

LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
9<sup>TH</sup> ASSEMBLY, 2<sup>ND</sup> SESSION

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CONFIDENTIAL

ABORIGINAL RIGHTS AND CONSTITUTIONAL  
DEVELOPMENT IN THE NORTHWEST TERRITORIES

A Sessional Paper presented to the Second  
Session of the Ninth Legislative Assembly  
of the Northwest Territories by the Executive  
Committee of the Government of the Northwest  
Territories.

February 15, 1980.

ABORIGINAL RIGHTS AND CONSTITUTIONAL DEVELOPMENT IN THE  
NORTHWEST TERRITORIES  
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I. Introduction

The purpose of this paper is to suggest ways to begin implementing the principles, expressed by the first session of the Ninth Legislative Assembly, of fostering co-operation and constructive dialogue between this Assembly and the native organizations with respect to the two fundamental issues of Aboriginal Rights and Constitutional/Political Development in the Northwest Territories.

As a result of the Executive Committee review, initiated at the request of the Assembly, it is recommended that the Assembly provide general direction about these issues at this time.

The paper presents a brief overview and recommendations for a new role for the Assembly and the Executive Committee on these issues.

II. Overview

The Ninth Assembly has identified that:

1. Aboriginal Rights and Constitutional/Political Development are fundamental issues requiring the development of understanding and the initiation of positive action as quickly as possible, in order to achieve the worthwhile objective of substantial resolution during the term of this Assembly.

2. Although these issues have been deal with in various separate forums they are fundamentally and perceptually inter-related.
3. While the legislative competence for these issues ultimately rests with the Parliament of Canada, the Assembly recognizes that their harmonious resolution within the Territories can be best achieved through the development of co-operation and mutual trust between this Assembly, the native associations and all residents in the Northwest Territories.
4. A Special Committee of the Assembly on Unity has been established to deal with certain aspects of these issues. The Executive Committee is committed to close co-operation with, and support for, the work of that Committee.

### III. Recommendations

In order to develop constructive dialogue and mutual trust between the Assembly and the native associations, it is recommended that:

1. The Legislative Assembly recognize the concept of aboriginal rights. Such rights are to be defined through a process of negotiation between the federal government and N.W.T. native people.

2. The Legislative Assembly reaffirm its commitment to the expeditious resolution of aboriginal rights through negotiation between the federal government and the native people.
3. This Assembly recognize that aboriginal rights and constitutional development are integral parts of a single issue in the N.W.T. Native associations may make certain assumptions in their aboriginal claims negotiations about political change.
4. Informal dialogue with the native associations be initiated by a Minister of the Executive Committee, appointed by the Executive Committee to:
  - (a) seek out areas of commonality;
  - (b) identify issues where the native associations can be supported by the Legislative Assembly either directly within its own legislative jurisdiction or within other jurisdictions;
  - (c) identify issues where the native associations can support the Legislative Assembly either directly or indirectly;
  - (d) identify areas and processes whereby outstanding issues relating to aboriginal rights and constitutional/political development in the N.W.T. could be resolved.

5. From this informal dialogue the Minister responsible will bring forward recommendations to this Assembly and to the "Unity Committee" which have been endorsed by the respective native associations and the Executive Committee on how this Assembly and the native associations can proceed co-operatively on the issues of Aboriginal Rights and Constitutional/Political Development.
  
6. As a demonstration of the Assembly's commitment to constructive dialogue, the Memorandum of Understanding on the Role of the Government of the Northwest Territories in the Claims Process between the Minister of Indian Affairs and Northern Development and the Commissioner, signed October 1978, be reviewed by the Territorial Minister responsible and the N.W.T. native associations, with a view to amendment or termination.
  
7. Until the Assembly receives the recommendations of the responsible Minister, and adopts more detailed positions, the responsible Minister in consultation with the Executive Committee is given authority to take any action he deems necessary to achieve the intent and spirit of the aforementioned recommendations and shall report all such actions to the Assembly, or

between sessions, to all members. Such actions may include, by way of example:

- advising appropriate Ministers at the federal, provincial and territorial levels of the Assembly's position on issues of aboriginal rights and constitutional/political development.
- studying issues and monitoring progress related to constitutional development on a N.W.T.-wide basis, bearing in mind that "aboriginal rights" are being negotiated regionally, and are at different stages of resolution in the N.W.T.

8. The Minister shall, at his discretion, have made available to him whatever resource staff he requires to carry out his duties, and in accordance with his mandate will recommend to the Executive Committee any organizational changes required within the territorial administration to facilitate the aims of this paper.

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT  
AND  
THE COMMISSIONER OF THE GOVERNMENT OF THE NWT (GNWT)  
ON  
THE ROLE OF THE GNWT IN THE CLAIMS PROCESS

WHEREAS the Federal Government has the primary responsibility with regard to the resolution of land claims;

WHEREAS it is recognized that the GNWT has jurisdiction over certain matters of a provincial nature;

WHEREAS it is desirable that the GNWT be represented at all discussions and negotiations related to the resolution of land claims in the Northwest Territories; and

WHEREAS it is expedient that the GNWT participate fully in the formulation of policy to guide the negotiations on land claims in the Northwest Territories;

THEREFORE, it is agreed that the interface of the Federal Government and the GNWT in the claims process shall be defined as follows:

Establishment and Role of GNWT Claims Secretariat

The Commissioner shall establish a Claims Secretariat within the GNWT for which the function and responsibilities will in most respects parallel those of the Federal Office of Native Claims.



The Claims Secretariat shall be under the direction of an Executive Committee member appointed by the Commissioner. It shall be responsible for the research and analysis of claims, the identification of policy issues, the development and presentation of policy options on matters within the jurisdiction of the NWT, and the provision of advice on such matters to the Executive Committee.

The Claims Secretariat shall provide the focus within the GNWT for all matters relating to native claims.

The Claims Secretariat shall arrange or provide for GNWT representation at claims negotiation and other subsidiary meetings as members of the joint government negotiating team.

#### Role of the Minister

The Minister shall ensure that a Claims Policy Committee, chaired by the Deputy Minister of Indian and Northern Affairs, is in place to focus on claims issues and strategies and, as far as possible, to resolve problems put forward by members for consideration.

Where issues arise that go beyond the limits of the federal mandate as established by Cabinet, the Minister may submit a Memorandum to Cabinet for consideration. The preparation of such Memoranda shall be carried out in consultation with the GNWT Executive Committee through its Claims Policy Committee representative.

Role of the Commissioner

The Commissioner shall be a member of the Claims Policy Committee, as shall the Executive Member responsible for Land Claims. As appropriate, the Commissioner may appoint an alternate representative for meetings.

The Commissioner shall ensure GNWT participation in the discussion and resolution of policy issues relating to claims which have a bearing on the NWT.

Claims Policy Committee (CPC)

It is understood that the CPC is a working committee which deals with claims matters throughout Canada. Therefore, GNWT attendance will be requested at all meetings when items involving claimants within the NWT are to be discussed. Notice of meetings shall be communicated to the Coordinator, NWT Land Claims Secretariat, with a copy to the GNWT Ottawa office at the earliest possible time, although it is recognized that on occasions it may not be possible to provide more than three days' notice.

Any problems which cannot be resolved between the Office of Native Claims and the GNWT Claims Secretariat shall be considered at the CPC.

In the event that a policy issue involving the mandate of the GNWT cannot be reconciled to the satisfaction of the GNWT at the CPC, the matter will be submitted to the Minister for consideration.

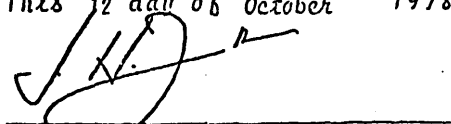
Negotiations

In the interests of keeping the claims negotiations as apolitical as possible, elected members of the Territorial Executive Committee may only attend when a federal Minister or other MP attends. If no federal political representative is to attend, an elected member of the Territorial Executive Committee may attend formal negotiation meetings only with the concurrence of the Minister. In the absence of the Minister, it is understood that the Senior Negotiator appointed by the Minister is always responsible for the conduct of, and is chief spokesman for the joint Government team.

Consultation

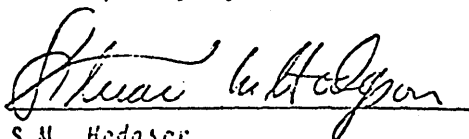
IT IS FURTHER UNDERSTOOD AND AGREED that the aforementioned does not in any way preclude officials of the Territorial Government from meeting with claimants. Furthermore, subject to whatever constraints may be placed by the Minister from time to time on disclosure of pertinent facts, it is acknowledged that the GNWT has the primary responsibility to consult with and inform interested parties on claims matters relating to NWTG jurisdiction. It is taken for granted that GNWT officials will represent the views and concerns of different parties in the NWT so that these may be taken into account by CPC when determining claims policies and strategies.

Dated at Ottawa  
This 12 day of October 1978



J. Hugh Faulkner  
Minister

Dated at Yellowknife  
This 17 day of October 1978



S.M. Hodgson  
Commissioner