, who have had a long history of causing damage of all sorts in the North. Even in my brief time in Baker Lake I was subject to regulation by the state as an outsider: near the end of my time in Baker Lake I stopped by the wildlife office, as one of the wildlife officers had invited me to stop by for tea. He was out, but I spoke casually with another officer for a time, who when he learned I was a researcher firmly asked to see my territorial research license. I emailed it to him, we continued our conversation and I went on my way. I was never able to definitively confirm what the consequences would have been had I not had a research license, though the *Scientists Act* proscribes the standard

maximum penalty for a summary conviction of \$1000 and 6 months in prison (Scientists Act, 1988), though such a penalty is more likely theoretical than an actual risk.

I left the wildlife office glad that the value of the modest effort and expense I expended in applying for a research license was validated by its enforcement, especially given that I had heard from other researchers that some treat the licensing process as an optional inconvenience. I argued previously that the state has focused on regulating outsiders because its limited ability to govern the Inuit was undermining its claims of sole sovereignty over the North. Despite the diligence of the wildlife officer, there are significant challenges in regulating the behaviour of outsiders that are similar in many ways to the state's failure to effectively regulate Inuit behaviour. But this also means that the state is unable to effectively regulate outsiders: mining companies frequently ignore regulatory requirements without consequence. In one particularly egregious example, rumours began to circulate in 2009 that the junior mining firm Uravan was operating without approval from the NIRB or a permit from the federal government (Bell, 2009). Regulators who were concerned about the unique impacts of a uranium project in an area of importance to caribou had imposed conditions on the project that the company felt were unreasonable, and it had opted to ignore them (Zarate, 2010). A visit by a federal inspector to Uravan's operation found evidence of unauthorized exploration activity, and the inspector ordered the company to clean up one thousand litres of spilled diesel (Zarate, 2010). The disregard for the regulatory process and principles of environmental protection illustrates what Uravan thought they could get away with, and indeed I was not able to find evidence of any penalties filed against Uravan. Companies involved in less high profile projects frequently and repeatedly ignore inconvenient rules and regulations (Murphy, 2012; Murray, 2016).

The history of regulation in Nunavut is generally one of high-minded southern technocrats imposing ideals, values, and systems that are inappropriate to the North and the Inuit through wildlife quotas, community relocations, building designs, welfare rules, and residential schools, with the end result being that either the policies are ineffective or disastrous (Tester & Kulchyski, 2011). While the mechanisms of state power have shifted somewhat in that regulators are now often based in the North, are required to devote a limited amount of resources to community engagement, and are increasingly staffed by Indigenous people, the regulatory approach remains the same: it is a purpose of the state to control the destructive excesses of outsiders and capital for the benefit of the Indigenous population, and the public in general. While the state's role in screening and controlling the environmental impact of industrial development is a relatively recent development, the state's perceived need to protect Indigenous populations from the destructive behaviour of outsiders is not: even Duncan Campbell Scott—hardly a supporter of Indigenous rights—called for the elimination of white trappers from the territories, because he saw them as greedy, irresponsible, and generally detrimental to both the environment and the welfare of Indigenous peoples (Kulchyski & Tester, 2007, p. 58). The logic of a need to protect caribou, walrus, and polar bears from development, not only as values themselves but because of their multi-faceted importance to Inuit is the justification for the current generation of state regulation in Nunavut.

Irlbacher-Fox refers to this approach as “dysfunction theodicy” (2009, p. 106). She gets this concept from Veena Das's examination of the litigation following the 1984 Bhopal Disaster (1995, Chapter 6). Das extends the religious concept of theodicy, which is an umbrella term for various theological answers to the problem of suffering that affirm the benevolence of the divine,



to the technocratic realm of governments, medicine, and the natural sciences. In the case of Bhopal, Das notes that the disaster became a point where the state, which had failed in its regulatory capacity, was able to affirm its sovereignty by assuming the legal representation of those harmed by the Bhopal leak. This is not entirely without good reason, as the victims of the leak lacked the resources to pursue a large multinational for damages even under the healthiest circumstances, but by deeming the victims incompetent to represent themselves the state recast itself as a protector of victims and the adjudicator of the legitimacy of their suffering. As Das puts it:

the situation can be summarized in this manner: A multinational corporation was engaged in the production and storage of an extremely hazardous industrial chemical for which it had been given license to operate by the Indian government. Despite the known hazards of industrial isocyanates and diisocyanates, neither the multinational corporation nor its Indian subsidiary nor the Government of India had considered it important or necessary to enquire into the [...] hazard to the people posed by the manufacture and storage of this toxic material between setting up of the factory and the spillage of the gas [...] nor had any regulations been made and implemented about the placement of such factories. The result of all these activities, geared towards the 'development' and 'industrialization' of India, was that more than 300 000 people were suddenly, one night, blighted by a crippling disease, of which more than 2500 died horrible deaths. Yet the people declared incompetent [...] were neither the multinational nor the government but the sufferers (1995, pp. 160–161).

The move towards co-management in the North is not an elaborate conspiracy to reinforce the power of the Canadian state. In fact, as I have established above, not only are there staff committed to the deliberative ideals of co-management, but crucially there are agencies tasked with implementing the sorts of regulations that Bhopal was tragically lacking; but the paradox of the state, which introduced capitalism and the excesses of rationalist resource management to the north with great consequences, acting in part with the stated intention of controlling the impulses it introduced is striking. Planning cannot erase the history of colonial

power (Howitt & Lunkapis, 2010). Again, while Inuit institutional power is much greater than it was in earlier times, the NLUP process is one of centralized decision-making and centralized governance. It is not syncretism in that it does not seriously engage with Inuit governance, only Inuit knowledge. Management by definition requires involvement in the implementation and policy development stages of the policy cycle. Therefore, co-management as the IPGs are mandated to implement it, is not co-management at all since it primarily focuses on the domain of knowledge, and not implementation.

This was not the intention going in to Nunavut's creation. Going into the development of Nunavut, the intention was to shift authority to the communities and away from centralized government. How this would be manifested institutionally was a subject of debate, as local governments were wary of having expensive functions that they lacked the capacity to manage downloaded onto them, but there was a consensus that critical decisions were best made at the community level by people with first-hand, on-the-ground experience, avoiding the geographically and culturally distant Ottawa and later Yellowknife-centred technocratic governance of the previous decades (Hicks & White, 2015; Kulchyski, 2005). If things have improved, the NLUP process shows that even mechanisms designed to consider the needs and wishes of communities and led by staff concerned about the impacts of industry reinforce the power of the technocratic state. The idea that it is the role of the civil servant to challenge power structures dramatically privileges the knowledge and techniques of the bureaucracy. Whether those being challenged focused on capital accumulation or other ends, the civil servant as advocate model still assumes the technical superiority of the bureaucracy (Versteeg & Hajer, 2010). If such regulation could effectively control the excesses of outsiders it might be a

justifiable approach, but as I noted above it has struggled to serve that purpose. Governance in Nunavut has failed not for want of knowledge or good staff, but the simple fact is that there has been too much focus on the ends of governance instead of the means.

### **Conclusion**

I am uncomfortable with critique without offering alternatives. Not only is it bad policy analysis, but it comes across as arrogant to attack policy-makers from the comfort of academia without making a concession to difficulties of their work. But it is also important to me to acknowledge that much of the problems I have highlighted are structural and thus require some sort of radical solution. This conclusion is obvious to those who come from a critical tradition, but comes across as unhelpful to those on the ground who must work within structures. Therefore, I will stick to relatively narrow recommendations but do not wish to diminish the importance of greater structural shifts. Thankfully, the NPC has done already the work of developing a limited, but workable and promising way forward: it has requested funding to conduct a new round of consultations on the NLUP from the federal government (Nunavut Planning Commission, 2018b). At a minimum, this request should be approved.

But there is a better and more significant way to remake the regulation and management of lands and resources, and there is already some movement on this in the North. What impressed me most in my time talking with people in Baker Lake is an awareness of the importance of monitoring among both those involved in policy and land users. Additionally, despite the meagre budgets of the various bodies involved in land and resources policy, they devote significant portions to monitoring and associated capacity building, and requests for monitoring funding are common in negotiations with industry. In Southern Canada, monitoring

and implementation have often been neglected at the expense of planning and policy development. In one particularly telling example, Parks Canada spent a considerable amount of money developing sophisticated planning tools, but had to abandon them because it lacked the resources to implement them (Panel on the ecological integrity of Canada's national parks, 2000; Thede, Haider, & Rutherford, 2014). The reality in Nunavut is that Inuit land-users have a much larger footprint and a greater awareness of the land than the state, and there is potential not so much to integrate them into the regulatory system, but to shape decision-making and monitor compliance on a community level.

I remain committed to the idea of zoning because it is a form of place-making that is an alternative to capitalist place-making that sees place only to the extent that it supports capital accumulation. But Nunavut without a land use plan is not an empty space: there is an extensive knowledge of the land that is largely undocumented in official records but represents centuries of Inuit relationships with the land. While the NPC has made some efforts to document these meanings and incorporate it into its planning, the impact on the plan is small compared to technical information. Even if the necessary funding to hold broad community consultations came through, it does not address the broader issue of centralized governance instead of community-based decision-making. The translation of Inuit knowledge and understandings of place into a centralized bureaucracy does not fulfill the syncretic vision of Nunavut. Syncretism is about integrating the best aspects of Western and Inuit ways and institutions. It is unfortunate then that of all the products of Western society, all its ways, techniques, and understandings, we have chosen to focus so much on technocratic centralized government, a concept that has consistently failed in the Arctic. It may still be possible to import Euclidean zoning into Nunavut,

as it has a broad, well-established track record as an effective governance tool, but the processes that shaped the zoning system are problematic and likely ineffective regardless of the end product.

It is not my intention here to be too critical of the NPC: their mandate is to develop a land use plan with the capacity available to them. While the centralized planning approach is problematic, it is difficult to see how the NPC had an opportunity to implement a more community-based approach to planning and governance in the development of the land use plan: they have limited capacity and the federal government has consistently stalled funding for community engagement and weaponized forensic audits to express its apparent displeasure with the NPC. The NPC is not the driver of centralized, technocratic decision-making in Nunavut, it is one body constrained by a lack of resources forced to fulfill its mandate in a manner that limits community involvement. That is not to say that the NPC has not reinforced centralized decision-making at times: the decision not to allow for community plebiscites on uranium mining is a prominent example, but the NPC has consistently sought to involve communities to a much greater degree in the planning process, and has been prevented from doing so by the federal government. Every year the NPC produces two budgets: one that reflects the resources required to fulfill all of its perceived obligations under the NLCA, and a more modest budget that reflects the money it actually receives from the federal government and submits both to the federal government along with a list of its obligations that it is fiscally unable to fulfill (Tootoo, 2015). Ultimately the delays and any issues with the final version of the NLUP are primarily the fault of the federal government.

Discourses of technocratic agency are still relevant, but practitioners need to consider both the ends and means of the decision-making process. Resources, however, remain a consistent constraint on just, effective, and legitimate policy-making, and it is important for policy-makers to consider how limited resources impair their decision-making and how well-intentioned decisions can reinforce problematic techniques of governance. Focusing too much on the material and economic factors of decision-making as Schnaiberg does neglects the ideational concepts that do not always easily fit into Western approaches to governance, while an overemphasis on deliberation can conceal power structures and the role of capital in government decision-making. Ultimately, I do not know if “one way of life must die for another to live”, either in the economic or political sense of the question. That is an empirical question beyond my ability to answer. But questions like these are being asked in Baker Lake. The community’s brief submission on the 2016 draft plan emphasized the importance of a plebiscite on any future uranium project (Baker Lake Community Working Group, 2017), indicating a preference for dealing with difficult issues at the community level, and the people I interviewed both expressed frustration at how policy making was centralized both in government offices in Ottawa and Iqaluit, but particularly with the Rankin Inlet-based KIA (Anonymous, 2018a, 2018b).

In Nunavut, narratives of centralization are typically framed around the distribution of civil service jobs to the territory’s mid-sized communities such as Baker Lake. In this regard Baker Lake has been a relative success story, as it has managed to get and keep numerous civil service jobs that could be staffed with local residents (Hicks & White, 2015). While many other similar communities have lost civil service jobs to Iqaluit, Qulliq Energy Corporation, the territorial electric utility, recently announced it would build a new building in the community to

accommodate its administrative staff that are currently spread over three buildings throughout town (Hicks & White, 2015; “Nunavut government approves new QEC headquarters building,” 2019). But when Nunavut’s smaller communities complain of being “forgotten,” they are speaking about more than government jobs. They are also claiming a right to Nunavut’s founding vision of Inuit self-determination (Pizzo-Lyall, 2019). A 1980 discussion paper statement from the Kitikmeot Inuit Association was both explicit and ambitious in how it envisioned Inuit self-determination, speaking specifically about land and wildlife management:

in today’s society the growing population and so on, we have to set quotas on certain species of animals. We will depend on the knowledge of the federal government to assist these studies but with respect to the Inuit people in individual communities, to set up a quota system which will be beneficial to the Inuit.

But [...] the Inuit themselves will have to have full participation, from the beginning policy making down to the study itself, with the full consultation to the community as a whole population, so there will not be any misunderstandings (Kitikmeot Inuit Association, 1980, p. 5).

If even the City of Iqaluit is unable to effectively fulfill its mandate in representing its residents in the NLUP process (Redfern, 2017), there is a clear breakdown in communication around community concerns in Nunavut. Asking difficult questions, questions that do not have clear answers but allow communities to consider how to manage their future, and providing the resources necessary to allow them to implement their visions of responsible land use is the only reasonable and effective way forward for planning and regulation in Nunavut.

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