

The Two-Row Wampum: Has this metaphor for co-existence run its course?

In this article – an abridged and revised version of a longer academic research paper – the author illuminates elements of the Northwest Territories’ (NWT) consensus-style Legislative Assembly. He discusses how it is situated within both the political cultural traditions of the Indigenous peoples of NWT (the Dene, Metis and Inuvialuit people) and also the Canadian political culture that has developed out of the Westminster parliamentary system. He contends the Northwest Territories’ consensus style of government is uniquely structured to meet the needs of its residents. While noting his analysis should not be construed to suggest that this system can or should be exported wholesale to either Indigenous governments or Canada’s parliaments, he suggests it does demonstrate that with shared purpose and political creativity, new ways can be found to define a third shared normative space, sparkling like jewels in the waters of the Two-Row Wampum.

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The *Gus-Wen-Tah*, or “Two-Row Wampum,” was first negotiated between Dutch settlers and the nations of the Haudenosaunee confederacy. It served as a model for subsequent treaties with the British, including the one executed at Niagara in 1764, following the Royal Proclamation of 1763.¹ The purple rows of the wampum symbolize the two distinct people, each traveling in their own vessels and not attempting to steer or impede the other. The three white rows symbolize the shared river and peace, respect and friendship.²

The Two-Row Wampum represents an understanding of the first and subsequent treaties on the part of Indigenous people that is starkly different from their modern interpretation by non-Indigenous Canada. It does not represent a surrender of sovereignty to the Crown, the extinguishment of land title or an agreement to abide by the laws of another nation. It envisions two separate and independent people on a shared journey, each respecting the sovereignty and independence of the other and a shared commitment to peace, friendship and non-interference.

Canada’s relationship with Indigenous people two and a half centuries later, and the painful history that has led to it, bears little resemblance to this foundational metaphor. As Indigenous and non-Indigenous people grapple with genuine attempts to forge a post-colonial relationship, they face a fundamental dilemma: Does the path to decolonization and self-government lie in making space within the existing institutions of Canadian government for Indigenous people (berths in the settlers’ ship) or do such shared institutions fundamentally contradict the nation-to-nation relationship envisioned in the Two-Row Wampum and the inherent right to self-government?

This article offers a possible interpretation of the Two-Row Wampum metaphor that respects the individuality of each of the purple rows in the wampum belt, but changes the focus to the river of interconnected white beads that they both travel over. Consensus-style government in the Northwest Territories has adapted the Westminster parliamentary system to reflect and encompass some common aspects of Indigenous political cultures. Moreover, this form of public government accepts Indigenous self-government and strives to work alongside it to serve a population that may have representation in both. The NWT example demonstrates that Indigenous self-government and shared public institutions are not mutually exclusive; that they can co-exist, adapt and thrive. Far from perfect, the institutions of public

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government in the Northwest Territories nevertheless demonstrate that a more holistic interpretation of the Two-Row Wampum is both possible and instructive. It may also be inevitable.

The Northwest Territories' Consensus-style Legislative Assembly

It is often said that the Northwest Territories is the quarry from which most of Canada was mined. The former Hudson's Bay Company territories of Rupert's Land and the North-Western Territory were left out of Confederation in 1867 because of the Red River Rebellion but were ceded to Canada in 1870, coincidental with settlement of the rebellion and the creation of the Province of Manitoba. Its political boundaries once included present-day Alberta, Saskatchewan, Manitoba, vast portions of Ontario and Quebec, Yukon and Nunavut. As such, its Legislative Assembly is among the oldest parliamentary institutions in Canada.

Frederick Haultain served as premier of the Northwest Territories from 1897, when it achieved full responsible government, until 1905 when the provinces of Alberta and Saskatchewan were created. Haultain was a leading figure in the movement to create a single north-western province that would operate without political parties which, in his opinion, were anathema to the effective operation of

responsible government. While it is a stretch to credit Haultain with the form of consensus government practiced in the NWT today, his outlook demonstrates a natural unease with adversarial politics on the part of political cultures not steeped in that tradition.

After 1905, the Territories' Legislature was abolished and replaced by an appointed Commissioner and Council consisting exclusively of federal civil servants based in Ottawa. The Council was largely dormant until 1921, when oil was discovered at Norman Wells, and a sense of urgency to negotiate treaties with the Indigenous people of the Mackenzie Valley emerged. In the years that followed, representative and responsible government returned to the Northwest Territories in small increments, commencing with the addition of three elected Members from the Mackenzie District in 1951. The Commissioner and the territorial administration relocated from Ottawa to Yellowknife in 1967. Following this, the size and power of the elected Council increased steadily until, in 1975, its 15 Members consisted entirely of elected northerners. Notably, this was the first time in Canadian history that a legislative body consisted of a majority of Indigenous members. This has continued, without interruption, to the present day. It was not until 1987 that the chairmanship of the Executive Council, or Cabinet, was transferred from the Commissioner, still a federal civil servant, to an elected Member chosen by his or her legislative colleagues. Party politics

did not take hold under such a hybrid of appointed and elected Members. Although candidates affiliated with political parties have been nominated in recent elections, all have been rejected at the polls. By and large, residents of the Northwest Territories view political parties as “alien, southern-Canadian political institutions which impede political development along distinctively Northern lines.”³

The structure and operation of the NWT Legislative Assembly has remained fairly constant since the return of responsible government in the 1980s. Following division of the territory in 1999, both Nunavut and the remaining portion of the NWT maintained largely the same systems, commonly described in both jurisdictions as “consensus government.” On a fixed date every four years, a general election is held to return a single Member from each of the 19 electoral districts. In the absence of political parties, candidates run as independents. Results are largely decided on the strength of each candidate’s character and individual record as opposed to their party affiliation, popularity of the party leader, ideology or suite of policy proposals.

Following each general election and prior to the selection of a premier and cabinet, all 19 Members meet in private over the course of several days to develop a strategic vision and priorities for the life of the Assembly. These discussions take place within the Caucus, one of the most distinctive features of consensus government. In the absence of political parties, the Caucus consists of all 19 Members. In addition to setting a broad strategic direction for each Assembly, the Caucus meets regularly when the Legislature is in session to discuss the scheduling of sittings, the timing of major debates, the appointment of independent officers of the House and administrative matters affecting all Members equally. Members are expected to participate in Caucus discussions free from Cabinet solidarity or the expectations normally placed on those holding certain offices, such as premier, speaker, or committee chair. This differs from political party caucuses which act more as political “war councils.”

Once a speaker has been elected, Members proceed to elect, from amongst their ranks, a Cabinet consisting of a premier and six ministers. The premier is elected at large whereas two of the ministers must represent constituencies from each of the NWT’s three geographic regions, namely Yellowknife and those constituencies north and south of Great Slave Lake. Although the premier

assigns individual portfolios to each minister, they neither choose who is appointed to Cabinet nor have the authority to revoke those appointments. Unlike the prime minister or the provincial premiers, the premier of the Northwest Territories does not have the authority to seek dissolution of the Legislative Assembly or call an election. Only the Commissioner, on the recommendation of a majority of Members, may dissolve a Legislative Assembly prior to the conclusion of its fixed term. Without the structural power typically afforded first ministers in Canada’s liberal democratic institutions, the premier of the Northwest Territories is truly a first amongst equals. To lead effectively, he or she must rely upon a mix of inspiration, influence and wisdom.

The remaining eleven so-called “regular Members” are appointed to various standing committees of the House and, to a limited extent, work together to hold the Cabinet to account. Importantly, however, they do not present themselves as a “government in waiting.” Their ultimate goal is not to discredit, embarrass, or defeat the Government. On the contrary, regular Members, both individually and collectively through committees and the Caucus, work closely with the Government to develop public policy. The institutionalized adversarialism which forms the basis of Canada’s other parliaments does not exist in the NWT. Rather, opposition Members focus their efforts on fulfilling what Peter Aucoin, Mark Jarvis and Lori Turnbull describe as the “traditional core role” of parliament: to review and then approve or reject proposed legislation; to scrutinize the Government’s administration of public affairs; to hold ministers to account for their performance, collectively and individually; and to withdraw its confidence in the government, as deemed necessary.⁴

Unanimous support for its legislative and budgetary proposals is normally sought by Cabinet, and is routinely received. The concept of an “official opposition” is non-existent. This is not to suggest that Cabinet is given free rein to govern in the absence of meaningful accountability and oversight. In fact, because regular Members do not oppose the Government in dogmatic fashion, their criticisms are viewed as more genuine and meaningful when presented. Ministers are sometimes removed from office and disagreements have boiled over into animosity and distrust, but this is neither the norm nor the expectation. As Professor Graham White has observed, “it is the possibility and the frequency of accommodation, cooperation, and compromise that defines consensus government.”⁵



Chamber of the Northwest Territories Legislative Assembly

Standing committees play an active and important role in the creation of policy and the delivery of public services in the Northwest Territories. In the absence of party affiliations and discipline, Members are free to engage in frank and honest dialogue with ministers regarding legislative, policy, or budgetary proposals. Ministers, as a matter of course, consult with Members and committees before finalizing or announcing major initiatives. Whereas the first time a non-government Member in a partisan legislature would see the details of a proposed bill or budget would be at formal introduction stage in the House, standing committee Members in the consensus system are asked to comment on early drafts of bills and budgets before they are finally approved by Cabinet and tabled in the Legislature for public debate. Standing committees travel extensively throughout the NWT to consult the public on legislation referred to them by the House and these consultations frequently result in amendments to bills with, or more rarely without, the Cabinet's consent. Although there is no requirement for ministers to obtain the approval of committees for everything they do, a failure to work

closely and collaboratively with committee on major public policy issues is inconsistent with the principles of consensus government. Contrast this with partisan legislatures where committees reflect the ideological divisions of the House and, as such, are little more than procedural hoops through which the governing and all-powerful party must jump.

Although the look and feel of the NWT Legislative Assembly is distinctly Westminster, from gowned clerks to a near wholesale adoption of British rules of procedure, there are notable and important differences. Most obviously, the design and functioning of the legislative chamber is steeped in Indigenous symbolism. The legislative chamber is circular, representing the base of a traditional tipi or igloo. This unique shape was intended to avoid the adversarial appearance of most parliaments and symbolize a unity of purpose. Members are encouraged to wear traditional Indigenous attire in the chamber and commonly speak one of nine Indigenous languages which, in addition to French and English, have official status.

For those accustomed to boisterous parliamentary debate, the relative civility of the NWT Legislative Assembly stands out immediately. When a Member is speaking, interruptions, heckling or sidebar conversations are frowned upon. The Speaker is seldom required to intervene to bring order to debate. On those rare occasions when a Member's conduct is deemed unparliamentary, sincere apologies are usually offered and accepted. For the most part, oral question period is used to get answers or public commitments from Ministers as opposed to attempting to discredit, embarrass, or score political points. Seldom is there an exchange between a regular Member and a minister that is not parenthesized with the words "please" and "thank you." Unlike partisan legislatures where the parties are divided both ideologically and physically, Members in the NWT Legislature share a common lounge to the rear of the Chamber where they socialize and dine together during breaks in the sitting day.

Not only is debate civil, it is also relatively thoughtful and genuine. In the absence of party discipline, Members are able to speak freely on behalf of their constituents or present their individual perspectives on matters under consideration. Minds are frequently changed and positions modified to reach solutions that a majority can support. The rules of the House allow for extensive debate. There are few time limits imposed on Members' speeches and those that do exist are customarily set aside with unanimous consent. In fact, unanimous consent is routinely obtained to extend oral question period beyond its daily, and generous, one hour. Although any Member may move closure of debate, such procedural guillotines are rarely used. The rules of the House place greater emphasis on free and extensive debate than they do on efficiency or time-management. In this sense, the NWT Legislative Assembly is truer to the notion of parliament as a forum for the free and open exchange of ideas than its partisan counterparts and more consistent with traditional northern Indigenous political culture.

Consensus government provides all elected Members the opportunity to play a direct and meaningful role in shaping public policy. As mentioned earlier, the strategic vision and priorities for the Government are established by all Members prior to the election of a Cabinet. This helps to ensure that the views of all the NWT's regions and people are reflected in the Government's mandate. No one is left out of the decision-making process simply because they are Members of an opposing political

party. All Members have an equal opportunity to let their names stand for and serve on Cabinet. Because of Cabinet's perennial minority, the input of all Members is sought and often accommodated. Standing committees provide non-Cabinet Members with the rare opportunity to scrutinize and influence budgets, legislation, and policy proposals well before they are drafted or formally introduced in the House. By the time that legislation and budgets are introduced in the Legislative Assembly, they have typically been the subject of intense review by regular Members and standing committees. The opportunity for every elected Member to play a direct and meaningful role in the crafting of public policy, regardless of ideology or party affiliation, is viewed by many as the very essence of consensus government.

Whereas opposition Members in party-based parliaments must often wait for a change of government to effect real change, consensus government as practiced in the NWT allows for more frequent course corrections from outside the ranks of Cabinet. Private members' bills are given the same priority as government-sponsored legislation and are an effective way for the House to impose its will on a reluctant Cabinet. The fact that they are rarely used is likely an indication that Members are generally able to meet their legislative objectives by working closely with ministers and Cabinet. Because each minister is appointed by the House as a whole, their accountability and responsiveness to members is quite strong. As with any minority government, Cabinet must have the support of at least a portion of those Members outside its own ranks to govern. It cannot impose its agenda on an unwilling Legislative Assembly. Because the premier does not have the power to dissolve the Legislature, Cabinet cannot speak over the heads of regular Members in a direct appeal to the electorate. Both "sides" of the House must work together to govern effectively.

Like any system, consensus government is not without its shortcomings. In the run-up to the creation of Nunavut in 1999 there were extensive discussions respecting the preferred constitution for the remaining portions of the NWT. The primary tension underlying these discussions was between the legitimacy of the public government, which many Indigenous groups felt, and continue to feel, is a colonial system imposed on northern Indigenous people from southern Canada, and the inherent right to self-government. This tension is most keenly felt by those Indigenous groups, largely from the southern regions of the territory, who signed formal treaties

with the Crown in 1898 and 1921. Those who did not sign treaties, most notably the Inuvialuit from the Mackenzie Delta region, are more comfortable negotiating land and self-government agreements with the territorial government as a future partner.

Despite its many accommodations to northern Indigenous political culture, many Indigenous Members hold on to the view that consensus government is too greatly influenced and constrained by the Westminster tradition. While the premier and Cabinet are in a perpetual minority, their ability to act in unison in the Legislature affords them significant power. On controversial matters, all they require are the votes of three non-Cabinet Members to carry a majority vote. As such, consensus government is viewed by some as a series of shifting alliances between cabinet and various groups of Members depending upon the issue at hand. This often has the result of creating tension and disunity among the 11 non-Cabinet Members and motivating them to abandon cooperation in favour of self-interest.

Finally, while consensus government at the political level reflects northern Indigenous political culture, the territorial bureaucracy is distinctly southern in its structure and operations. This is a result of both the bureaucracy's evolution, and the complexity of programs and services it provides.

The crucial years in the development of the northern public service were those in which both administration and politics were controlled and managed by federal public servants and appointees. The territorial public service that developed under this regime, perhaps not surprisingly, is closer to a small-scale version of the federal bureaucratic structure than to a distinct northern and native-oriented system of administration.⁶

Because the Government of the Northwest Territories provides the same scope of services as its provincial counterparts, and receives the lion's share of its funding from federal sources, a degree of administrative consistency is seen as necessary to both the efficient delivery of services and the legitimacy of the Government of the Northwest Territories in the eyes of its mainstream Canadian counterparts. The result has been a territorial public service characterized by hierarchy, the concentration of power and adherence to rigorous, impersonal and, at times, inflexible rules. One of these, the merit principle, with its emphasis on formal education and relevant experience, based largely on southern

standards, has helped ensure that the senior ranks of the public service are underrepresented by Indigenous people. Of equal importance, the crucial role played by the public service in the formulation and delivery of public services is, at times, out of step with traditional northern Indigenous culture.

The Members who serve in this uniquely northern adaptation of the Westminster model have expressed a high level of support for maintaining its fundamental features and, more precisely, keeping party politics out. In a 2008 survey of Members, all 19 expressed the view that consensus government will continue to serve the needs of the Northwest Territories in the future. The introduction of party politics was opposed by 87 per cent.⁷ The few attempts to elect candidates on a party banner have failed. It is unclear whether these electoral failures were a rejection of the individual candidates, their parties, or party politics in general. It would appear that consensus government is an adaptation of the Westminster system that best reflects the values and traditions of all the people of the NWT, Indigenous and non-Indigenous.

Only time will tell how well the NWT's consensus government is able to hold up to the increasing pressure and uncertainty brought by Indigenous self-government, urbanization and the constant view of party politics as the solution to its shortcomings. The Tli Cho Dene were the first to negotiate a comprehensive self-government agreement in the Northwest Territories in 2003. Interestingly, in the 15 years since the agreement was signed, the Tli Cho Government has called for more, not less, representation in the territorial Legislative Assembly to reflect its growing population. Contrast this to the Dene of the Deh Cho region whose land and self-government negotiations have been stalled for years as the result of a reluctance to recognize, let alone negotiate with, the Government of the Northwest Territories. The constitutional requirement for representation by population is creating additional pressure to increase the number of representatives in the Legislative Assembly from its growing urban centres, most notably Yellowknife. Resistance to more seats in the Legislature from the largely Indigenous communities outside Yellowknife have led to calls for party politics as a means to ensuring fair representation. The specter of a political party system divided along racial lines is cause for concern. Furthermore, as history has demonstrated, once political parties find their way into legislative assemblies, they are challenging to eradicate.

Conclusion

In its Final Report, the Truth and Reconciliation Commission of Canada submitted 94 calls to action to overcome the legacy of Indian Residential Schools and advance the process of Canadian reconciliation. One of these calls to action reads:

45. We call upon the Government of Canada, on behalf of all Canadians, to jointly develop with Aboriginal peoples a Royal Proclamation of Reconciliation to be issued by the Crown. The proclamation would build on the Royal Proclamation of 1763 and the Treaty of Niagara of 1764, and reaffirm the nation-to-nation relationship between Aboriginal peoples and the Crown. The proclamation would include, but not be limited to, the following commitments:

iv. Reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims and other constructive agreements.⁸

At first glance, this call to action is internally inconsistent. On one hand it calls for reaffirmation of the nation-to-nation relationship negotiated at the Treaty of Niagara and symbolized by the Two-Row Wampum. Further, the perceived need to have this proclamation issued by the Crown calls into question the very essence of the inherent right to self-government. On the other hand, it identifies the inclusion of Aboriginal people as full partners in Confederation as a fundamental precondition to reconciliation. How is it possible for Indigenous people to embrace identities as both Canadian citizens and members of self-governing nations? Does shared citizenship not involve the subordination of cultural identities to a common authority when inconsistencies arise?

To help us overcome this apparent inconsistency, Melissa Williams suggests a notion of citizenship based on “shared fate” as opposed to “shared identity.”

The core of this idea is that we find ourselves in webs of relationships with other human beings that profoundly shape our lives, whether or not

we consciously chose or voluntarily assent to be enmeshed in these webs. What connects us in a community of shared fate is that our actions have impact on other identifiable human beings, and other human beings’ actions have an impact on us.⁹

In other words, even though the political cultures of Indigenous and non-Indigenous people are very different, and in some ways wholly incompatible, our interdependence means that there is no plausible alternative to working together to make our respective societies survive and thrive. The inherent right to self-government means that a myriad of Indigenous institutions will emerge on Canada’s future political landscape, like the jewels in Indra’s net. The measure of our success in navigating this new reality is not the manner in which we each go our separate ways, but rather in finding creative new ways to work together as we travel on the same river towards the same destination.

As Canada seeks to make sense of the emerging post-colonial relationship between Indigenous and non-Indigenous citizens, the metaphor of the Two-Row Wampum may continue to serve us well. It can be thought of as constituting three distinct normative and legal spaces.¹⁰ The first two spaces, the purple rows, symbolize Indigenous self-governments in all their current and future varieties and Canada’s federal, provincial and territorial liberal democratic institutions. The bed of white beads constitutes a third normative space occupied by both Indigenous and non-Indigenous Canadians. It is preoccupied with the relationship between the first two spaces as well as those inescapable areas of shared jurisdiction and interdependence. To succeed, the political culture of this shared space must be agreed to by both Indigenous and non-Indigenous people. It must involve the creation of institutions that reflect both traditions, and from which both can take ownership and derive a sense of shared community. It must involve more than simply making room for Indigenous people within Canada’s liberal democratic institutions. It may mean changing the ways our institutions operate to better reflect Indigenous political culture.

The Northwest Territories’ consensus-style of government is uniquely structured to meet the needs of its residents. While far from perfect, it has withstood the initial tests of time by adapting the British parliamentary system to the political culture of the Dene, Metis and Inuvialuit people who constitute a majority of the population.

Whereas each of these traditions is the result of starkly differing world views, their coming together has resulted in something distinctly northern. The preceding analysis is not to suggest that this system should be exported wholesale to either Indigenous governments or Canada's parliaments. Rather, it demonstrates that with shared purpose and political creativity, new ways can be found to define the third shared normative space, sparkling like jewels in the waters of the Two-Row Wampum.

Notes

- 1 Michael Morden, "Indigenizing Parliament: Time to Re-start a Conversation," *Canadian Parliamentary Review* 39:2 (Summer 2016), p. 31.
- 2 "Two Row Wampum – Guswentá," Onondaga Nation URL: <http://www.onondaganation.org/culture/wampum/two-row-wampum-belt-guswentá>
- 3 Graham White, "And Now For Something Completely Northern: Institutions of Governance in the Territorial North," *Journal of Canadian Studies* 35:4 (Winter 2001), p. 503.

- 4 Peter Aucoin, Mark D Jarvis & Lori Turnbull, *Democratizing the Constitution: Reforming Responsible Government* (Toronto: Emond Montgomery, 2011), p. 249.
- 5 Graham White, p. 84.
- 6 C.E.S. Franks, "Toward Representation of the Aboriginal Population in the Public Service of the Northwest Territories," in Rebecca Aird, ed., *Running the North: The Getting and Spending of Public Finances by Canada's Territorial Governments* (Ottawa: Canadian Arctic Resources Committee, 1989), p. 393.
- 7 Stephen Dunbar, *Seeking Unanimous Consent: Consensus Government in the Northwest Territories*, Master's Thesis, (Ottawa: Carleton University, Department of Political Science, 2008), p. 82.
- 8 Truth and Reconciliation Commission of Canada, *Calls to Action* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), p. 4.
- 9 Melissa S, Williams, "Sharing the River: Aboriginal Representation in Canadian Political Institutions," in David Laycock, ed. *Representation and Democratic Theory*, (Vancouver: UBC Press, 2004), p. 104.
- 10 *Ibid.*, p. 108.