

IRPP Study



*Ideas
Analysis
Debate*
Since 1972

No. 66, November 2017

www.irpp.org

A Federation within a Federation?

Devolution and Indigenous Government in the Northwest Territories

Jerald Sabin

Through government restructuring and new intergovernmental processes, unprecedented power-sharing is emerging in the Northwest Territories and contributing to Indigenous reconciliation.

Grâce à la restructuration gouvernementale et de nouveaux processus intergouvernementaux, un partage des pouvoirs inédit se met en place dans les Territoires du Nord-Ouest, qui contribue à la réconciliation avec les Autochtones.



**CANADA'S CHANGING
FEDERAL COMMUNITY**

Contents

Summary	1
Résumé	2
Devolution, Indigenous Rights and Federalism in Northern Canada	4
Devolution in Northern Canada	7
A Federation within a Federation?	13
Conclusion	21
Notes	23
References	24
About This Study	27

The opinions expressed in this study are those of the author and do not necessarily reflect the views of the IRPP or its Board of Directors.

IRPP Study is a refereed monographic series that is published irregularly throughout the year. Each study is subject to rigorous internal and external peer review for academic soundness and policy relevance.

If you have questions about our publications, please contact irpp@irpp.org. If you would like to subscribe to our newsletter, *IRPP News*, please go to our website, at irpp.org.

ISSN 1920-9436 (Online)

ISSN 1920-9428 (Print)

ISBN 978-0-88645-373-2 (Online)

ISBN 978-0-88645-374-9 (Print)

Summary

The Northwest Territories (NWT) is on the leading edge of political, constitutional and administrative changes that are fundamentally redefining the relationship between Indigenous peoples and the Canadian state. In this study, Jerald Sabin shows how the territorial and Indigenous governments of the NWT have been developing institutions with executive, fiscal and regulatory functions to mediate and regularize intergovernmental relations, in what is becoming, in effect, Canada's first federation within a federation.

Two forms of government restructuring have taken place concurrently in the NWT. First, the devolution of land and resource management from the federal government to the territory, completed in 2014, has expanded the executive, legislative and administrative scope of the public territorial government. Second, new governance and fiscal arrangements within the territory have empowered communities and brought decision-making power closer to the local population. For Sabin, the speed of federalization and the peaceful means through which power has been dispersed have been striking. The emergence of constitutionally entrenched Indigenous governments has nevertheless created a complex policy environment with shared and overlapping responsibilities.

Sabin examines three instances of institution building that affirm the political authority of public and Indigenous government while facilitating their policy interdependence: (1) the creation of the Intergovernmental Council, (2) the introduction of significant resource revenue sharing with Indigenous governments, and (3) attempts to harmonize regulatory oversight in the territory. His analysis relies on a review of government reports, court documents, budget material and secondary sources, interviews with key participants, and communications with federal, territorial and Indigenous government officials and political observers. The study also compares the political development of the NWT with those of Canada's two other northern territories — Yukon and Nunavut.

The study provides several lessons for the understanding of Indigenous-settler and intergovernmental relations in Canada. The accomplishment of northern peoples in peacefully negotiating, designing and implementing this model of power sharing should be underscored. These developments are a further example of how the Canadian federation is incorporating diverse nations within its borders. Internationally, this model is unprecedented.

However, the NWT model may not be appropriate for all jurisdictions across Canada. The statutory basis for territorial government makes its structure more malleable, and the model is politically viable — even necessary — in the NWT due to its large Indigenous population. More broadly, the NWT's federation within a federation is a significant step toward embedding Indigenous and treaty rights in the public governance framework as well as the reconciliation of Indigenous and settler societies.

Résumé

Les Territoires du Nord-Ouest (T. N.-O.) sont à l'avant-garde de changements politiques, constitutionnels et administratifs qui sont en train de redéfinir fondamentalement les rapports entre les peuples autochtones et l'État canadien. Jerald Sabin décrit dans cette étude comment les gouvernements territorial et autochtones des T. N.-O. ont établi des institutions dont les pouvoirs exécutifs, fiscaux et réglementaires favorisent la médiation et la régularisation des relations intergouvernementales dans ce qui devient, de fait, la première fédération au sein de la fédération canadienne.

Deux formes de restructuration gouvernementale ont été simultanément mises en œuvre. Premièrement, le transfert, par le gouvernement fédéral, de la gestion des terres et des ressources aux T. N.-O. (transfert complété en 2014) a élargi le cadre des compétences exécutives, législatives et administratives du gouvernement territorial public. Deuxièmement, de nouveaux accords de gouvernance et de fiscalité au sein du territoire ont permis d'autonomiser les communautés et de rapprocher le pouvoir décisionnaire de la population locale. Cette fédéralisation accélérée et les moyens pacifiques qui ont servi à répartir ce pouvoir sont tout à fait remarquables, estime l'auteur. Cependant, l'émergence de gouvernements autochtones constitutionnalisés a créé un environnement politique complexe aux nombreux partages et chevauchements de responsabilités.

Sabin examine trois initiatives de renforcement d'institutions qui ont raffermi l'autorité politique des gouvernements public et autochtones tout en facilitant leur interdépendance politique : 1) la création du Conseil intergouvernemental ; 2) l'instauration d'un important partage des revenus tirés des ressources avec les gouvernements autochtones ; 3) des efforts d'harmonisation de la surveillance réglementaire sur tout le territoire. Son analyse repose sur l'examen de rapports gouvernementaux, de documents juridiques, de budgets et de sources secondaires, d'entrevues avec des intervenants clés et d'échanges avec des observateurs et des représentants des gouvernements fédéral, territoriaux et autochtones. L'étude compare aussi le développement politique des T. N.-O. avec celui du Yukon et du Nunavut, les deux autres territoires du Nord canadien.

L'auteur dégage plusieurs enseignements qui aident à la compréhension des liens colons-Autochtones et des relations intergouvernementales au Canada. Il fait valoir que l'esprit pacifique dans lequel a été négocié, élaboré et appliqué ce mode de partage des pouvoirs a favorisé l'épanouissement des peuples du Nord. Il souligne aussi que ces avancées sont un nouvel exemple de la capacité de la fédération canadienne d'intégrer diverses nations au sein de ses frontières, selon un modèle sans précédent sur le plan international.

Mais ce modèle des T. N.-O. ne convient pas nécessairement à toutes les juridictions du pays. La base législative d'un gouvernement territorial assouplit en effet sa structure, et ce mode de partage est politiquement viable aux T. N.-O. — et même nécessaire —, étant donné leur forte population autochtone. Plus généralement, l'existence d'une fédération des T. N.-O. au sein de la fédération canadienne marque une étape clé vers l'inscription des droits ancestraux et issus de traités au cadre de gouvernance fédéral, mais aussi vers la réconciliation des sociétés autochtone et colonisatrice.

A Federation within a Federation? Devolution and Indigenous Government in the Northwest Territories

Jerald Sabin

The Northwest Territories (NWT) is on the leading edge of political, constitutional and administrative changes that are fundamentally remaking the relationship between Indigenous peoples and the Canadian state. Notable among these changes are the negotiation and settlement of modern treaties, the creation of Indigenous governments and a commitment by Canadian state actors to processes of reconciliation with Indigenous peoples (Newhouse 2016). Equally transformative is the development of formal and routine intergovernmental relations between subnational governments and those of Indigenous nations (Alcantara and Nelles 2016; Papillon and Juneau 2016). These new forms of intergovernmental relations are normative in that they recognize Indigenous rights and their concomitant institutions and pragmatic in that they provide a means for Indigenous and public governments to cooperate in the design and delivery of policy and programs.

The NWT, Yukon and Nunavut are Canada's three northern territories. They enjoy a similar set of jurisdictional powers to the provinces. However, unlike the provinces, the territories are not entrenched within Canada's constitutional order.¹ Over the past four decades, legislative and policy-making responsibilities have increasingly been transferred to the territories by the federal government.

The latest of these transfers involves the devolution of land and resource management to the NWT. The *Northwest Territories Land and Resources Devolution Agreement* — signed by federal, territorial and nine Indigenous governments beginning in 2013 — was not a simple administrative transfer, but introduced new executive, fiscal and regulatory institutions to manage intergovernmental relations within the territory.² These new institutions and practices were designed to mediate and regularize intergovernmental relations in what is becoming Canada's first federation within a federation.³ The development of federal-type executive, fiscal and regulatory systems reconciles the Government of the Northwest Territories (GNWT) with Indigenous governments, and it embeds Indigenous and treaty rights in the NWT's public governance structure.

This study considers how the devolution process has balanced competing Indigenous and settler visions of autonomy and what the territory's governance framework can teach us about future directions in Canadian federalism. It examines three instances of federal institution building within the NWT that are the result of devolution: the creation of the Intergovernmental Council, the introduction of resource revenue sharing and attempts to harmonize regulatory oversight in the territory. This analysis relies on a review of government reports, court documents, budget materials and secondary sources, as well as key-participant interviews and communications with eight federal, territorial and Indigenous government officials and political observers.

These federal-type structures bridge the political and administrative divides between the GNWT — a public government rooted in the settler traditions of the Canadian state — and the constitutionally protected governments of Dene, Métis and Inuvialuit peoples. The changes occurring in the NWT — and, to a lesser extent, Yukon — are a significant departure from older patterns of constitutional development in northwest Canada. However, they are not revolutionary within the Canadian context. While the adoption of federal-type institutions at the subnational level in Canada is novel, the operation of those institutions relies on norms and practices similar to those at the national level.

Devolution, Indigenous Rights and Federalism in Northern Canada

The decentralization of political, policy and fiscal authority within states has become commonplace (Rodden 2004). It takes many forms, including the transfer of authority to subnational units, the delegation of decision-making authority from central agencies to departments and the introduction or expansion of federal institutions. A government may introduce federalism as a means of decentralization. The creation of Nunavut, for example, was an expansion of the institution of federalism to decentralize political power and control to the Inuit of the eastern Arctic. Given the technical nature of the negotiation and implementation of decentralization, these exercises sometimes escape broader public attention. However, processes of decentralization, and particularly those involving constitutional restructuring, can gain political salience beyond government and policy circles when, for example, they become linked to autonomist, nationalist or postcolonial politics. Indeed, in Canada and in other postindustrial countries, decentralization has become an important mechanism for realizing regional autonomy and national self-determination.⁴

Chabot defines devolution as “the transfer of primary powers from a superior body to an inferior one, without the relinquishment of sovereignty” (2016, 149). As a means of primary power distribution, devolution enables a receiving government to design, legislate and deliver policy within the scope of that power. This is different from other types of decentralization where, for example, a subunit of government — such as a municipality, school board or health network — is granted the authority to exercise, but not to legislate within, a given power.

Constitutions can formally codify the dispersal of power through constitutional amendment or, in the case of the territories, the dispersal can rest somewhat uneasily within a statutory framework. The *Constitution Act, 1867* sets out the federal division of powers between Canada’s central and provincial governments, but it does not cover the territories.⁵ The dispersal of power through devolution has been an important feature of Canadian political development from its beginning; as Kinsella and Robert argue, it was “absolutely essential to Confederation” and inherent to the design of the country’s federal system (2014, 114).⁶

Unlike the provinces, the territories are subject to ordinary federal legislation. The transfer of power to the territories has occurred through amendments to their enabling legislation by the federal government, rather than through a time-consuming and politically costly renegotiation of the Constitution. However, though politically unlikely, statutory-based devolution could be reversed (Cameron 2013; Chabot 2016). The subconstitutional status of the territories does have implications for their relations with the federal government and with Indigenous

peoples. The territories negotiate from a weaker position: without the benefit of constitutional protections, and in the absence of significant representation within the federal Parliament, territorial governments must rely on moral and, to a lesser extent, economic arguments to justify increased autonomy.

Politically, devolution can bolster the legitimacy of a government. Dacks describes this political dimension as “the ability of the members of a society to make politics work for them...their ability to make legitimate, binding decisions concerning their affairs” (1990b, 104). This has been an important feature of devolutionary processes in the NWT over the past half-century and a primary cause of resistance to devolution among Indigenous groups. Throughout most of the late twentieth century, many Indigenous groups understood the GNWT as an illegitimate government. By expanding the scope of the public government’s authority in the NWT, the federal government was further entrenching settler institutions there (Irlbacher-Fox 2009). With the ongoing and successful negotiation of comprehensive claims, the primary driver of northern Indigenous politics for nearly four decades, political space was opened for the transfer of additional powers to the GNWT.

From a democratic perspective, the expansion of executive and legislative power has been central to devolution. The most significant outcome, however, has been the growth of the territory’s public sector, in terms of both its responsibilities and its human resources. Ensuring sufficient policy and administrative capacity has been a key barrier to devolution. While northern Canada remains fiscally dependent on the federal government, the Government of Canada has steadily reduced its presence in almost all other policy areas over the past 40 years (Coates et al. 2014). This has ranged from the delegation of responsibility for health, education and social services to control over economic development, including the regulation of nonrenewable resources and environmental protection in Yukon and the NWT.

With each subsequent transfer, the federal government has provided additional financial and human resources to facilitate the exercise of new responsibilities. For example, following the implementation of the NWT’s devolution agreement in April 2014, Indigenous governments received \$3 million annually to offset administrative and transition costs (IGC NWT 2015b). In addition, the territorial government absorbed hundreds of buildings and leases, along with 132 federal employees, increasing the scope of administration and government capacity. The expansion of administrative responsibilities remains challenging for northern governments because, as Coates and Poelzer argue, “the North experiences regular shortages in terms of the availability of key personnel, the mismatch of talent/experience and specific duties, rapid turnover of officials, expectations regarding cross-cultural and linguistic abilities (particularly in Nunavut), and the ever-changing nature of government in the region” (2014, 21). Developing systems to overcome these administrative challenges within both public and Indigenous governments is an important component of postdevolution implementation.

The territories’ public governments are not the only political units in northern Canada that participate in devolutionary processes. Indeed, the devolution of authority to the NWT’s Indigenous governments has a stronger constitutional basis than similar instances of devolution to the GNWT. This is because Indigenous governments in the NWT are created

through comprehensive claims processes, which are protected under section 35 of the *Constitution Act, 1982*, a clause that recognizes and affirms “existing aboriginal and treaty rights,” including land claims.⁷

Indigenous and treaty rights are tools of reconciliation between Indigenous and non-Indigenous peoples and, by extension, their governments (Macklem and Sanderson 2015, 5). Courts understand the purpose of section 35 rights as “a process of substantive constitutional reconciliation of the interests of Indigenous peoples and those of Canada”; these include Indigenous peoples’ interests in their culture, territory and sovereignty, and in the treaty process (Macklem 2017, 331, 332).

Comprehensive claim processes are designed both to protect Indigenous rights and to affirm Canadian sovereignty. They serve several purposes: to cede traditional territory to the Crown; provide certainty over land ownership; furnish cash settlements as compensation and as a means to support self-determination; create co-management boards to jointly regulate resources on traditional territories; and renew intergovernmental relationships — defined as either nation-to-nation or Inuit-Crown (Abele et al. 2016). Indigenous governments have access to wide-ranging province-type powers in the areas of judicial administration, health, social services, property and education, although they may not choose to exercise all of these powers at the time of their creation. This introduces a level of uncertainty to intergovernmental relations, as the relationship between Indigenous and public governments unfolds over time not only politically but also constitutionally.

Across Canada, modern treaties have led to the development of systems of multilevel governance between and among Indigenous peoples and federal, provincial/territorial and municipal governments (Alcantara and Nelles 2014; Papillon 2012; Papillon and Juneau 2016). To manage these increasingly complex intergovernmental relations, Abele and Prince argue, “there will be a need to develop cooperative measures between governments with respect to jurisdictions, laws, and services” (2006, 578). These institutions include service agreements, co-management boards and intergovernmental forums. In the provinces, dedicated ministries of intergovernmental relations or Indigenous affairs manage relations with Indigenous peoples. The situation is somewhat more complicated in the NWT and, to a lesser degree, Yukon, where Indigenous governments will have concurrent law-making powers with the public government.

Although some anticipated political, legal and policy conflicts in the NWT can be addressed through intergovernmental service agreements at the time comprehensive claims are settled, ongoing and sustained forums for intergovernmental dialogue are also needed. This will not only facilitate policy cooperation and coordination but also reflect the scale of shared governance in the territory. The use of federal-type institutions to formalize and routinize these intergovernmental relations — and to mediate conflicts of law and policy — is a prudent solution in light of this changing governance environment. In the NWT, these institutions are moving beyond consultation to structures that enhance government-to-government relationships among all levels of government.

Devolution in Northern Canada

Across northern Canada, where devolution has been a primary driver of political development for more than a century, political conflict between Indigenous peoples and settler populations has shaped the dispersal of authority to local populations (Abele 2009; Dickerson 1992; Feehan 2009; Sabin 2016). With the rise, beginning in the 1970s, of well-defined and resourced Indigenous rights movements, the most pressing question concerning devolution became not *when* or *how* the federal government should transfer greater autonomy to the North, but rather *to whom*.

The pace and tenor of devolution have differed across territories. Variations in demographics, natural resources and colonial histories have led to vastly different negotiating environments in Yukon, the NWT and Nunavut. Devolution in northern Canada has not been a slow march toward provincehood, but rather a fragmented set of processes characterized by innovation and compromise.

Importantly, the territories have learned from each other how to negotiate the transfer of jurisdictional power from the federal government. With its large settler population, Yukon has often led this process. The political class in the NWT and Nunavut has learned from Yukon's experience and adopted alternative strategies. As recently as July 2016, Nunavut's chief devolution negotiator, Simon Awa, argued that the federal government was seeking to replicate the processes of Yukon and the NWT in his territory. Speaking with *Nunatsiaq News*, Awa stated that he is "hoping that the new negotiators will be different" and that negotiations will unfold differently in Nunavut (Ducharme 2016). In this section, I examine the unique conditions underlying devolutionary processes in each territory. I highlight the parallel political trajectories of the North's Indigenous and settler populations and explore the role of section 35 Indigenous and treaty rights across the territories. This is a necessary exercise, given the iterative nature of negotiations across the North — in order to understand what unfolded in the NWT and what may occur in Nunavut's negotiations, an exploration of all three territories is required.

Devolution and intergovernmental relations in Yukon

Devolution unfolded more rapidly in Yukon than in the NWT. Non-Indigenous residents make up a majority of the territory's population, and the territorial government has historically been much more institutionally secure than the GNWT. The territory's large non-Indigenous population and the absence of constitutionally entrenched Indigenous governments are two reasons, among many, for this difference. Intergovernmental relations are an important structural feature of territorial political life. A clear hierarchy has emerged, however: the territorial government, not Yukon First Nations governments, directs policy in most sectors. Constitutional, political and administrative factors have led to an intergovernmental environment premised on consultation rather than collaboration, despite an early promise of robust intergovernmental relations. The Liberal government elected in the territory in 2016 could shift these relations toward collaboration in the coming years.

Yukon was created in response to the Klondike Gold Rush and the influx of prospectors to the region in 1898. Throughout its first four decades, as its population declined, Yukon maintained

limited legislative and administrative responsibilities. The federal government transferred most responsibility away from the territory to administrators in Ottawa, and the scope of local authority swiftly contracted until the end of the Second World War (Alcantara, Cameron and Kennedy 2012; Alcantara 2013b). These trends were reversed in the postwar period as Yukon's settler population grew and high global commodity prices drove economic expansion (Coates and Morrison 2005). Executive, legislative and administrative powers were devolved to the territory through the 1960s and 1970s, resulting in the granting of responsible government to Yukon in 1979 (Sabin 2014).

Continuing land claims negotiations with Yukon First Nations, along with frequent turnover among federal ministers, slowed this process of devolution in Yukon into the 1980s. Alcantara argues that the lack of "perceived aboriginal consent" for devolution served as a barrier to the expansion of legislative and administrative responsibilities in the territory (2013b, 175). Yukon First Nations resisted increased powers for Yukon while their claims remained unsettled. This resistance was driven primarily by concerns over land and resource management.

Devolution's political calculus changed after the signing of the 1990 *Umbrella Final Agreement (UFA)* by Canada, the Government of Yukon and the territory's 14 First Nations. The *UFA* provided a framework for the settlement of individual land claims, as well as the creation of Indigenous governments and mechanisms for land use planning through side agreements, which are not protected under section 35. Between 1993 and 2005, 11 Yukon First Nations settled claims. In a climate of increasing certainty about the relationship between Yukon's Indigenous peoples and its public government, an agreement to transfer control of oil and gas to the territory was completed in 1993 (Feehan 2009).

Further negotiations between the Yukon government and the federal government led to the signing of a devolution agreement in 2001 and a final transfer in 2003. As Braden, Alcantara and Morden note, Yukon's devolution agreement "carefully preserved the interests of the federal government"; this included a \$3-million cap on resource revenues for the territory, after which the federal government would reduce its fiscal transfer dollar-for-dollar (2016, 177). While devolution has expanded the scope of government authority in Yukon, it has not resulted in increased revenues. Yukon received just \$405,000 from leases and royalties during the 2014-15 fiscal year (Yukon 2017). There is no oil and gas production ongoing in Yukon, and there is currently only one mine operating in the territory (Yukon 2016).

Yukon's devolution agreement did not foresee the sharing of management responsibilities with the territory's Indigenous peoples or provide a mechanism for sharing resource revenues. The Yukon government does not offer fiscal transfers to Indigenous governments. It continues to provide many primary services to First Nations communities, including health care. Under their self-government agreements, Yukon's Indigenous governments can nevertheless draw down powers. As an increasing number of powers are transferred from the public to Indigenous governments — and intergovernmental relations formalized along federal lines — Yukon may emerge as Canada's second subnational federation.⁸

Yukon First Nations are empowered by treaty to participate in resource management, but they were not party to the territory's devolution agreement. Primary power over land and resource management rests with the public government, and Yukon First Nations have a circumscribed role in the regulation of natural resources through such bodies as co-management boards. Under the *UFA*, Yukon First Nations can participate in forward-looking land use planning through a territory-wide council and temporary regional bodies that operate on an as-needed basis (Staples et al. 2013). In 2012, Yukon's public government summarily rejected the recommendations of the Peel Watershed Planning Commission, a decision that resulted in legal action by First Nations. The Yukon Court of Appeal found that Yukon's unilateral decision "undermined reconciliation by failing to honour the letter and spirit of its treaty obligations" to the Yukon First Nations that participated in the Peel land use planning process.⁹ The Supreme Court of Canada heard an appeal of the case in March 2017.

Yukon manages Indigenous intergovernmental relations through its Executive Council Office and two bodies: the Intergovernmental Forum and the Yukon Forum. The Intergovernmental Forum is a trilateral meeting of Canada, Yukon and Yukon's Indigenous peoples to discuss issues related to federal responsibilities in the territory. The latest meeting was held in March 2017. It enabled governments to "provide updates on common priorities including reconciliation activities" and to discuss "[v]arious intergovernmental fiscal matters" (Yukon 2017). The Yukon Forum was created by statute in 2005 to provide a means for its "members to discuss issues of common concern and identify opportunities and common priorities for cooperative action," including the formation of working groups (Yukon 2005). Over the past decade, however, the relationship between the former Yukon Party government and First Nations deteriorated and few substantive accomplishments emerged from the meetings. The Yukon Forum was revived in January 2017 with an initial meeting of the territory's new Liberal government, the Council of Yukon First Nations and representatives of 12 Indigenous nations (Forrest 2017). Its members committed to meet four times annually. Whether the Yukon Forum grows into a mechanism for federal-style governance remains to be seen. These forums do not possess permanent secretariats, and each participating government manages its intergovernmental relations individually.

Political development in the Northwest Territories

Two histories of political development exist simultaneously in the NWT. The first is the history of the public territorial government and its constitutional and political development since Canada acquired the North-Western Territory in 1870. The second history is of Indigenous peoples' struggle for self-determination, the negotiation and settlement of modern treaties and the creation of distinct Indigenous governments. Devolution represents a significant intersection in these histories and, as Dacks argues, what "was once solely an exercise in the realm of public administration is now equally a struggle about the future of inter-ethnic relations in the North" (1990a, 2).

The transfer of control over public lands and natural resources opened a new chapter in the history of Indigenous-settler relations in the NWT, one marked by increasing institutionalization and routine interactions of established governments. The public government is the result of this history, reflecting the need of non-Indigenous northerners to legitimize their position in the

territory. Indigenous government, by contrast, is rooted in processes of decolonization and the recognition of Indigenous rights. An examination of both these histories is important to our understanding of the need for federal-type systems within the NWT today.¹⁰

Settler political development has unfolded in fits and starts, but it has always occurred within the context of the Canadian federation as a whole. The federal government politically organized the southern portions of the NWT early in the territory's history, granting responsible government to it in 1897, and subdividing the prairies into the provinces of Alberta and Saskatchewan in 1905. The portions of the NWT north of the 60th parallel and east of Yukon, created in 1898, remained unorganized and haphazardly governed. The GNWT lay dormant from 1905 until 1921, when the federal government appointed a territorial council in Ottawa to administer the territory. The federal government introduced limited democratic reforms in the early 1950s, including the addition to the council of elected representatives from the territories. However, the NWT was governed almost exclusively from Ottawa, with the exception of Indian agents, a smattering of municipal governments and a small contingent of public servants at Fort Smith.

Devolution of political and administrative authority to the peoples of the NWT began in the late 1960s. Following the recommendations of the Advisory Commission on the Development of Government in the Northwest Territories (Carrothers Commission), the federal government transferred executive, legislative and some administrative functions to Yellowknife in 1967. Over the next decade, Dickerson notes, "the growth in size and responsibilities of the GNWT was nothing short of phenomenal" (1992, 89). Policy areas ranging from education and social services to industry and local government were not just administered within the territory, but decision-making power devolved as well. In 1975, the territorial council became wholly elected for the first time. Responsible government was achieved a decade later, in 1986, when the appointed commissioner "withdrew from active administration and turned the management of the public service over to the executive" (Henderson 2007, 105).

In the 1970s, settler political actors focused on building the GNWT as a means to further legitimize their own position in the territory and that of the public government (Clancy 1990). Indeed, their main preoccupation was the transition of the NWT from a territory to a province. For Indigenous peoples, the political focus was less about dislodging the GNWT; they sought instead to regain political and economic control of their lands and lives. Indigenous mobilization led to the formation of Dene, Métis, Inuvialuit and Inuit political organizations to negotiate the settlement of land claims. Each of these organizations shared a common goal of achieving self-government and the political and institutional means to attain self-determination. Over the next three decades, the Inuvialuit (1975), Gwich'in (1984), Sahtu Dene and Métis (1994), and Tłı̨chǫ (2005) signed modern treaties.

While Indigenous peoples resisted further devolution to the GNWT, a compromise position emerged in the mid-1980s, creating sufficient political space to enable the devolution of health (1985), forestry (1986), fisheries (1986) and energy (1988) to the territorial government (Clancy 1990).¹¹ Following this second wave of devolution, a political détente emerged. As individual Dene and Métis groups sought to negotiate their own comprehensive claims, the

political development of the GNWT was decoupled from the political projects of Indigenous peoples. Political energy turned toward the claims process, division of the eastern Arctic from the NWT (itself a result of a comprehensive claim), constitutional reform at the federal level and reforms to territorial funding through the introduction of Territorial Formula Financing in the mid-1980s.

With the failures of the Meech Lake and Charlottetown Accords, the NWT's public government abandoned its quest for provincial status. In Yellowknife, the public government sought instead to secure control of public lands and resources. The division of the NWT leading to the creation of Nunavut in 1999 consumed considerable policy and administrative resources, and the political development of the GNWT was placed on hold until the early 2000s.

Devolving public lands and natural resources to the Northwest Territories

In Canada, there is a long history of the federal government withholding the authority to manage public lands and resources from subnational governments. Alberta and Saskatchewan did not gain control of their public lands and resources until 1930 (Lingard 1946). The reluctance of federal actors to devolve these powers reflected their historic paternalism toward western Canadian governments and their desire to retain the economic benefits of resource development in the region. These attitudes were exemplified in the findings of the Carrothers Commission of 1966, which noted in its final report, "it is not conceivable that the central government would convey title to the minerals and petroleum reserves of one-third of the land mass of Canada to a government of less than 0.2% of the total Canadian population, three fifths of whom are indigenous peoples, who, however great their potential, are at the present time politically unsophisticated and economically depressed" (Canada 1966, 148).

Federal concern that territorial governments lacked the policy and administrative capacity to oversee successfully the development of large-scale resource projects was pervasive until the 1990s, when the federal government's position softened toward devolution. Coates and Poelzer identify many reasons for this shift, including the political maturation of the territorial government, the settlement of some Indigenous claims, a growing commitment to decentralize on the part of the federal government and "a general Canadian commitment to equality of political rights" (2014, 12).

Three sets of interests shaped the course of devolution in the NWT. Alcantara argues that the federal interest in devolution negotiations was driven by "the desire to maintain revenue streams, decrease direct costs, and ensure that territorial shares of natural resource revenues [were] consistent with federal principles of equalization" (2013b, 172). The GNWT's interests were not only to maximize the fiscal benefit from devolution to boost territorial revenues, but also to increase the scope of its executive, legislative and administrative authority. Given its subconstitutional status, however, the GNWT had limited bargaining power with the federal government, which retains the ability to change unilaterally the statutory basis on which the GNWT governs. The territory's Indigenous governments, by contrast, "negotiate from a strong legal basis, especially since the recognition of Aboriginal and treaty rights" in the Canadian Constitution (Irlbacher-Fox 2016, 70). The constitutional status of Indigenous governments

participating in devolution negotiations was essential to reaching an agreement and led to more generous terms for the NWT than were achieved in Yukon a decade earlier.

The devolution of control over public lands and resources was negotiated in stages.¹² In 2002, Canada, the GNWT and the territory's Indigenous governments signed a memorandum of intent setting out guiding principles and objectives for negotiating devolution and resource revenue sharing (Irlbacher-Fox 2016). In 2004, the Devolution Framework Agreement was signed, but over the course of the next three years, the trilateral relationship broke down and the federal government rejected a proposed devolution agreement in 2007. Indigenous governments were concerned that devolution would weaken their bargaining positions in their own claims processes, which were occurring simultaneously. The Harper government's adversarial approach to Indigenous affairs fostered mistrust between Indigenous communities and the Crown, further dampening the devolution-negotiating environment.¹³ Harper's approach led to a decade of strained relations that complicated devolution negotiations for all parties in the NWT.

As Irlbacher-Fox argues, when negotiations resumed, in 2010, "the power structure shifted, [and] what began as a trilateral government-to-government-to-government process morphed into a bilateral negotiation, with Indigenous governments increasingly on the sidelines" (2016, 68). By the following year, the GNWT had reached an agreement in principle (AIP) with Canada and two Indigenous governments: the Inuvialuit Regional Corporation and the Northwest Territories Métis Nation. This set off a period of political discord between the public and Indigenous governments of the NWT as each sought to secure its own position within the territory.

The promise of resource revenues convinced those Indigenous groups with settled claims — including the Sahtu Secretariat, Gwich'in Tribal Council and Tłı̨chǫ Government — to agree to the AIP's terms. Senator Dennis Patterson noted in media interviews that the devolution agreement reflected Premier Bob McLeod's close relationship with Prime Minister Stephen Harper and his previous experience with devolution in the 1980s. In addition, territorial political actors with closer relationships to the Conservative Party were important to the success of the negotiations — people such as Nellie Cournoyea, former chair and CEO of the Inuvialuit Regional Corporation, an early signer of the agreement. A final devolution agreement was signed in June 2013, and control was transferred to the GNWT on April 1, 2014.

The devolution agreement empowers the GNWT to administer public lands, regulate the development of surface and subsurface resources — including minerals, oil and gas — and set and collect resource royalties (Slowey 2015). The GNWT has committed to managing these lands "in accordance with settlement agreements, and in keeping with the honour of the Crown," an explicit reference to its section 35 obligations (IGC NWT 2014, 2). The territory can keep up to 50 percent of these revenues, to a set dollar amount, and a quarter of the revenues are to be shared with participating Indigenous governments. Finally, new institutions of intergovernmental relations were created to manage the relationship between the GNWT and its Indigenous partners as the territory's resources were developed and regulated. To facilitate these new powers, the GNWT had to amend its statutes, absorb federal assets and

employees, and create a new, decentralized department of lands in Inuvik. The Dehcho and Akaitcho (Dettah, Ndilo and Lutsel K'e Dene) refused to sign the devolution agreement while their comprehensive claims remained outstanding.

Devolution in Nunavut

The Government of Nunavut (GN) was created in 1999 through a land claims process involving Canada and the Inuit of the eastern Arctic. The GN is a public government created through article 4 of the *Nunavut Land Claims Agreement*, and Nunavut is analogous to a unitary state. That is, while the Inuit beneficiary organization of the claim, Nunavut Tunngavik Incorporated, and its three regional corporations play a role in the territory's policy processes, executive, legislative and administrative powers are entirely within the purview of the GN.

The GN was created with the same powers the GNWT held at the time of division. Its political leadership has sought the devolution of further province-type responsibilities, including control of its natural resources (Alcantara 2013b; Loukacheva 2016). The federal government has been reluctant to grant these requests, given deficits in Nunavut's fiscal, policy and administrative capacity. In 2006, for example, the Harper government commissioned a study of the feasibility of Nunavut devolution. The Mayer report found that, while good relations existed among Inuit, the GN and the federal government, which would facilitate negotiations, there were still significant geographic, social and governance challenges. This meant that conditions were not yet conducive to a successful transfer (Mayer 2007, 46). Observers argued that the "devolution train [had] left the station," however, and Mayer recommended an incremental approach to devolution in Nunavut (Braden, Alcantara and Morden 2016).

Control over Crown lands and resources remains a significant political goal for the GN and for Inuit organizations. Although negotiators in Nunavut can learn from the NWT's experience of devolution, in the absence of multiple claims and governments, the conditions necessitating the development of subnational federal-type institutions do not exist. Ongoing negotiations in the NWT during the 2010s demonstrated to political actors in Nunavut the federal government's continuing commitment to constitutional and political development across northern Canada. In 2014, the federal government appointed a negotiator to pursue an AIP with the GN, but negotiations were interrupted by the 2015 federal election. In July 2016, Carolyn Bennett, then Minister of Indigenous Affairs and Northern Development, renewed devolution talks with the GN by appointing Fred Caron as chief negotiator (Zerehi 2016). Peter Taptuna, Premier of Nunavut, anticipates signing an AIP with the Trudeau government in the near future (Skura 2016).

A Federation within a Federation?

Two concurrent forms of decentralization have converged in the NWT to restructure its governance systems. Devolution has expanded the executive, legislative and administrative scope of the public territorial government and brought decision-making power closer to the local population. At the same time, the emergence of constitutionally entrenched Indigenous government has created a complex policy environment with shared and overlapping jurisdictions

within the NWT. The development of systems that affirm the political independence of public and Indigenous governments in the NWT, while facilitating their policy interdependence, is leading to new forms of intergovernmental relations in the territory, including executive, fiscal and regulatory federalism.

These changes stem from several sources. Two side agreements were signed at the same time as the *Northwest Territories Land and Resources Devolution Agreement*, introducing new executive and federal-type fiscal arrangements. The first agreement created the Intergovernmental Council of the Northwest Territories (IGC NWT), a forum designed to foster cooperation and collaboration among the executives of the GNWT and participating Indigenous governments. The second agreement committed the GNWT to sharing resource revenues with Indigenous governments. A third change was introduced by federal legislation and sought to consolidate regulatory oversight in the territory by collapsing four co-management boards, created through comprehensive claim processes, into a single superboard.

In this section, I outline the introduction of these new institutions and provide preliminary analysis of their operation and effectiveness in mediating intergovernmental relations. Measuring the legitimacy enjoyed by those institutions is difficult, given their short history. Concrete policy outcomes, beyond the fiscal benefits of devolution, also remain elusive, while unilateral changes to the territory's regulatory systems are now the subject of legal action. For Canadian federalism, these changes portend new structures of intergovernmental relations nationwide, increasingly complex governance and policy systems, and renewed relationships between Indigenous and settler Canadians and their governments.

Executive federalism: Intergovernmental Council of the Northwest Territories

The NWT has formalized a system of executive federalism that mediates the relationship between nine Indigenous governments and the GNWT. The *Northwest Territories Intergovernmental Agreement on Lands and Resources Management* created the IGC NWT in 2014. The council was designed to foster a “government to government relationship” among the territory's Indigenous and public governments, as well as to promote “coordination and cooperation” in the management of water, land and resources (NWT 2014b, 2). The IGC NWT's scope is currently limited to devolution-related policy deliberation, including some oversight of resource revenue sharing. Unlike other examples of formal institutions of executive federalism, such as the German Bundesrat, the council has no independent decision-making authority, but it provides policy analysis and recommendations to participating governments.

The territory's public and Indigenous governments expressed their desire to “foster, strengthen, and formalize the government to government arrangements and relationships between and among the GNWT and Aboriginal Governments” (NWT 2014b, 3). The IGC NWT's terms of reference affirm the public government's legislative responsibility for lands and resources, while recognizing the traditional land use practices of Indigenous peoples and the importance of those practices to Indigenous culture and economic production. The IGC NWT was formed to provide an accountability mechanism to protect Indigenous and treaty rights and promote the adoption of Indigenous approaches to resource management (IGC NWT 2014).

The IGC NWT has a permanent secretariat housed in the Department of Executive and Indigenous Affairs¹⁴ that facilitates communication and policy coordination among its members. It hosts an annual meeting of territorial political leaders to discuss ongoing intergovernmental issues related to devolution. The IGC NWT formalizes existing policy relationships among Indigenous governments and the GNWT by incorporating long-standing changes in the policy environment, including the co-management boards that oversee resource development. It provides a forum for elite accommodation and the institutional support needed to engage meaningfully in policy learning and deliberation. Shared and overlapping jurisdiction is the constitutional reality of the NWT, and, as a senior territorial official stressed, “the decisions about what happens in the Northwest Territories do not belong to one government.”¹⁵ The adoption of an intergovernmental council reflects the “negotiation culture” of the NWT, which has developed over the past five decades to moderate conflict between the North’s Indigenous and settler societies (Coates et al. 2014).

Since its creation, the IGC NWT has held three meetings. Early meetings saw the council define its priorities, identify territorial legislation for review, establish working groups and study water management processes (IGC NWT 2015b). In its 2015 meeting, the council began developing a strategic plan, recognizing the important role it would play in mediating conflict in the territory and setting the policy agenda (IGC NWT 2016a). Leaders reiterated their commitment to “work on formalizing a government to government working relationship with the Government of the Northwest Territories,” although few details were forthcoming (IGC NWT 2016b, 1). The council meetings enable ongoing high-level discussion about the political, legislative and fiscal responses to devolution. They provide a space for policy deliberation and discussion, enabling members to learn from one another and, importantly, to ask questions. In addition, the council strives to reach its decisions through consensus, and its power lies in making recommendations whose weight rests on this consensus-driven approach.

The Intergovernmental Council Secretariat coordinates the council’s annual meetings and enables its policy work through institutional and administrative support. The secretariat is composed of one representative from each of the Indigenous and public governments of the NWT. It meets twice yearly. An Indigenous government official described the secretariat as an “invaluable tool” that allows for “direct access to ministers and deputy ministers. It is a collaboration among governments — Indigenous and NWT — and a good forum for discussion, which oftentimes doesn’t happen during the development or implementation of policy.”¹⁶ Given the acrimonious history of settler-Indigenous relations in the NWT, this is a significant departure from past practice. It also points toward fostering an environment of cooperative or consensus federalism in the territory and achieving “intergovernmental harmony, accommodation, and consensus” (Simeon and Nugent 2012, 64).

At the council’s direction, the secretariat coordinates the activities of working groups established to address specific issues. There are currently three working groups considering: (1) the development of Indigenous government capacity in land and resource management; (2) legislative requirements for impact benefit agreements and the harmonization of regulatory practices across the territory; and (3) resource revenue sharing. The latter working group makes

recommendations related to the distribution of resource revenues (amounts are determined by the size of an Indigenous government's population), the relative cost of living and other factors. The working group seeks consistency across these measures and periodically reviews the funding formula (IGC NWT 2015a). Indigenous governments commit considerable staffing resources to support the IGC NWT's work — work that is conducted through regular in-person meetings and through teleconferencing.

The most significant issue facing the IGC NWT is related to fiscal and human resource capacity (IGC NWT 2015b, 8). Deficits exist within the territorial and the Indigenous governments. Each faces many governance pressures; for example, staff hold multiple portfolios while also shouldering the council's work. This is an intractable problem in northern governance. As Coates et al. argue, the dedication of human resources to any one endeavour represents “a substantial opportunity cost for Northern governments and society, one that is difficult to quantify but that implicates how leaders and organizations spend their time. Government officials, in both the territorial and Aboriginal government[s], who are devoting time to negotiations, will have less time and fewer resources to devote to other urgent social and economic needs” (2014, 41).

As a result of these time pressures, the scheduling of meetings among members of the secretariat and the working groups is severely constrained. At the last annual meeting of the council, political leaders instructed “the senior officials from the key departments to commit to participating in the IGC Secretariat meetings” (IGC NWT 2016b, 1). Officials with the GNWT and the Indigenous governments emphasized that this directive did not imply that there was unwillingness among senior officials to participate in the council's work — the directive was a request that they prioritize their participation.

Public access to information about the council's work is another important issue. In part, the relative absence of public information reflects the council's operation as a process of elite accommodation. This necessitates conducting confidential proceedings, a common practice that allows political leaders and government officials to discuss sensitive issues candidly. The IGC NWT's terms of reference, three annual reports and a half-dozen press releases have been made available through its website (www.igcnwt.ca). The press covers annual council meetings, but the activities of the secretariat and its working groups are not widely known.

The relative absence of public outreach — and public accountability — was raised as a significant concern by legislators when the council was created. Members of the legislative assembly criticized the closed-door nature and lack of transparency of the IGC NWT. Former MLA Bob Bromley argued, “Given that the Intergovernmental Council is making decisions such as priority of legislation, apparently, and who knows what else behind closed doors, the authorities and MLAs are being arbitrarily usurped or undermined. Decisions are now apparently made on behalf of this House by a brand new quasi-government structure that has had essentially no democratic review” (NWT 2014a, 28).

Legislators were concerned that their role in setting territorial policy was being undermined by an unelected body. The IGC NWT can recommend the adoption of policy as well as initiate its

own policy research, but its influence is in framing policy decision-making rather than directing it. In a territory of shared and overlapping governance, institutional solutions such as the IGC NWT will be unavoidable. Increased transparency and public outreach may allay concerns.

Secretariat members and political observers have drawn parallels between the IGC NWT and the Council of the Federation (CoF), which is composed of the premiers of all the provinces and territories. The objectives of the CoF include “strengthening interprovincial-territorial cooperation, forging closer ties between the members and contributing to the evolution of the Canadian federation; exercising leadership on national issues of importance to provinces and territories and in improving federal-provincial-territorial relations; [and] promoting relations between governments based on respect for the Constitution and recognition of the diversity within the federation” (Collins 2017, 3). The IGC NWT provides a forum for policy deliberation that recognizes the changing constitutional and governance structure of the NWT. It is a forum for assessing the impact of the GNWT’s decisions as well as those of Indigenous governments.

The IGC NWT can be seen as an institution of executive federalism. In his analysis of executive federalism at the national level, Dupré notes that institutional success should not be measured by “whether governments agree or disagree, but whether [the institution] provides a forum (or more accurately, a set of forums) that is conducive...to negotiation, consultation, or simply an exchange of information” (1985, 1). Given the council’s short history, drawing conclusions on its effectiveness is premature. However, a consideration of its early activity does suggest improved intergovernmental relations and more integrated communication between governments in the territory.

Although the council currently only engages with land and resource devolution, the norms and practices developed in this narrower context could be expanded to include other policy areas in the future. A more expansive mandate could serve to further harmonize governance in the territory. Accordingly, the council represents a new form of intergovernmental relations that is radically different from that seen in previous decades, when the territorial government was in conflict with its own people.

The IGC NWT provides a forum for collaboration and coordination in a formal and regularized environment, while respecting the independent jurisdiction of each government. All participating governments are considered equal, regardless of the state of their claim or their constitutional status. The governments of the NWT believe the IGC NWT could serve as a template for navigating the relationship between subnational public and Indigenous governments across Canada. A member of the secretariat said, “If you want to look at a model for how to actually create a forum for nation-to-nation discussion, the IGC is a good model for that and could be adopted by other jurisdictions.”¹⁷

Resource revenue sharing

As more Indigenous governments are formally established in the NWT, they will need more than just political autonomy and respect for agreements if they are to meet their policy and programming objectives. Governments require adequate and ongoing funding and the “fiscal ability to match legal autonomy and expenditure responsibility” (Bakvis, Baier and Brown 2009, 137). Realizing the

promise of section 35 rights and Indigenous self-determination in the NWT means expanding the fiscal independence of Indigenous governments. In considering the fiscal relationships among governments, Bakvis, Baier and Brown argue, “the fiscal arrangements underpinning the relationship go a long way towards defining it. If one level of government has the money and another is always begging for it, cap in hand, no constitutional principle of independence or autonomy is going to change the practical fact of dependency” (2009, 137). Increasing Indigenous governments’ own-source revenues moves them toward greater independence and replaces fiscal dependency with partnership.

The devolution agreement brought about important changes to the fiscal framework of the NWT. While the territory still receives 84 percent, or approximately \$1.43 billion, of its operating budget from federal grants and transfers, devolution has the potential to provide a new revenue stream to the territorial and Indigenous governments (NWT 2017a). Under the *Northwest Territories Intergovernmental Resource Revenue Sharing Agreement*, the GNWT can keep 50 percent of resource revenues to a set limit (NWT 2014c). The public government will share up to 25 percent of revenues with Indigenous governments, providing them with the financial resources to underwrite their own policies and programs. As of March 2017, this had resulted in payments of \$20,612,991 to nine participating Indigenous governments (see table 1).

Revenue sharing represents a significant change in the relationship between public and Indigenous governments. Until 2014, there was no financial relationship between them, and each government received its primary fiscal transfers from the federal government. Some Indigenous governments — including those of the Tłı̨ch̨o, Gwich’in and Sahtu — also receive a portion of resource royalties through signed land claims, and the territorial government makes infrastructure and other investments in Indigenous communities under its territorial

	2014-15	2015-16	2016-17	Total payments to date
Acho Dene Koe First Nation	188,133	135,105	197,272	520,510
Deninu Kue First Nation	238,226	181,971	265,450	685,647
Gwich’in Tribal Council	1,182,521	942,063	1,373,398	3,497,982
Inuvialuit Regional Corporation	1,815,566	1,441,671	2,101,856	5,359,093
Kátł’odeeche First Nation	131,661	126,627	184,153	442,441
Northwest Territory Métis Nation	627,601	497,521	725,368	1,850,490
Sahtu Secretariat Incorporated	1,335,446	1,067,134	1,555,666	3,958,246
Salt River First Nation	250,542	191,636	279,544	721,722
Tłı̨ch̨o Government	1,213,736	961,408	1,401,716	3,576,860
Total distributed resource revenues	6,983,432	5,545,136	8,084,423	20,612,991
Source: Northwest Territories (2017b)				

obligations. Coates cautions that the fiscal financing agreement “is unique to the situation in the Northwest Territories and is not readily transferable to other jurisdictions” (2015, 29).

The resource revenue sharing formula was a sticking point in the negotiation of devolution. An even more challenging issue has been the consistency of funding in an environment of low commodity prices. Revenue transfers to Indigenous governments were significantly lower than expected in 2014-15 at \$6.98 million, or less than half of original estimates. Transfers increased, however, to \$8.08 million in 2016-17, although this remained below territorial government expectations.

The fact that revenues and expenditures are constantly in flux has immediate consequences for the effectiveness of specific intergovernmental arrangements. The “basic parameters of Northern governance — Northern location, distance, climate, isolation, and diseconomies of scale — mean that government in the North is costly” (Coates et al. 2014, 79). Therefore, challenges remain, related not only to commodity prices but also to a fiscal gap between northern and southern Canada, as well as between and among northern public and Indigenous governments.

At the same time, the adoption of a new, federal-type fiscal relationship between the GNWT and its Indigenous government partners signals an important departure from earlier eras of colonial control. One senior official with the GNWT stated, “This is the way, as a government, we want to be treated. That we have the capacity to be able to determine what our own priorities are, including spending priorities. The Aboriginal governments we work with deserve that same level of respect.”¹⁸ This new fiscal relationship ensures that the economic health of the NWT becomes the responsibility of all governments within the territory.

Regulatory federalism: Mackenzie Valley Review Board

While territorial developments in executive and fiscal federalism point to a growing formalization of intergovernmental relations, one challenging area of shared governance remains the regulation of water and lands. Under the *Mackenzie Valley Resource Management Act (MVRMA)*, four co-management boards currently operate in the NWT: the Mackenzie Valley Land and Water Board, the Sahtu Land and Water Board, the Wek’èezhìi Land and Water Board, and the Gwich’in Land and Water Board. Co-management boards are not creatures of the federal, territorial or Indigenous governments, although they are derived from modern treaties and statutes. They exist “at the intersection of the three orders of government, guaranteeing Aboriginal participation and influence” over water, lands and resource management (White 2009, 310). They provide a mechanism for Indigenous input into the use and development of traditional territory.

In 2007, the federal government ordered a review of regulatory regimes across northern Canada, including the *MVRMA*. The McCrank report called for a “fundamental restructuring” of regulatory oversight in the territory that would address “complexity and capacity issues by making more efficient use of expenditures and administrative resources, and would achieve more understandable and consistent practices” (Canada 2008, ii). To secure a final devolution agreement, the federal government required the consolidation of the regional land and water boards, to the dismay of the Tłı̨ch̨o, Sahtu and Gwich’in governments. As a February

2014 editorial argued, “Whether Ottawa has the right to create a super board in the NWT is irrelevant. What matters is three groups of people fought hard for the right to self-government and negotiated in good faith for the right to help shape decisions at the regional level. They have been abandoned by their government” (*News/North* 2014).

The land and water boards were not only created by statute but were also derived from constitutionally protected Indigenous treaties with three governments. Their consolidation into one board would violate those rights and initiate a shift in direction opposite to that indicated by the creation of the IGC NWT and the implementation of resource revenue sharing — policy innovations that respect Indigenous rights and nation-to-nation relationships.

The Tłı̄chǫ government filed an injunction in May 2014 in which it alleged that the changes to the *MVRMA* were “unconstitutional because they were inconsistent with the Tłı̄chǫ Agreement and breached Tłı̄chǫ rights” (Tłı̄chǫ Government 2015, 3). In December 2014, the Supreme Court of the Northwest Territories heard arguments on whether to grant an injunction to stop the federal government from implementing its changes to the Mackenzie Valley Land and Water Board until the case could be decided on its merits. An injunction was granted in March 2015. In securing the injunction, Tłı̄chǫ Grand Chief Eddie Erasmus declared that the “court’s statement is clear: our modern day treaty and the promises within it cannot simply be ignored by Canada” (Tłı̄chǫ Government 2015, 1). The federal government filed an appeal, which, as of October 2017, was still pending.

Although the Trudeau government has yet to drop its appeal, it has changed its position on the *MVRMA*. When asked whether it would pursue the creation of a superboard, Carolyn Bennett, then Minister of Indigenous and Northern Affairs, responded: “Under a renewed spirit of respect and cooperation, we committed in the campaign to undo the unilateral changes imposed by the previous government. We continue to work in partnership on a nation to nation basis with First Nations as well as the territorial government, and other stakeholders to move forward on the Mackenzie Valley Resources Management Act.”¹⁹

In addition, Bennett’s office stated that they had “launched discussions with partners on proposed amendments to the Mackenzie Valley Resources Management Act to work towards developing the appropriate regulatory regime, including removing board restructuring provisions from the Act. Our government believes that negotiation, rather than litigation, is the preferred route for resolving issues.”²⁰ Indeed, in August 2017, the federal government announced a renewed commitment to co-management boards in the NWT; this would include making an appointment to the Mackenzie Valley Land and Water Board (Canada 2017).

In the trilateral relationship of Canada, the GNWT and Indigenous governments, a shift in position toward maintaining — and potentially expanding — multiple regulatory bodies with shared and overlapping jurisdiction is in keeping with national practices. Harmonization, rather than consolidation, may be the appropriate response here. This could be achieved by balancing the section 35 rights of Indigenous peoples with the need for regulatory expediency. The IGC NWT, as a mechanism for policy coordination, is one body that could assist in this process.

Conclusion

A federal structure is emerging within the Northwest Territories. This federation within a federation formalizes intergovernmental relations among Indigenous and settler governments in the territory. New institutions of executive and fiscal federalism, as well as attempts to harmonize regulatory oversight, recognize Indigenous peoples' constitutional rights while reflecting political patterns rooted in competition between Indigenous peoples and settlers.

Canada's federation is growing in complexity, slowly incorporating the diverse nations within its borders and enabling their self-determination. This is an incomplete project, but one that the current federal government appears to be taking seriously. Not only are federal-Indigenous relations on a nation-to-nation basis becoming routine, but the mechanisms for intergovernmental relations between subnational governments are also proliferating. Abele and Prince (2003) were once concerned about the inclusion of Indigenous governments in national federal institutions, but the tide has turned.²¹ Alcantara and Nelles (2016) have demonstrated burgeoning intergovernmental relations at the municipal level. The concretization of federal-style relations in the NWT — and, to a lesser extent, Yukon — is in keeping with this broader trend.

The speed with which the NWT has engaged in this federalization — and the peaceful means through which power has been dispersed — is striking. The accomplishment of northern peoples in peacefully negotiating, designing and implementing this model of power sharing should be underscored. While it will require time to evaluate the ultimate policy success of these measures, their political outcomes are clear. Indigenous and settler governments are willing to engage in formal and ongoing processes of political and policy deliberation with the goal of greater coordination and integration. As a model of decolonization, this new federation within a federation respects the autonomy of its composite governments while providing sufficient pathways to collaboration. The pragmatism of this model, along with its operationalization of reconciliation in institutional form, will be of interest to policy-makers across the country.

This model of intergovernmental relations may nevertheless not be appropriate for all Canadian jurisdictions. The constitutional status of the territories makes their governance structures too malleable for the rigid boundaries of provincial jurisdiction to accommodate (Clancy 1990). And, while a large Indigenous population makes this model politically viable in the NWT, jurisdictions with smaller Indigenous populations could find systems of shared and overlapping jurisdiction more difficult to navigate. Indigenous peoples may themselves choose alternative forms of intergovernmental relations with their public governments — as has occurred, for example, in British Columbia.

From a policy perspective, the implementation of the IGC NWT has been slow, while the promised fiscal rewards of devolution for Indigenous governments have not fully materialized. The plans to consolidate the Mackenzie Valley Land and Water Board are likely to be abandoned by the Trudeau Liberals, so the current processes, while functional, remain uncertain.

This is an innovative model. Subnational federalism follows the norms and practices of its national counterpart, from the creation of intergovernmental forums to the distribution of fiscal

resources. It goes some way toward meeting the needs of northern peoples, while also reflecting the flexibility of Canadian federalism to enable peaceful cogovernance. Internationally, it is unprecedented, not only institutionally, but also in its wholly peaceful negotiation, settlement and implementation. Northern Canada has been, since its colonization in the late nineteenth century, a divided society. The emergence of a federation within a federation is a significant step toward reconciling these divides within the Northwest Territories.

Notes

1. Nunavut is constitutionally exceptional. It was created through article 4 of the *Nunavut Land Claims Agreement (NLCA)* and the passage of the *Nunavut Act* by the federal parliament. Although it was created by federal legislation, its existence is protected by its inclusion in the *NLCA* — a land claim protected by section 35 of the Constitution of Canada. It therefore straddles the line between a statutory-based and a constitutionally entrenched jurisdiction. This places Nunavut's public government in a somewhat different position from the public governments of Yukon and the NWT, which are subject to unilateral action by the federal government through statutory amendment (Cameron and Campbell 2009; Chabot 2016; Funston 2004).
2. Prior to 2014, the NWT had jurisdiction over some renewable resources, including wildlife (1967) and forestry (1987) management, but did not control the Crown lands and non-renewable resources within its borders.
3. Yukon and its Indigenous governments are on a similar path, but without the formalized executive and fiscal federal relationships that now exist in the NWT and that are outlined in this study.
4. The United Kingdom also uses the term “devolution” to refer to the delegation of authority to subnational units. Over the past two decades, extensive powers have been devolved to governments in Scotland, Wales and Northern Ireland (Leyland 2016). Additional powers were devolved to Scotland following its failed independence referendum in 2014.
5. For a comprehensive overview of the constitutional status of Canada's territories, see Chabot (2016).
6. Federations must balance competing forces that drive the impulse to centralize and to decentralize state power. In Canada, strong federal institutions have been balanced against the principle of subsidiarity. The Supreme Court of Canada describes this principle as “the proposition that law-making and implementation are often best achieved at a level of government that is not only effective, but also closest to the citizens affected and thus most responsive to their needs, to local distinctiveness, and to population diversity” (quoted in Brouillet and Ryder 2017, 425). This principle has driven both settler and Indigenous claims to greater autonomy from the federal government within northern Canada. The extent to which it influences current federal debates in the NWT remains unclear.
7. Current and future Indigenous governments in the NWT, such as the Tłı̨chǫ Government and the Deline Got'ine Government, are constitutionally protected, giving them a stronger basis for negotiations with the public territorial and federal governments. By contrast, self-governments in Yukon were negotiated through side agreements to Indigenous land claims and are not protected by section 35, placing them in a somewhat weaker position in relation to the public and federal governments (Dickson 2004).
8. Yukon First Nations have been reluctant to assume additional powers, given constraints on fiscal and human resource capacity: in a survey, Dacks found that “Yukon public servants and politicians vary in their ability to see Yukon First Nations governments as partners whose status is equivalent with theirs, justifying negotiating new relationships on a basis of intergovernmental equality. The success of self-government will depend on how fully the passage of time changes the cultures of non-First Nations governments toward a comfort with and commitment to self-government” (2004, 689).
9. *The First Nation of Nacho Nyak Dun v. Yukon*, 2015 YKCA 18 (CanLII) at para. 177.
10. For detailed examinations of devolution in the NWT, see, for example, Abele (1987), Cameron and White (1995), Clancy (1990), Dickerson (1992), Henderson (2007), Irlbacher-Fox (2016) and Slowey (2015).
11. The NWT also had responsibility for its Indigenous population devolved over this period — unlike the provinces, which have resisted absorbing responsibility for almost anything related to Indigenous peoples because they regard such responsibility as falling exclusively within federal jurisdiction.
12. For detailed overviews of these negotiations, see Alcantara (2013a), Irlbacher-Fox (2016) and Slowey (2015).
13. The Harper government's approach to Indigenous affairs alienated Indigenous leadership and communities. Wesley-Esquimaux characterized this approach in *The Harper Factor: Assessing a Prime Minister's Policy Legacy*: “Indigenous communities ultimately viewed Harper as initiating acts that hurt their interests and limited their vision for the future... They saw outcome-oriented Harper deliberately denying any future of self-determination and self-governance even though the Canadian Constitution guaranteed them both as rights of Indigenous peoples living in this country” (2016, 231).
14. The Department of Executive and the Department of Aboriginal and Intergovernmental Affairs merged on April 1, 2017.
15. Personal communication, February 6, 2017.
16. Personal communication, January 31, 2017.
17. Personal communication, February 6, 2017.
18. Personal communication, March 9, 2017.
19. Personal communication, February 10, 2017.
20. Personal communication, February 10, 2017.
21. Indeed, the recent boycott of a provincial premiers' meeting in July 2017 by Indigenous leaders demonstrates the importance of such forums to intergovernmental relations in Canada (Tasker 2017; Wesley 2017). Some premiers said it was difficult enough to coordinate the positions of 13 provincial/territorial governments without having to include the perspectives of Indigenous peoples. The inclusion of Indigenous groups at interprovincial/territorial meetings will be increasingly important to the legitimacy of these forums, especially as third-order government becomes more common across Canada.

References

- Abele, F. 1987. "Canadian Contradictions: Forty Years of Canadian Political Development." *Arctic* 40 (4): 310-20.
- . 2009. "Northern Development: Past, Present and Future." In *Northern Exposure: Peoples, Powers and Prospects in Canada's North*. The Art of the State, edited by F. Abele, T.J. Courchene, F.L. Seidle, and F. St-Hilaire, vol. IV. Montreal: Institute for Research on Public Policy.
- Abele, F., E. Alexiuk, Satsan (H. George), and C. MacQuarrie. 2016. "Completing Confederation: The Necessary Foundations." Paper presented at "Sharing the Land, Sharing a Future," conference marking the 20th anniversary of the Report of the Royal Commission on Aboriginal Peoples, University of Manitoba, November 2-4, Winnipeg.
- Abele, F., and M. Prince. 2003. "Paying for Self-Determination: Aboriginal Peoples, Self-Government and Fiscal Relations in Canada." In *Reconfiguring Aboriginal-State Relations, Canada: The State of the Federation 2003*, edited by Michael Murphy. Montreal and Kingston: McGill-Queen's University Press.
- . 2006. "Four Pathways to Aboriginal Self-Government in Canada." *American Review of Canadian Studies* 36 (4): 568-95.
- Alcantara, C. 2013a. "Ideas, Executive Federalism and Institutional Change: Explaining Territorial Inclusion in Canadian First Ministers' Conferences." *Canadian Journal of Political Science* 46 (1): 27-48.
- . 2013b. "Preferences, Perceptions, and Veto Players: Explaining Devolution Negotiation Outcomes in the Canadian Territorial North." *Polar Record* 49 (2): 167-79.
- Alcantara, C., K. Cameron, and S. Kennedy. 2012. "Assessing Devolution in the Canadian North: A Case Study of the Yukon Territory." *Arctic* 65 (3): 328-38.
- Alcantara, C., and J. Nelles. 2014. "Indigenous Peoples and the State in Settler Societies: Towards a More Robust Definition of Multilevel Governance." *Publius: Journal of Federalism* 44 (1): 183-204.
- . 2016. *A Quiet Evolution: The Emergence of Indigenous-Local Intergovernmental Partnerships in Canada*. Institute of Public Administration of Canada (IPAC) Series in Public Management and Governance. Toronto: University of Toronto Press.
- Bakvis, H., G. Baier, and D. Brown. 2009. *Contested Federalism: Certainty and Ambiguity in the Canadian Federation*. Don Mills, ON: Oxford University Press Canada.
- Braden, G., C. Alcantara, and M. Morden. 2016. "Something Old or Something New? Territorial Development and Influence within the Canadian Federation." In *Canada: State of the Federation 2013 — Aboriginal Multilevel Governance*, edited by M. Papillon and A. Juneau. Queen's Policy Studies 189. Montreal and Kingston: McGill-Queen's University Press and Institute of Intergovernmental Relations, Queen's University.
- Brouillet, E., and B. Ryder. 2017. "Key Doctrines in Canadian Legal Federalism." In *The Oxford Handbook of the Canadian Constitution*, edited by P. Oliver, P. Macklem, and N. Des Rosiers. New York: Oxford University Press.
- Cameron, K. 2013. "A Constitutional Celebration!" *Northern Public Affairs*, May 22.
- Cameron, K., and A. Campbell. 2009. "Devolution of Natural Resources and Nunavut's Constitutional Status." *Journal of Canadian Studies* 43 (2): 198-219.
- Cameron, K., and G. White. 1995. *Northern Governments in Transition: Political and Constitutional Development in the Yukon, Nunavut and the Western Northwest Territories*. Montreal: Institute for Research on Public Policy.
- Canada. 1966. Carrothers, A.W.R. *Report of the Advisory Commission on the Development of Government in the Northwest Territories*. Ottawa: Advisory Commission on the Development of Government in the Northwest Territories (Carrothers Commission). Accessed August 31, 2017. <https://jeraldsabin.files.wordpress.com/2014/04/carrothers.pdf>
- . McCrank, N. 2008. *Road to Improvement: "The Review of the Regulatory Systems across the North"* (McCrank Report). Ottawa: Indian and Northern Affairs Canada. Accessed August 31, 2017. <http://caid.ca/McCRep2008.pdf>
- . 2017. "Government of Canada Renews Partnership with 33 Treaty-Based Co-management Boards and Committees in the Northwest Territories." News release, August 24. Toronto: Cision Canada.
- Chabot, G. 2016. "Devolution, Evolution, Confusion: The Constitutional Status of the Canadian Territories and Its Potential Implications for the Duty to Consult." *National Journal of Constitutional Law* 36 (1): 141-59.
- Clancy, P. 1990. "Politics by Remote Control: Historical Perspective on Devolution in Canada's North." In *Devolution and Constitutional Development in the Canadian North*, edited by G. Dacks. Ottawa: Carleton University Press.
- Coates, K. 2015. *Sharing the Wealth: How Resource Revenue Agreements Can Honour Treaties, Improve Communities, and Facilitate Canadian Development*. Aboriginal Canada and Natural Resource Economy 6, January. Ottawa: Macdonald-Laurier Institute.
- Coates, K., and W. Morrison. 2005. *Land of the Midnight Sun: A History of the Yukon*. Montreal and Kingston: McGill-Queen's University Press.
- Coates, K., and G. Poelzer. 2014. *A Work in Progress: Completing the Devolution Revolution in Canada's North*. Ottawa: Macdonald-Laurier Institute.
- Coates, K., and G. Poelzer, with H. Exner-Pirot, J. Garcea, T. Rodon, R. Schiff, G. White, and G. Wilson. 2014. *The Role of the Public Sector in Northern Governance*. Ottawa: Conference Board of Canada.
- Collins, E. 2017. *Coming into Its Own? Canada's Council of the Federation, 2003-16*. IRPP Insight 15 (March). Montreal: Institute for Research on Public Policy.
- Dacks, G. 1990a. Introduction to *Devolution and Constitutional Development in the Canadian North*, edited by G. Dacks. Ottawa: Carleton University Press.
- . 1990b. "Political and Constitutional Development in Yukon and the Northwest Territories: The Influence of Devolution." *Northern Review* 5: 103-30.
- . 2004. "Implementing First Nations Self-Government in Yukon: Lessons for Canada." *Canadian Journal of Political Science* 37 (3): 671-94.
- Dickerson, M.O. 1992. *Whose North? Political Change, Political Development and Self-Government in the Northwest Territories*. Vancouver: UBC Press.
- Dickson, T. 2004. "Self-Government by Side Agreement?" *McGill Law Journal* 49: 421-65.
- Dupré, J.S. 1985. "Reflections on the Workability of Executive Federalism." In *Intergovernmental Relations*, edited by R. Simeon. Toronto: University of Toronto Press.
- Ducharme, S. 2016. "Nunavut Inuit, Government Officials, Gear Up for Devolution." *Nunatsiaq News*, July 20. Accessed August 31, 2017. http://www.nunatsiaqonline.ca/stories/article/65674_nunavut_inuit_government_officials_gear_up_for_devolution/

- Feehan, J.P. 2009. "Natural Resource Devolution in the Territories: Current Status and Unresolved Issues." In *Northern Exposure: Peoples, Powers and Prospects in Canada's North*. The Art of the State, edited by F. Abele, T.J. Courchene, F.L. Seidle, and F. St-Hilaire, vol. IV. Montreal: Institute for Research on Public Policy.
- Forrest, M. 2017. "Yukon Forum Attempts to Mend Rift between Yukon Government, First Nations." *Yukon News*, January 16.
- Funston, B.W. 2004. "Canada's North and Tomorrow's Federalism." Paper presented at "Constructing Tomorrow's Federalism," Saskatchewan Institute of Public Policy, March 26, Regina.
- Henderson, A. 2007. *Nunavut: Rethinking Political Culture*. Vancouver: UBC Press.
- IGC NWT (See Intergovernmental Council of the Northwest Territories).
- Intergovernmental Council of the Northwest Territories (IGC NWT). 2014. *Secretariat to the Intergovernmental Council on Lands and Resource Management: Terms of Reference and Procedures*, September 19. Accessed August 31, 2017. Yellowknife: IGC NWT. http://www.igcnwt.ca/sites/default/files/2014-09-19_igc_secretariat_terms_of_reference_0.pdf
- . 2015a. *Finance Working Group: Terms of Reference*. Yellowknife: IGC NWT. Accessed August 31, 2017. http://www.igcnwt.ca/sites/default/files/finance_working_group_tor_0.pdf
- . 2015b. *IGC Secretariat: 2014-2015 Annual Report*, October 7. Yellowknife: IGC NWT. Accessed August 31, 2017. http://www.igcnwt.ca/sites/default/files/2015-09-03_igc_annual_report_2014-2015_0.pdf
- . 2016a. *IGC Secretariat: 2015-2016 Annual Report*, October 21. Yellowknife: IGC NWT. Accessed August 31, 2017. http://www.igcnwt.ca/sites/default/files/2015-2016_igc_annual_report.pdf
- . 2016b. *Third Annual Meeting of the Intergovernmental Council: Summary of Outcomes*, October 21. Yellowknife: IGC NWT. Accessed August 31, 2017. <http://www.igcnwt.ca/document/2016-intergovernmental-council-meeting-outcomes>
- Irlbacher-Fox, S. 2009. *Finding Dahshaa: Self-Government, Social Suffering, and Aboriginal Policy in Canada*. Vancouver: UBC Press.
- . 2016. "A Partnership Opportunity Missed: The Northwest Territories Devolution and Resource Revenue Sharing Agreement." In *Canada: State of the Federation 2013 — Aboriginal Multilevel Governance*, edited by M. Papillon and A. Juneau. Queen's Policy Studies 189. Montreal and Kingston: McGill-Queen's University Press and Institute of Intergovernmental Relations, Queen's University.
- Kinsella, N.A., and C. Robert. 2014. "Britain, Canada and Scotland: Some Reflections on the History and Practical Nature of Accommodation." *Britain and the World* 7 (1): 109-18.
- Leyland, P. 2016. *The Constitution of the United Kingdom: A Contextual Analysis*. Constitutional Systems of the World. Oxford: Hart Publishing.
- Lingard, C.C. 1946. *Territorial Government in Canada: The Autonomy Question in the Old North-West Territories*. Toronto: University of Toronto Press.
- Loukacheva, N. 2016. "From Recognition to Reconciliation: Nunavut and Self-Reliance — An Arctic Entity in Transition." In *From Recognition to Reconciliation: Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights*, edited by P. Macklem and D. Sanderson. Toronto: University of Toronto Press.
- Macklem, P. 2017. "The Form and Substance of Aboriginal Rights: Assimilation, Recognition, Reconciliation." In *The Oxford Handbook of the Canadian Constitution*, edited by P. Oliver, P. Macklem, and N. Des Rosiers. New York: Oxford University Press.
- Macklem, P., and D. Sanderson. 2015. "Introduction: Recognition and Reconciliation in Indigenous-Settler Societies." In *From Recognition to Reconciliation: Essays on the Constitutional Entrenchment of Aboriginal and Treaty Rights*, edited by P. Macklem and D. Sanderson. Toronto: University of Toronto Press.
- Mayer, P. 2007. *Mayer Report on Nunavut Devolution*. Montreal: Fasken Martineau. Accessed August 31, 2017. <http://www.fasken.com/files/Publication/18ea17f5-adb6-4202-a5c1-179101b35017/Presentation/PublicationAttachment/22d7846c-60dc-4885-85ff-18d948f717f6/MayerReportonNunavutDevolution.Eng.pdf>
- Newhouse, D. 2016. *Indigenous Peoples, Canada and the Possibility of Reconciliation*. IRPP Insight 11 (November). Montreal: Institute for Research on Public Policy.
- News/North. 2014. "Devolution Dishonored: Premier Sold Out Aboriginal Partners to Get Devolution Deal." *News/North*, February 10, 8.
- Northwest Territories. 2014a. *Hansard*, October 30. Yellowknife: Legislative Assembly of the Northwest Territories.
- . 2014b. *Northwest Territories Intergovernmental Agreement on Lands and Resources Management*. Yellowknife: Government of Northwest Territories. Accessed August 31, 2017. https://www.eia.gov.nt.ca/sites/eia/files/nwt_intergovernmental_agreement_on_lands_and_resources_management_0.pdf
- . 2014c. *Northwest Territories Intergovernmental Resource Revenue Sharing Agreement*. Yellowknife: Government of Northwest Territories. Accessed August 31, 2017. <http://devolution.gov.nt.ca/wp-content/uploads/2012/04/140310-Signed-Resource-Revenue-Sharing-Agreement.pdf>
- . 2017a. Department of Finance. *Main Estimates: 2017-2018*. Yellowknife: Government of the Northwest Territories.
- . 2017b. Department of Finance. "Table of Amounts Paid to Aboriginal Governments Under RRS." Yellowknife: Government of the Northwest Territories.
- NWT (See Northwest Territories).
- Papillon, M. 2012. "Canadian Federalism and the Emerging Mosaic of Aboriginal Multilevel Governance." In *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, edited by H. Bakvis and G. Skogstad. 3rd ed. Don Mills, ON: Oxford University Press.
- Papillon, M., and A. Juneau, eds. 2016. *Canada: State of the Federation 2013 — Aboriginal Multilevel Governance*. Queen's Policy Studies 189. Montreal and Kingston: McGill-Queen's University Press and Institute of Intergovernmental Relations, Queen's University.
- Rodden, J. 2004. "Comparative Federalism and Decentralization: On Meaning and Measurement." *Comparative Politics* 36 (4): 481-500.
- Sabin, J. 2014. "Contested Colonialism: Responsible Government and Political Development in Yukon." *Canadian Journal of Political Science* 47 (2): 375-96.
- . 2016. "Contested Colonialism: The Rise of Settler Politics in Yukon and the Northwest Territories." PhD dissertation, University of Toronto.
- Simeon, R., and A. Nugent. 2012. "Parliamentary Canada and Intergovernmental Canada: Exploring the Tensions." In *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, edited by H. Bakvis and G. Skogstad. 3rd ed. Don Mills, ON: Oxford University Press.
- Skura, E. 2016. "Nunavut Premier Anticipates Devolution Agreement-in-Principle by March." *CBC News*, November 1. Accessed August 31, 2017. <http://www.cbc.ca/news/canada/north/nunavut-devolution-negotiations-restart-1.3830186>
- Slowey, G. 2015. "The Northwest Territories: A New Day?" In *Transforming Provincial Politics: The Political Economy of Canada's Provinces and Territories in the Neoliberal Era*,

- edited by B.M. Evans and C.W. Smith. Toronto: University of Toronto Press.
- Staples, K., M. Chávez-Ortiz, M.J. Barrett, and D.A. Clark. 2013. "Fixing Land Use Planning in the Yukon Before It Really Breaks: A Case Study of the Peel Watershed." *Northern Review* 37: 143-65.
- Tasker, J.P. 2017. "Indigenous Leaders Boycott 'Segregated' Premiers Meeting in Edmonton." *CBC News*, July 18. Accessed August 31, 2017. <http://www.cbc.ca/news/politics/indigenous-leaders-first-ministers-meeting-1.4208336>
- Tłı̨chǫ Government. 2015. "Tłı̨chǫ Government Secures Court Injunction against Canada's Change to the *Mackenzie Valley Resource Management Act*." News release, March 1. Behchoko, NT: Tłı̨chǫ Government. Accessed August 31, 2017. <http://www.nisgaanation.ca/sites/default/files/Media%20Release%20-%20MVRMA%20Injunction%20-%20March%201%202015.pdf>
- Wesley, J. 2017. "National Indigenous Groups and the Premiers' Meeting." *Policy Options*, August 16. Montreal: Institute for Research on Public Policy. Accessed August 31, 2017. <http://policyoptions.irpp.org/magazines/august-2017/national-indigenous-groups-and-the-premiers-meeting/>
- Wesley-Esquimaux, C. 2016. "Stephen Harper and Indigenous Peoples." In *The Harper Factor: Assessing a Prime Minister's Policy Legacy*, edited by J. Ditchburn and G. Fox. Montreal and Kingston: McGill-Queen's University Press.
- White, G. 2009. "Nunavut and the Inuvialuit Settlement Region: Differing Models of Northern Governance." In *Northern Exposure: Peoples, Powers and Prospects in Canada's North*. The Art of the State, edited by F. Abele, T.J. Courchene, E.L. Seidle, and F. St-Hilaire, vol. IV. Montreal: Institute for Research on Public Policy.
- Yukon. 2005. *Cooperation in Governance Act*, SY 2005, c.6.
- . 2016. *Yukon Economic Outlook: May 2016*. Whitehorse: Economic Development, Yukon Government. Accessed August 31, 2017. http://www.finance.gov.yk.ca/pdf/YukonEconomicOutlook_May2016.pdf
- . 2017a. "Canada, Yukon and First Nations Governments Meet at the Intergovernmental Forum in Whitehorse." News release, March 21. Whitehorse: Yukon Government. Accessed August 31, 2017. <http://www.gov.yk.ca/news/17-050.html>
- . 2017b. *Financial Information 2016-17*. Whitehorse: Department of Finance, Yukon Government. Accessed August 31, 2017. http://www.finance.gov.yk.ca/pdf/budget/Financial_Info.pdf
- Zerehi, S.S. 2016. "Federal Gov't Appoints Lead Negotiator for Talks about Nunavut's Devolution." *CBC News*, July 9. Accessed August 31, 2017. <http://www.cbc.ca/news/canada/north/feds-appoint-new-chief-negotiator-for-nunavut-devolution-1.3672062>

About This Study

This publication was published as part of the Canada's Changing Federal Community research program under the direction of F. Leslie Seidle. The manuscript was copy-edited by Mary Williams, proofreading was by Zofia Laubitz, editorial coordination was by Francesca Worrall, production was by Chantal Létourneau and art direction was by Schumacher Design.

Jerald Sabin is a Social Sciences and Humanities Research Council Postdoctoral Fellow in the Department of Political Science at Western University and a research associate with the Carleton Centre for Community Innovation at Carleton University. His current research considers state-based efforts to reconcile liberal democratic practice with Indigenous government in Northern Canada.

To cite this document:

Sabin, Jerald. 2017. *A Federation within a Federation? Devolution and Indigenous Government in the Northwest Territories*. IRPP Study 66. Montreal: Institute for Research on Public Policy.



***Institute for
Research on
Public Policy***

***Institut de
recherche
en politiques
publiques***

Founded in 1972, the Institute for Research on Public Policy is an independent, national, bilingual, nonprofit organization. The IRPP seeks to improve public policy in Canada by generating research, providing insight and sparking debate on current and emerging policy issues facing Canadians and their governments. The Institute's independence is assured by an endowment fund, to which federal and provincial governments and the private sector contributed in the early 1970s.

Fondé en 1972, l'Institut de recherche en politiques publiques est un organisme canadien indépendant, bilingue et sans but lucratif. L'IRPP cherche à améliorer les politiques publiques canadiennes en effectuant des travaux de recherche, en mettant de l'avant de nouvelles perspectives et en suscitant des débats sur les grands enjeux actuels et les défis à venir pour le Canada. L'indépendance de l'Institut est assurée par un fonds de dotation établi au début des années 1970 grâce aux contributions des gouvernements fédéral et provinciaux ainsi que du secteur privé.

Copyright belongs to the IRPP. To order or request permission to reprint, contact:

IRPP
1470 Peel Street, Suite 200
Montreal, Quebec H3A 1T1
Telephone: 514-985-2461
Fax: 514-985-2559
E-mail: irpp@irpp.org