

## CHAPTER 13

# SUSTAINABLE DEVELOPMENT, FOOD SECURITY AND ABORIGINAL SELF-GOVERNMENT IN THE CIRCUMPOLAR NORTH

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**Abstract:** This chapter explores the issues of Aboriginal self-government and sustainable development with a particular focus on aspects relevant to food security. The essay develops, describes, and compares self-government initiatives in Canada, Alaska, Greenland and the Scandinavian countries with respect to the management of wildlife and fisheries; environmental assessment and protection; harvester support programs; and, economic development which focuses on commercial production and marketing of country food. Two main principles are employed to compare these arrangements—their support for indigenous cultures, and the degree to which they provide Aboriginal people with real ability to make decisions or to influence decision-making processes. The analysis shows that self-government arrangements in the circumpolar region vary both within and between countries. While none of the arrangements provide Aboriginal people with jurisdiction over their territory, some do create co-management regimes and advisory structures which provide for the inclusion of Aboriginal concerns in the policy-making process. At the same time, the challenge of integrating Aboriginal decision-making systems, knowledge, and values into structures of governance, which reflect western cultures and which rely on western science, has not been explicitly addressed in any of these arrangements. In all of the areas examined, there are continuing questions about resolving conflicts between development and the protection of subsistence economies.

## 1. INTRODUCTION

All across the circumpolar north, indigenous peoples<sup>1</sup> have attempted to gain some control over decision-making about their traditional territories. An important objective for them is to maintain their subsistence<sup>2</sup> economies, and cultures. These economies are often viewed as exemplary with respect to sustainable development. They also have the potential to contribute substantially to the food security of local populations. Some aspects of the relationships between self-government, sustainable development, and food security are the focus of this paper.

<sup>1</sup> This paper employs the terms Indigenous, Native and Aboriginal peoples to refer to the original people of a particular territory and their descendants.

<sup>2</sup> Berkes and Fast (1996:207) note that the dictionary definition of the term subsistence as 'what one lives on' provides a good description of the way the term is understood in northern economies. It refers to goods and services from the bush. It is not merely an economic concept—it incorporates social and cultural relationships.

The idea of sustainable development considerably predates its widespread current usage. The *Bruntdland Report* (WCED 1987), however, put sustainable development into the political and economic arena, and has served as an important reference point for discussion and debate. The Report stated its perspective on sustainable development as follows:

'Humanity has the ability to make development sustainable—to ensure that it meets the needs of the present generation without compromising the ability of future generations to meet their own needs' (WCED 1987:8).

Despite widespread support for the idea of sustainable development, its precise meaning is contested, and the appropriate strategies for achieving it are under considerable debate (Barbier 1997, Kamiemieck *et al.* 1997, Redcliff 1991, 1992a; Schrecker 1996). Barrow (1995:372) points out the 'double uncertainty' of definitions of the term in the debates over both 'development' and 'sustainability,' with the poles of the debate emphasizing either sustained economic growth with optimism that technological innovations will ameliorate negative effects on the environment, or an

emphasis on the complete protection of the physical environment accompanied by major changes in societal values concerning material consumption. "Mainstream" approaches to the term, as reflected in the *Bruntland Report*, most often take an approach which envisions some level of continued economic growth leading to sustained improvements in the quality of life, redistribution in order to combat environmental degradation associated with poverty and insecurity among marginalized peoples, and a variety of strategies to minimize the negative effects of economic growth on the environment.

The case of Aboriginal self-government is interesting to explore in the context of the tensions between economic development and the protection of the environment. Aboriginal cultures and subsistence economies have been identified as prime examples of sustainable development. The *Bruntland Report*, for example, noted the vulnerability of indigenous cultures and economies and made a plea for their preservation because "the larger society...could learn a great deal from their traditional skills in sustainably managing very complex economical systems" (1987:114-116. See also Notzke 1994, Usher 1987).<sup>3</sup> At the same time, while many Aboriginal peoples emphasize the protection of their homelands in order to protect traditional cultures and subsistence economies, they also wish to participate in economic development in order to improve aspects of their quality of life. Aboriginal peoples have attempted to integrate these objectives in a variety of self-governing institutions.

Aboriginal self-government also illustrates an increasing attention in the sustainable development literature to the importance of local participation and the shifting balance of power, which this represents. The growing emphasis on participatory approaches to

local level environment management stems from a failure to recognize the importance of popular participation in influential reports such as the *Brandt Commission* (1980) and the *Bruntland Report* (WCED 1987) as well as the original *World Conservation Strategy* document (IUCN 1988). Part of the emphasis on local participation derives from the recognition that local people often have profound and detailed knowledge about local ecosystems and their relationship with human societies, and can contribute to better decision-making.

Aboriginal peoples' historic knowledge of their environment and its relationship with human activities has often been emphasized in this respect. Indigenous local knowledge is often termed 'traditional ecological knowledge' or TEK. Berkes (1993) defined it as follows.

"TEK is a cumulative body of knowledge and beliefs handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment. Further, TEK is an attribute of societies with historical continuity in resources use practices; by and large, these are non-industrial or less technologically advanced societies, many of them indigenous or tribal' (Berkes 1993:3).

Researchers have found that 'rules of thumb' developed by ancient resource managers and enforced by social and cultural means are, in many ways, as effective as western scientific prescriptions (Freeman & Cartyn 1988, Gadgil & Berkes 1991). The use of traditional knowledge may benefit attempts at resource management in providing more realistic evaluations of environmental processes, natural resources, and production systems (Corsiglia & Snively 1997, Duerden & Kuhn 1998, Redclift 1992b, Warren *et al.* 1993).

The emphasis on local participation in decision-making about environments and development incorporates challenges to contemporary structures of power and authority. Redclift points out that decision-making about resource use and management is "not simply about the environment outside human control; it is about the implications for social relations about bringing the environment within human control" (Redclift 1992b:33). Local participation shifts conventional top-down, state-centered decision-making about economic development and environmental matters. The employment of local or indigenous knowledge systems in environmental management is itself a political act. Redclift (1992b) has noted that despite a growing emphasis on more participatory

<sup>3</sup> It is also important to recognize that the association between Aboriginal people and sustainable development can support a static view of their cultures, societies and economies, which makes it difficult for them to adapt in ways which are relevant to contemporary challenges. Erni (1997:23) notes:

"[I]dealising [indigenous peoples] as 'environmental saints' has raised false expectations, and consequently leads to severe criticism if indigenous communities start to commercially exploit some of their resources such as, for example, taking up small-scale logging in their forests....[T]he widespread, highly romanticizing preconception of indigenous peoples as pristine 'ecologically noble savages' implies the denial of the right to change, to experiment with new adaptive strategies, to make mistakes and learn in order to be able to cope with the challenges faced by a rapidly changing natural and social environment, in short: to self-development."

approaches to local level environmental management, there has been relatively little attention to the political implications of this shift.

In this context, a number of researchers have called for an examination of the political structures and institutions that affect the creation and administration of environmental policy and practice. Meadowcroft (1997) sees institutional design as being at the heart of challenges of planning for sustainable development (see also Kennett 1990). Duane (1997) notes the need to identify principles and structures that facilitate community participation in order to make ecosystem planning effective. Redclift argues:

'Unless we analyze specific power structures in relation to the environment, we are in danger of being far too sanguine about the potential of negotiations and agreement [about environmental management]. We are in danger, in fact, of drowning in our own rhetoric rather than identifying the underlying political processes whose understanding would facilitate the formulation of better environmental policy' (Redclift 1992b:39).

Arrangements for Aboriginal self-government provide an example of power structures and decision-making processes, which involve local participants.

The following sections explore the issues of Aboriginal self-government and sustainable development, with a particular focus on aspects relevant to food security. The essay develops a framework for evaluating and comparing self-governing structures in various countries in the circumpolar North. The main body of the paper describes and compares self-government initiatives relevant to food security in Canada, Alaska, Greenland, and the Scandinavian countries. By way of conclusion, the paper suggests further directions for research.

## **2. ABORIGINAL SELF-GOVERNMENT AND FOOD SECURITY: A FRAMEWORK**

In this chapter, 'self-government' is broadly defined to include structures and organizations, which increase the influence of Aboriginal peoples in decision-making about matters that affect their lives. Boisvert's definition is appropriate here.

'Fundamentally what we are dealing with when talking about forms of self-government are the

various institutional arrangements which can be put into place to enable the Aboriginal peoples to make their own collective decisions' (Boisvert 1985:5).

The scope of arrangements that could be considered is potentially broad. It can include arrangements in which Aboriginal people are primarily advisory, as well as arrangements, which provide them with jurisdiction or sovereignty over a particular policy area. Clearly, not all analyses would consider advisory power to represent real 'self-government.' However, experience shows that where advisory boards and structures establish themselves as competent, credible, and effective (Canada 1996a:668) their recommendations are frequently upheld by higher levels of government, which have decision-making responsibility.

Contemporary approaches to sustainable development and food security cannot focus only on the preservation of traditional economies. Duerden (1992) accepts that traditional harvesting techniques were sustainable historically, when their focus was primarily on sustenance. However, he argues that in contemporary indigenous economies, wildlife harvesting is not automatically sustainable. Population increases among indigenous peoples, harvesting for commercial gain rather than subsistence, and the increasing need for capital to purchase expensive hunting equipment and to pay for transportation suggest that long-term food security must involve other aspects of economic development. Moreover, many indigenous peoples wish to receive some of the benefits of economic development, and make choices about participation in economic activities. The report of the Canadian Royal Commission on Aboriginal Peoples reported recently that;

'Aboriginal people are saying that their economies should provide choices for people rather than dictating directions. Economies should be capable of supporting those who wish to continue traditional pursuits (hunting, fishing, trapping) while enabling those who wish to participate in a wage and market economy to do so' (Canada 1996b:779).

Finally, an important strategy for attaining the goal of greater independence from external government subsidies includes increased economic development on indigenous peoples' lands.

At the same time, it is important to protect subsistence economies, which produce country foods. Activities such as subsistence hunting, fishing and

foraging, trapping and pastoralism can make huge contributions to indigenous economies, not only in terms of meeting their nutritional needs but also improving their health and well-being. Beyond these contributions, these activities are integral to the continuity of indigenous cultures. Notzke (1994:277) argues that:

'The past two decades have shown that the effects of industrial resource development on small, northern aboriginal communities are fundamentally different from those on non-aboriginal communities...studies conducted in various communities...show the enduring importance of wildlife, fish and plant resources in the livelihood of native people. The reason for this is that renewable resources do not merely constitute the economic base for aboriginal communities, but their harvesting provides the major integrative social force' (Notzke 1994:277; emphasis in original. See also Berkes and Fast 1996).

Finally, these activities are the source for detailed knowledge of local ecosystems that can contribute to improved decision-making about environmental protection. Young (1995:152-3) notes that governments have often failed to grasp the significance of subsistence economies, partly because their contribution is difficult to assess, and partly because of a preoccupation with conventional forms of development. While governments are often willing to subsidize conventional forms of economic development for indigenous peoples, there have been few initiatives with respect to subsistence economies. This is despite the increasing capital costs necessary to support these economies, and their contribution to the well-being of local peoples.<sup>4</sup>

These factors suggest that an analysis of self-government initiatives in relation to food security should include those that focus on protecting subsistence economies, and those that attempt to create alternative local sources of food. Clearly a wide variety of policy areas have some impact on food security, ranging from the health of hunters, to the way in which the educational system affects peoples' attitudes toward country food. A treatment of the full range of structures that might have some influence is beyond the range of this paper. Here the focus is on aspects most closely

associated with food security—initiatives that attempt to protect the subsistence economy and develop alternative local food sources. In the sections that follow this chapter will examine whether there are self-government initiatives in the areas of: the management of wildlife and fisheries; environmental assessment and protection; harvester support programs; economic development which focuses on commercial production and marketing of country food.

To the degree that information exists, the nature of these initiatives will be described. The need to take into account both the subsistence economy and other forms of economic development also suggests some of principles by which to evaluate self-government initiatives in relation to food security. In her 1995 book *Third World in the First: Development and Indigenous Peoples*, Elspeth Young suggests that a model of development which takes into account social or cultural, economic and environmental systems is appropriate for evaluating development options for indigenous peoples.

"[W]hat aboriginal people have needed, and still need, are support systems aimed at total development, the characteristics of which are the same as those described for sustainable development; what they have commonly been offered have been policies and programs appropriate only to conventional economic or social development" (Young 1995:12-13).

Young suggests that all development initiatives (and by extension all initiatives to increase food security) need to be evaluated in terms of their support for indigenous cultures and societies, and, closely related to this, the degree to which they incorporate measures to protect the environment. Others have made similar arguments (Berkes & Fast 1996, Usher & Weinstein 1991). In this context, the self-government initiatives examined in the sections that follow will be compared according to the following principles.

**Support indigenous cultures.** This principle refers to the relationship between self-government arrangements and Aboriginal cultures. Despite years of colonial and assimilationist policies in many countries, indigenous people have retained important aspects of their cultures. These cultures represent sources of meaning, social organization and the organizing principles for ecological knowledge. While many indigenous peoples wish to participate in the benefits of western economies, they wish to do so in ways that strengthen, rather than erode, their cultural systems. Berkes *et al.* (1996) call this 'cultural sustainability' and suggest that an appropriate

<sup>4</sup> The recent Royal Commission on Aboriginal Peoples (Canada 1996b:472) suggested that income support funds such as social assistance and unemployment insurance could be used in more imaginative ways to support subsistence economies.

objective is development that "meets the material needs of the present without compromising the ability of future generations to retain their cultural identity, social relationships and values, and to allow for change...in ways that are consistent with existing cultural principles of a people".

***Real ability to make decisions or to influence decision-making processes.*** This principle refers to the relationship between self-government arrangements and non-Aboriginal political and administrative structures. In order to protect subsistence economies and to develop country food production which is compatible with indigenous cultures, indigenous people require meaningful input into decision-making concerning the environmental impacts of economic development generally, the management of renewable resources, and the development of food production strategies. When decision-makers have real prospects of affecting outcomes, this allows for the insertion of traditional ecological knowledge and practices, which embody indigenous cultural values, world views and institutions.

This review depends primarily on published books and articles. An overview of the 'gray literature' and extensive primary research are beyond the scope of the present analysis. As a result, this chapter may miss some exciting recent developments that break new ground in the areas of sustainable development, food security, and self-government. These await research at a later stage. The objective of this review is to provide a comparative framework for future research, and to identify some gaps in the literature. In addition, for the purpose of this literature review, this chapter is limited to self-government structures and powers established through legislation. While it is clear that organizations, committees, and protocols with significant influence often develop outside of formal legislative frameworks, particularly when legislation is outdated, these arrangements are beyond the scope of this chapter.

Finally, the circumpolar north is the main emphasis in this analysis. Many more southern areas do not provide the same scope for the maintenance of subsistence economies and require different frameworks for analysis. While indigenous people in areas such as Africa, South America, Australia and New Zealand have similar concerns about the preservation of their traditional cultures and economies, and meaningful input into decisions about economic development and food security, different histories, as well as political and legislative frameworks make comparison very difficult. Moreover it is difficult to access sufficient materials on many of these areas. The sections that follow therefore

describe the situation in northern Canada, Alaska, Greenland, and the Scandinavian countries.

### 3. CASE STUDIES FROM THE CIRCUMPOLAR NORTH

#### 3.1 Land Claims Agreements and Self-Government in Northern Canada

In northern Canada, many groups of Aboriginal peoples have signed land claims agreements in order to deal with questions of title to their traditional territories. The *James Bay and Northern Quebec Agreement*, the *Northeastern Quebec Agreement*, the *Umbrella Final Agreement with the Council for Yukon Indians*, and the *Nunavut Land Claims Agreement* incorporate some form of self-government arrangements. Appendix I provides a general description of these agreements and their self-government arrangements. While the nature of ownership rights and the per capita amount of land vary, all of the agreements provide land for Aboriginal peoples (see Usher 1993 for a description). All of the agreements provide for Aboriginal harvesting rights beyond the lands owned by the claimants. The following sections describe in general terms, the institutions created to deal with the management of wildlife and fisheries, the environmental impacts of economic development, support for subsistence economies, and economic development.

##### 3.1.1 Wildlife and fisheries management

All final agreements provide for a system of joint management or 'co-management' of wildlife and fisheries (see MacLachlan 1993 for a more detailed examination of the various regimes). In all cases, a new structure is created: a board whose members are appointed in equal numbers by government and beneficiaries (Fig. 1). The responsibilities and powers of the boards fall into two main spheres: supervision of the harvesting regimes created by the agreements over which the boards have some decision-making powers, and general wildlife and fisheries management and conservation in which they have advisory roles. As an instrument of public government, the Nunavut Wildlife Management Board appears to have the greatest powers over management and conservation. However, the ultimate responsibility for management remains with government: the federal Department of Fisheries and Oceans (with respect to fisheries and marine mammals) and Department of the Environment (with respect to migratory birds), and the territorial Wildlife Management Services with respect to terrestrial mammals. The respective Ministers of these agencies

can adopt, reject, or vary the recommendations of the Board.

The actual structure and powers of the boards under each claim vary somewhat. For example in the *Yukon Umbrella Final Agreement* there is a separate sub-committee for issues relating to salmon, and there are advisory Councils for each First Nation. In the *Nunavut Final Agreement*, local and regional organizations supervise hunting practices of members and make decisions about allocation. In all cases, though, the Crown maintains jurisdiction over conservation matters and the enforcement of laws and regulations associated with harvesting.

### 3.1.2 Environmental protection

All of the agreements provide for co-management regimes to deal with environmental protection. These consist of boards for land use planning and management, and impact screening and review. Fig. 2 provides a summary of the bodies created under the agreements (see Edmondson 1993 for a more detailed comparison of the various Inuit regimes).

**Planning and management.** Each agreement provides for a land use planning agency, and some (Yukon, Nunavut) for separate water boards. These boards are advisory, although the Nunavut Water Board does administer water applications within the regulatory system established by governments. Members are appointed equally by government and beneficiary organizations, except in the case of the *Yukon Umbrella Final Agreement* in which one third of nominees are put forward by the Council for Yukon Indians.

	James Bay and Northern Quebec Agreement	Yukon Umbrella Final Agreement	Nunavut Land Claim Agreement
STRUCTURE(S)	<ul style="list-style-type: none"> <li>• Hunting, Fishing and Trapping Coordinating Committee with equal numbers appointed by Cree, Inuit, Canada, and Quebec.</li> </ul>	<ul style="list-style-type: none"> <li>• Fish and Wildlife Management Board and Salmon Sub-Committee with equal numbers appointed by Yukon First Nations and government.</li> <li>• Renewable Resource Councils for each First Nations Territory with equal numbers appointed by the First Nations and government.</li> </ul>	<ul style="list-style-type: none"> <li>• Nunavut Wildlife Management Board with equal numbers appointed by the District Inuit Organizations and by government.</li> <li>• Local Hunters and Trappers Organizations have Inuit boards appointed from Hunters and Trappers Associations.</li> </ul>
JURISDICTION	<ul style="list-style-type: none"> <li>• Native harvesting rights outlined in the Agreement.</li> <li>• Committee may decide upper kill level for some species.</li> <li>• Makes recommendations to federal or provincial governments about conservation, hunting, fishing and trapping.</li> <li>• Supervises harvesting regime established in the Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Harvesting rights for each First Nation established in its Agreement.</li> <li>• Board and Sub-Committee make recommendations to the Minister or Yukon First Nation on all matters related to fish and wildlife management or to salmon, respectively.</li> <li>• Councils may make recommendations to the Minister, Yukon First Nation, or the Board on any matter related to conservation.</li> <li>• Board and Council may establish, modify or remove total allowable harvests for fish or wildlife.</li> </ul>	<ul style="list-style-type: none"> <li>• Inuit harvesting rights outlined in the Agreement.</li> <li>• Board established levels of total Allowable harvest, ascertain basic needs levels, allocates resources to non-Inuit residents, established or removes non-quote limits.</li> <li>• Subject to Acceptance by appropriate Minister, manages wildlife and wildlife habitats.</li> <li>• Hunters and Trappers Organizations and Regional Wildlife Organizations regulate harvesting among their members and allocate community and regional basic needs levels respectively.</li> </ul>

Figure 1. Harvesting and Wildlife Management Regimes in Northern Canada. Source Peters (1999)

	James Bay and Northern Quebec Agreement	Yukon Umbrella Final Agreement	Nunavut Land Claim Agreement
STRUCTURE(S)	<ul style="list-style-type: none"> <li>James Bay Advisory Committee on the Environment with four nominees from each of the Cree, Quebec and Canada.</li> <li>Kativik Environmental Advisory Committee with three nominees from each of the Kativik Regional Government (KRG), Quebec and Canada.</li> <li>Evaluating Committee with two nominees by the Cree, Quebec and Canada.</li> <li>Kativik Environmental Quality Commission with four nominees by the KRG, five by Quebec.</li> <li>Federal Review Committee North with two nominees from the KRG, three from Canada.</li> <li>Provincial Review Committee with two nominees by the Cree, three from Quebec.</li> <li>Federal Review Committee South with two nominees from the Cree, three from Canada.</li> </ul>	<ul style="list-style-type: none"> <li>Yukon Land Use Planning Council with one nominee from the Council for Yukon Indians and two from government.</li> <li>Yukon Development Assessment Board with equal number of nominees by the Council for Yukon Indians and Canada.</li> <li>Water Board with one third of nominees from the Council for Yukon Indians.</li> </ul>	<ul style="list-style-type: none"> <li>Nunavut Planning Commission with equal number of nominees by Inuit organizations and governments.</li> <li>Nunavut Impact Review Board with six nominees by Canada and two from the Territorial government.</li> <li>Chair to be appointed by nomination from Board.</li> <li>Nunavut Water Board with equal nominees from Inuit organizations and government, the chair appointed from Board nominees.</li> </ul>
JURISDICTION	<ul style="list-style-type: none"> <li>James Bay Advisory Committee and Kativik Environmental Advisory Committee review environmental policies, legislation and make recommendations to governments.</li> <li>Evaluating Committee, Kativik Environmental Quality Commission and Federal Review Committee North recommend and set guidelines for project reviews.</li> <li>Provincial Review Committee, Federal Review Committee North evaluates impact assessments and make recommendations to government if project should proceed.</li> <li>Kativik Environmental Quality Commission decides if project should go forward.</li> </ul>	<ul style="list-style-type: none"> <li>Land Use Planning Council makes recommendations to governments and Yukon First Nations.</li> <li>Assessment Board reviews programs or policies affecting the environment, audits and monitors project effects.</li> <li>Executive Committee decides whether project must be reviewed and establishes review panel.</li> <li>If adverse effects are on First Nations lands, 2/3 of panel nominated by Council for Yukon Indians.</li> <li>Review panel makes recommendation to Yukon First Nation or government.</li> <li>Water Board administers applications for water use.</li> </ul>	<ul style="list-style-type: none"> <li>Commission recommends to Minister planning policies and land use plans.</li> <li>Impact Review Board decides if review is necessary, reviews impacts of project, recommends to Minister if projects should proceed and under what conditions, monitors project impacts.</li> <li>Nunavut Water Board administers applications for water use.</li> </ul>

Figure 2. Environmental Protection Regimes in Northern Canada

**Environment screening and review.** Each agreement provides for an impact review process. The process under the James Bay and Northern Quebec Agreement is particularly complex because of the involvement of federal and provincial governments, and the different regimes for the Cree and the Inuit. The structures created in the agreements are like those employed in the Federal Environmental Assessment Review Process except that Aboriginal organizations and governments are equally able to appoint members. All of the agreements specify that, in their deliberations, the review processes must take into account the need to protect Aboriginal peoples' subsistence economies and cultures.

### 3.1.3 Harvester support programs

The *James Bay and Northern Quebec Agreement* created programs designed to support harvesting in a direct and systematic fashion. A Cree Hunters and Trappers Income Security Board administers an income support program for the Crees which funds individuals according to the time they spend out on the land. The Board has equal membership appointed by the Cree Regional Authority and the Quebec governments. The provincial government funds the program, which guarantees hunters and trappers a minimum level of income based on family need, and provides a cash income depending on the number of days spent harvesting. The program is widely acknowledged to have maintained a large proportion of the Cree population on the land, which would not have been the case without it (for a recent analysis, see Scott & Feit 1992).

The Kativik Regional Government is responsible for regulating and administering a hunting, fishing and trapping support program to guarantee a supply of harvested food to "Inuit who are disadvantaged and who cannot hunt, fish and trap for themselves or otherwise obtain such produce" (s. 29.0.5). The program, funded by the provincial government, provides for the purchase of harvested food, which is distributed according to established criteria. The program also invests in capital equipment for harvesting, although this program is more limited than the one designed for the Cree.

No comparable program has been provided for in the other agreements, although the *Yukon Umbrella Final Agreement* calls for a feasibility study, and Tungavik Federation of Nunavut negotiated a separate arrangement with the Government of the Northwest Territories (Canada 1996b:480; see also Ames *et al.* 1989).

### 3.1.4 Commercial food production and the marketing of country foods

None of the Agreements specifically address the commercial production and marketing of country foods. The *James Bay and Northern Quebec Agreement* creates Cree and Inuit corporations to receive compensation monies; these corporations have powers to assist in creating of Cree or Inuit businesses and economic development opportunities. Federal and provincial governments make commitments to promote economic development generally, but only within the scope of existing programs and services. While no analysis of these initiatives could be found in the academic literature,<sup>5</sup> there have been attempts by the Native corporations to explore the commercial production and marketing of country foods. Unfortunately, Makivik's recent attempt to promote commercial harvesting and marketing of caribou is still not producing profits (George 1999). These initiatives deserve further attention.

The *Yukon Umbrella Final Agreement* allows for the establishment of settlement corporations for each Yukon First Nation. One of the permitted activities for these corporations is to provide loans for traditional harvesting and cultural activities. Economic development will be one of the priorities for the Nunavut government, and this may include commercial production and marketing of country food.<sup>6</sup>

### 3.1.5 Evaluation

To the extent that provisions in the agreements have (or will) protect and support subsistence economies and environments, they provide some degree of 'cultural sustainability.' A continuing challenge, though, is how Aboriginal knowledge and decision-making systems articulate with western forms of governance. None of the agreements specify how aboriginal knowledge and systems of management should be integrated, and how Aboriginal people's perspectives on their environments and economies become part of the decision-making framework. Usher (1993) notes that the language of the agreements is that of state management, rather than reflecting the concepts and understandings of traditional managers. These issues present continuing challenges

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<sup>5</sup> But see Robinson *et al.* (1989) and Young (1991) for a discussion of different structures of investment corporations for compensation monies.

<sup>6</sup> Myers (1994) has explored federal and territorial programs to support commercial production of country food and fisheries in the Northwest Territories (see also Nasogaluak 1983).

for policymakers and participants in committee processes.

With respect to decision-making powers, Usher (1993:60) emphasizes that all the boards are advisory without independent jurisdiction over environments and renewable resources.

'The boards are thus clearly not instruments of self-government or self-management, but rather of public government. They do not replace the existing management systems, but only provide a structured basis for aboriginal participation in them. They are the designated instruments of wildlife management, but governments retain ultimate responsibility. The state management system is thus retained.'

At the same time, because they do provide for structured participation by Aboriginal peoples, there is scope for participants to affect outcomes. Berkes (1994:20) notes that:

'Co-management arrangements that combine traditional knowledge and appropriate science and that spell out rights and responsibilities for resource management are potentially very powerful. Despite its sceptics, co-management is an increasingly attractive alternative in the contemporary world in which local-level traditional controls alone are in many cases insufficient, and state-level controls simply inadequate.'

### 3.2 Land Claims Agreements and Self-Government in Alaska

The *Alaska Native Claims Settlement Act* (ANCSA) of 1971 responded to pressure from Alaska Natives for a land claim settlement, and attempted to clear the way for the construction of the eight hundred mile long Trans-Alaska Pipeline System (London 1989:205). The act extinguished any rights to land based upon Aboriginal title. In return for extinguishment, the Native peoples of Alaska received title to forty-four million acres of land and \$962.5 million in compensation (McNabb 1992:86).<sup>7</sup>

<sup>7</sup> The \$962.5 million in compensation consisted of \$462.5 million transferred from the general revenues of the federal government to the Alaska Native Fund within the United States Treasury and \$500 million from the revenues generated by development of natural resources on federal lands. Moneys from the Alaska Native Fund were paid out over an eleven year period that ended in 1982, while two percent of all natural resources royalties received by the United States,

For the Native people, the greatest concern in the land claims process was the preservation of their distinct culture and the subsistence economy upon which it was based (Fienup-Riordan 1984). One major concern of the congressional aides who drafted the legislation was the desire not to establish reservations, which they saw as creating dependency, and inviting federal control and paternalism. Another concern was the desire not to create a new racial category that might be considered discriminatory in the future (Flanders 1989:316-7). Congress's concerns were reflected in the terms of the *Act*.

The *Act* did not create reservations. Instead the title to the forty-four million acres of land is vested in a series of regional and village corporations (Case 1984). Under the *Settlement Act*, all of the money and virtually all of the land goes initially to business corporations, and nearly all of the land claims benefits to enrolled Natives flow through these organizations. ANCSA created twelve regional corporations and over 200 village corporations.<sup>8</sup> Villages with a minimum of twenty-five eligible Natives were allowed to select lands around their communities. The surface estate of this land (22 million acres) was conveyed to the village corporations. The subsurface estate to all village corporation lands is vested in regional corporations, which received, in addition, title to the surface and subsurface estates of another 16 million acres (Arnold 1978:149-150). The remaining 6 million acres conveyed to Natives by ANCSA was divided amongst corporations and individuals for a variety of considerations.

Most Alaskan Natives received one hundred shares in both the village and regional corporations to which they belonged (Flanders 1989:317).<sup>9</sup> In the decades

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including those which are subsequently payable to the Alaska, were paid to the regional corporations until the full \$500 million was made available. Because the payment of the compensation moneys took over a decade to complete, it has been estimated that at least one-third of the real value of the money was lost to inflation before Natives received it.

<sup>8</sup> These paragraphs describe the main provisions of the *Act*, but do not do justice to a substantial number of exceptions. For a more comprehensive account, see Arnold 1978.

<sup>9</sup> Native peoples living within the boundaries of a regional corporation but not within the boundaries of a native village were allowed to receive one hundred shares in a regional corporation without joining a village corporation. Natives who no longer lived in Alaska were entitled to enroll either in village and regional corporations like natives living in Alaska

following ANCSA there were growing concerns about the degree to which the act provided protection against the loss of Native lands. Subsequent legislation provided additional protection from loss through the sale of shares, as well as loss through adverse possession, condemnation or corporations debt (Bowen 1991, Case 1984, Flanders 1989). These amendments are beyond the scope of this chapter.

The purpose of the twelve regional corporations is to "conduct business for profit" (ANCSA SEC 7(d)). The corporations receive compensation payments from federal and state governments, disburse about half to village corporations and individuals, and retain the remainder. They become owners of the subsurface estate of all land selected under the *Act*. They supervise the incorporation of villages, assist them in their land selection, and review their spending plans (Arnold 1978:158)

While the role of regional corporations was clearly defined in the *Settlement Act*, the latter contained no provision for the regional Native associations from which they had sprung. In addition to organizing the original land claims, these organizations had carried on a variety of social programs with grants or contracts from government agencies or foundations. The need for these functions still existed after ANCSA, and could not easily be met by corporations whose main responsibility was to earn a profit. As a result, Native organizations formed nonprofit corporations to meet the needs of Natives in each region (Arnold 1978:206-7). These corporations do not have executive, legislative, or judicial powers. Instead, they perform service functions such as "health care, employment assistance, job training, social services, college assistance, recreation development, and oversight and research pertaining to natural resources and their uses by natives" (Jorgensen 1990:9).

All villages organized for profit corporations in order to obtain the benefits under the *Act*. Village corporations do not replace village councils or the governing bodies of municipal governments. Instead, their roles under the *Act* are to plan for the use of claims money received, and to select lands and plan for their transfer or management.

Until recently, there was the possibility that village and regional corporation lands in Alaska had the status of 'Indian country.' Under federal law, Indian nations retain all sovereign powers originating from the original

occupation of the United States that have not been explicitly extinguished by an *Act of Congress* (Thompson 1993:375). Federal recognition of tribal government jurisdiction in 'Indian country' implies recognition of self-governing powers of matters internal to the tribe or village, taxation, and the regulation of wildlife and environment on Native lands. While ANCSA extinguished aboriginal title throughout Alaska and vested the title to Native lands in corporations incorporated under state law, it said nothing about the sovereign powers of Native peoples and the relationship between their governments, the state and the village and regional corporations (but see Morehouse 1989).

The possible existence of Indian Country in Alaska was placed before the courts in *State of Alaska v. Native Village of Venetie*.<sup>10</sup> The Court of Appeals determined

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<sup>10</sup> In 1986 the tribal government of Venetie, a Native community that assumed the title to its former reservation lands under S. 19(a) of ANCSA, "implemented a Business Activities Tax of five per cent on gains derived from commercial activities within the village" (Ward Ford 1997:453). When Alaska paid for a new school to be built in the community, the contractor was sent a tax bill for \$161,203.15. Immediately Alaska sought a judgment declaring that the village lacked the authority to impose the tax. By the time the case reached the Ninth Circuit Court of Appeals, the issue had become much larger than the simple matter of the Business Activities Tax: did the Village of Venetie hold sufficient sovereign powers to occupy Indian Country? The answer to this question was determined through the application of a two-part test: "(1) the area had been set aside from the public domain and dedicated to the use of Indians and (2) within the area an operational tribal government existed" (Blurton 1996:219). The Court of Appeals answered both parts of the test in the affirmative. Village lands were considered withdrawn from the public domain despite being privately owned instead of being held in trust by the United States like reservations because the lands had been made available exclusively to the people of Venetie for a place of occupation. Furthermore, the lands were made available to the Village of Venetie to settle its land claim (Blurton 1996:233) and the inhabitants were of sufficient homogeneity to constitute either a distinct native community or the legitimate successor to one (Thompson 1993:384). An operational tribal government was viewed to exist within the village because ANCSA had not eliminated the federal trust responsibility for the inhabitants and the inhabitants, were entitled to receive benefits from federal Indian programs in addition to the government programs they qualified for as citizens of the United States and residents of Alaska. The eligibility for programs beyond those available to Euro-Alaskans placed the residents of Venetie under the superintendence of the Secretary of the Interior.

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or enroll in a thirteenth regional corporation based in Seattle, Washington that only received a portion of the compensation moneys.

that the Village of Venetie had been set aside from the public domain and dedicated to the use of Indians, and an operational tribal government existed within that area. As a result the Court ruled that Indian Country existed in Alaska (Blurton 1996:219). Subsequently, on appeal to the Supreme Court of the United States, the ruling in favour of the Village of Venetie was reversed. Two reasons were given by the court for its decision: first, the lands had not been set aside for the exclusive use of the village because they were owned privately and could be either sold or leased at any time; and secondly, the declaration in ANCSA that no new special classes of property or trusteeships would be created effectively eliminated Alaska Natives from the application of the federal trust responsibility.<sup>11</sup>

### 3.2.1 Wildlife and fisheries management

ANCSA contains no guaranteed hunting, fishing and trapping rights for Native peoples (London 1989:86). The ruling that 'Indian Country' provisions do not apply to the Alaska Native situation means that Natives are completely dependent upon the favor of Congress and the state legislature for the continuing hunting, fishing and trapping rights that they require to survive as distinct nations.

In 1980 the Federal Government enacted its own subsistence management regime under the *Alaska National Interest Lands Conservation Act* (ANILCA), which provides for subsistence uses of renewable resources by 'rural Alaska residents' on federal public lands. It requires that the state establish the same protections on state and private lands, in order to exercise fish and game management authority on federal lands. Presently, the lands belonging to the village and regional corporations are classified as private property that is subject to state legislation. Part of the motivation for including subsistence rights in ANILCA was the desire by Congress to protect the traditional vocations of Native peoples, despite the fact that ANCSA contains no guaranteed harvesting rights (Case 1984:26, Caulfield 1992:25, Kancewick & Smith 1991:645). ANILCA also allowed the state to retain unified management of all fish and wildlife resources, so long as the state's statute meets federal requirements for a subsistence priority (Atkinson 1987). Unified management is desirable for Native subsistence economies. The Alaska land ownership mosaic, with lands owned by the United States, Alaska, and the Native peoples, looks more like a random and haphazard pattern than a rational and

orderly distribution of land amongst a variety of stakeholders (Gallagher & Gasbarro 1989:434). It requires participation of all landowners to ensure the protection of species and environments. Moreover, Natives' lands are often widely distributed. As a result, some degree of self-sufficiency is made difficult when there are different rules regarding access, acceptable forms of transportation, the species that may be harvested, the harvesting methods, and the times and places when harvesting can be undertaken.

Alaska assumed responsibility for managing subsistence activities on federal lands in 1982 because state law was considered to be in compliance with the provisions of ANILCA. Following a ruling by the Supreme Court of Alaska in *McDowell v. State*,<sup>12</sup> the state was no longer seen as complying with ANILCA, and the federal government stepped in on 1 July 1990 to take over subsistence management on all federal public lands (nearly 60 percent of the state). As a result, subsistence management now occurs under two separate systems, federal and state, each with its own distinctive legislative mandate and separate regulatory framework. While both federal and state approaches to renewable resource management include regional and local participation, at present, there is no requirement that Native people be represented.<sup>13</sup>

Alaska's Native peoples have had some success in implementing co-management regimes for wildlife and fisheries management, in conjunction with federal and state agencies and other user groups. These regimes have focused on particular species (Adams *et al.* 1993, Anders & Langdon 1989, Caulfield 1997, Freeman 1989, Huntington 1992, Pungowiyi 1997), or particular areas

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<sup>12</sup> The Court agreed with a group of urban sport hunters who argued that the rural resident subsistence priority enacted by the state violated the provisions of the state constitution guaranteeing all residents equal access to public lands and the fish and game resources living on those lands. In agreeing with this argument, the court declared that the creation of a subsistence priority was a valid legislative objective but "the rural/urban distinction was an unacceptably crude means to accomplish this purpose" because there were many rural residents entitled to subsistence harvesting rights who are not subsistence harvesters and many urban residents not entitled to subsistence harvesting rights who are subsistence harvesters (Kancewick *et al.* 1991:672). The court felt that personal need was a more appropriate determinant of should be entitled to subsistence harvesting rights.

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<sup>11</sup> State of Alaska v. Native Village of Venetie Tribal Government, 1998 96-1577, at 4-7.

<sup>13</sup> Alaska's proposed management structure include representation for Native people on regional advisory councils.

(e.g., Yukon-Kuskokwim Delta Waterfowl Management Plan). The 1994 amendments to the *Marine Mammal Protection Act* gives the National Marine Fisheries Service in the Department of Commerce and the U.S. Fish and Wildlife Service, authority to enter into agreements with Alaska Natives to co-manage the subsistence use of Alaska marine mammal stocks. This agreement may include funding for research and the development of co-management structures with Federal and State agencies (Buck 1994).

### 3.2.2 Environmental protection

Although there is virtually no attention to issues concerning Native people and environmental protection in Alaska, the situation is similar to the management of wildlife and fisheries. There are no legislated opportunities for Native participation in land-use planning or in the impact assessment and review of proposed developments on either federal or state lands. Moreover, the complex co-existence in many places of village and regional corporations, tribal councils, and municipal governments means that there are different interests even within the Native community. As a result of their experience with a social impact assessment in Hydaburg, Alaska, a town in which Haida comprised 85 percent of the residents at that time, Gondolf and Wells (1986) note that "Hydaburg was shown to be facing a growing conflict between resource development and environmental preservation. It appeared that the conflict could best be mitigated by maximizing Native self-determination."

### 3.2.3 Commercial production and marketing of country foods

Reindeer herding had a long history in Alaska, although many of the herds declined during the Depression (Olson 1969). Since the 1937 *Reindeer Act* passed by Congress, reindeer ownership have been restricted to Natives. After the 1960s there has been increased interest in developing a Native reindeer industry (Waddeson 1998), but herding has since declined. Many Native Alaskans are involved in the commercial salmon fishery as part of a mixed subsistence-cash economy in rural Alaska. While there does not seem to be a well-developed market for country foods in Alaska; at the same time, the sharing of foods, even at great distance, is quite common (Caulfield 1999).

### 3.2.4 Evaluation

By and large, the corporate structure through which the lands of Natives are owned and managed has failed to fulfill the needs and expectations of Native peoples. The

economic performance of almost all village and regional corporations has not been encouraging. Many have consistently lost money and bordered on bankruptcy (McNabb 1992:88-90). Equally important is the misfit between corporation structures and Native cultures and values. First, corporations are foreign structures that have been imposed on Natives as a way of integrating them into Euro-Alaskan society without paying attention to their cultural realities (Flanders 1989:317). The day to day management and its associated vocabulary; shares, dissenter rights, dividends, boards of directors and bankruptcy; are inaccessible to many Natives (Anders 1989:288). Second, profits can only be realized through the active development and exploitation of the lands that many Natives consider to be the most important thing for the survival of their identities and cultures. There may be contradictions between economic development and the protection of the subsistence economy.

With respect to decision-making powers, while ANCSA gave Alaska Native peoples considerable autonomy concerning disposal and development of their lands, the lack of opportunities and the capabilities of the Native peoples meant that some of the components for meaningful independence have been absent. Moreover, Alaska Natives have no legislated participation in decision-making about renewable resource management and environments outside their lands. The lands under state and federal jurisdiction are nevertheless essential for the maintenance of subsistence economies.

One way for some Native groups to have more control over local subsistence issues could be through the establishment of boroughs, a form of regional government. The North Slope Borough, incorporated in 1972, has been one of the strongest and most effective Native local governments in Alaska. The North Slope Borough's collection of property taxes from oil field development made it one of the richest local and regional governments in the U.S. The Borough invested heavily in a capital improvement program and provided high levels of employment. At the same time, the Borough also pursued policies for environmental protection and subsistence resource management. Knapp and Morehouse (1991) note that, beginning in the late 1970s, the borough claimed decision-making authority in a variety of areas, including the regulation of caribou hunting, the taking of whales, and the development of onshore and offshore petroleum resources. While these initiatives were resisted by state, federal, and international regulatory bodies, the borough

made significant inroads into management decision-making.

North Slope Borough leaders have aggressively asserted the borough's regulatory powers while recognizing the real political and legal limits on local government authority. They have also recognized the necessity for negotiation, bargaining, and compromise with external agencies. In pursuit of conflicting interests in development and preservation, borough leaders have attempted to protect the traditional Inupiat subsistence culture by playing a modern American game of politics' (1991:308).

### 3.3 Land Claims Agreements and Self-Government in Greenland

Greenland, the world's largest island, lies within the arctic climatic zone. Of its total area of 2,175,000 sq. km., only 341,600 sq. km. are free of permanent ice. As of July 1998, the population was 59,309, scattered along the coastline in many settlements and towns. Colonial rule by Denmark ended in 1953 when Greenland became fully integrated into the kingdom of Denmark. In response to the Home Rule movement of the 1960s and early 1970s, the Danish government, in 1978, passed the *Home Rule Act*, and Greenlandic Home Rule came into force in 1979. Home Rule is defined in territorial rather than ethnic terms, but Danes make up less than one fifth of Greenland's population, and the indigenous people of the island are increasing their representation in governmental institutions.

Greenland remains part of the Kingdom of Denmark, and, as Tremblay and Forest (1993:52) point out, Home Rule was not a recognition of Aboriginal rights to self-determination, but represents authority delegated from the Danish Parliament.

The system of internal autonomy (Home Rule) is thus based on the maintenance of national unity. This implies, in particular, that the entire [Danish] Constitution is still in effect for Greenland, that Greenland continues to belong to the Kingdom of Denmark, that sovereignty is still in the hands of the authorities of the Realm, and that the system of self-government can only be applied constitutionally by means of legislation whereby the Folketing [Danish Parliament] delegates some of its power to the Home Rule administration.'

The core of the *Greenland Home Rule Act* is the transfer of legislative and administrative powers in particular fields to the Home Rule authority. The *Act* provided for the establishment of a legislative branch with legislative

powers over certain fields of jurisdiction. It also provided for local governments with authority over these fields. All fields of jurisdiction mentioned in the *Act* were subject to transfer by January 1992. These fields included taxation, trade, education, transportation and communication, social security, housing, wildlife preservation and conservation, economic development, and environmental protection. During the negotiations, there were disagreements about control over subsurface mineral resources (Lyck 1989). Mineral resources were not transferred, but preliminary prospecting and exploitation are subject to joint decision-making. Areas of jurisdiction, such as constitutional law (including the administration of justice), foreign relations, national finances, and defense remain with the Danish Parliament. However the *Home Rule Act* specifies that before legislation that directly affects Greenland comes into effect, Greenland authorities must be consulted. Larson (1992) argues that Home Rule brought about a significant transfer of legislative authority from Denmark to Greenland.

The Home Rule Government of Greenland has pursued two main aims in its policy development—increased political and economic independence from their former colonial power, and the protection of Greenlandic Inuit culture. Climate and location mean that there are few opportunities for economic development, which are competitive on world markets, and about half of government revenues come from grants from the Danish government. Increased independence is predicated, in part, on decreasing subsidization from the Danish government. In attempting to increase economic self-sufficiency, Greenlandic authorities have emphasized both increasing exports and greater use of locally produced foods. In the context of relatively limited options for economic development, the Home Rule Government has invested substantially in modernizing fishing fleets and processing plants and has emphasized increased commercialization of fisheries in its policy making (Poole 1990).<sup>14</sup> Since 1988, Greenland's political leadership has also sought to strengthen home markets for country foods through regulation and by increasing efficiency of processing and transportation. Marquardt and Caulfield (1996:115) note that since the implementation of government policies to strengthen

<sup>14</sup> The Greenlandic economy, particularly in terms of exports, depends almost entirely on fisheries; the shrimp fishery is by far the largest income earner. There have been some hydrocarbon and mineral exploration activities recently, but there are no initiatives close to the production stage.

the country food economy, the cost of imported meat products declined by about 12 percent.

Subsistence hunting continues to underpin the social economies of many communities, however, and the cultural significance of subsistence hunting extends to the non-hunting portion of the Inuit population through the sharing and consumption of hunting and fishing products. In order to safeguard the future of hunting economies, the Home Rule authorities have begun to outline and put into practice their own environmental strategies and policies (Nuttall 1994:23-26). It is not clear, though, what role in formulating these policies is played by individuals primarily engaged in subsistence pursuits, or what the role of traditional ecological knowledge is in creating environmental protection strategies. There is also no treatment in the literature of who participates in decision-making about renewable resource management and hunting and fishing regulations, and what sources of knowledge inform decision-makers.

There are some suggestions in the literature that the Home Rule Government faces difficulties in pursuing both of its primary goals simultaneously, since independence must be facilitated through increased revenue from renewable and non-renewable resources, which can conflict with the objective of protecting the subsistence economies on which traditional Inuit culture is based. As Nuttall (1992) points out, the change in emphasis to commercial fishing from subsistence hunting is accompanied by changes in social and economic relationships and the significance of local places and communities. Nuttall (1992:177) argues:

"The social and economic changes that took place as a result of Danish development led to the image of a Greenlandic nation, an Inuit homeland: *Kalaallit Nunaat*, 'the Greenlanders' land'... Since Home Rule, however, the initial ethnic identity has given way to a political identity informed by a nationalist ideology that no longer plays on ethnicity. Committed to a process of nation-building, Greenlandic Home Rule wishes to develop the economy in terms of Greenlandic conditions and aspirations. But how difficult is it for such development to proceed in accordance with the customary Inuit regulation of relations between the human and natural worlds?...The ideological conflict between commercial fishing and subsistence hunting is... bound to intensify as localized social economies are gradually integrated into the national infrastructure" (See also Poole 1990:116).

### 3.3.1 Evaluation

In the context of Home Rule, Inuit people have gained very real decision-making power over many aspects of their lives. Greenlanders, most of whom are Inuit, have jurisdiction over matters having to do with environmental protection and the management of renewable resources. However, major challenges face the Home Rule government as it attempts to balance subsistence needs with the need for economic development, and attempts to protect Inuit cultures based on subsistence economies.

### 3.4 Sami Land Claims Agreements and Self-Government

The Sami are an indigenous people living mainly in the arctic and subarctic areas of four countries. They number about 60-70,000 in total—in Norway about 40,000, in Sweden about 17,000, in Finland about 5,500 and in the Kola Peninsula of Russia about 2,000 (Sillanpaa 1997:215). Although the Sami population is largely concentrated in northern Scandinavia, Sami remain a minority in most communities. Best known as a reindeer herding culture, the Sami were not originally reindeer herders and are not predominantly herders today. The semi-nomadic Sami once relied on a mix of hunting and fishing, depending on wild reindeer, marine mammals, birds and bird eggs, fish and wild herbs. Beach (1994:152) estimates that only about 10-15 per cent of Sami in Sweden and 5-8 per cent of Sami in Norway are reindeer herders. However reindeer herding has become an important symbol in the maintenance of the Sami culture. Beach (1994:152) notes that the Sami "regard the reindeer as a basic guardian of their culture, their language and their identity."

Sami cultural identity has experienced a renaissance since the 1960s and the Sami have increasingly challenged the control over their lives and identities of the states in which they live. Although political developments have varied in each country, the Sami have generally put forward three inter-related positions with respect to Aboriginal title.

"(a) Legal recognition of the continued existence of a traditional Sami...livelihood, particularly hunting and fishing... Many Sami feel that such aboriginal rights should not be tied exclusively to the administration of reindeer husbandry.

(b) No Sami group has ever conceded land ownership to the state... To the Sami, the question of title to the lands remains open; to this end they have challenged the three states as to

their acquisition and administration of 'ownerless lands.'

(c) The Sami have demanded a share in revenues derived from the exploitation of resources within their homeland. (Sillpanaa 1997:205)"

Political and administrative responses to the Sami land title issues have varied considerably in the four countries within which the Sami peoples are found. Land claims issues are only beginning to be recognized in Russia (Fondahl 1997), and the rest of this section focuses on the remaining countries. Although each of the three Nordic countries has created bodies to study and make recommendations concerning Sami rights to land, none has enacted laws granting land or financial compensation for loss of land, nor have they agreed to negotiate with Sami to settle land claims. The attitude toward Sami land rights varies between the three countries. While Norway appears to have a commitment to deal with historic land rights, there is no recognition of Sami claim to Aboriginal title in Sweden. In Finland, work continues on legislation to create a Sami Homeland. However, in its present legislation, Finland does not guarantee the Sami rights to land, water, or natural resources (Finnish Sami Parliament 1997).

Where resource rights have been conferred on the Sami, these have been focused exclusively on reindeer herding Sami, and viewed as privileges that can be revoked through changes in policy (Beach 1994:152). Herding laws passed in the late 1800s attempted to protect farmers from grazing animals, and separated

hunting and fishing from herding rights. Regulations imposed since the 1970s have attempted to modernize herding for more profitable meat production. While the association between herding, owning herds and Sami ethnicity varies between countries, none of the three countries has provided explicit support for a mixed economy which includes herding and other subsistence activities (Beach 1994).

In Sweden, Norway, and Finland, elected Sami Assemblies have been created to represent Sami from all parts of the country. Korsmo (1994:163) describes these Assemblies as 'conciliatory policies' toward a small, scattered minority, noting that they have no jurisdiction over territory.

[O]ne of the main concerns of each Saami Assembly is the rights to land and water in the north. The separation of political institutions from territory renders the institutions superfluous in national or regional decision processes and limits the institutions' legitimacy in the eyes of the constituents. This forces the institutions to act on the symbolic level and, if there is a budget or staff of any size, through the use of patronage' (See also Oysten 1989).

However, Korsmo (1994:165) also notes that the creation of the Assemblies has provided Sami with the means of pursuing their objectives in the existing jurisdictional and administrative structures of each country.

	Norway	Sweden	Finland
SOURCE OF AUTHORITY:	1987 Norwegian Parliament Sami Act	1992 Swedish Parliament Proposition 93:32	1973 Cabinet decree
FUNCTIONS AND POWERS	<ul style="list-style-type: none"> <li>• Advisory to Norwegian government. Scope is any matter the Assembly views as particularly affecting Sami people.</li> <li>• May bring matters to the attention of public authorities and private institutions.</li> <li>• Distributes economic subsidies, prepares proposals on Sami initiatives for inclusion in budget, other delegated functions.</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory to Swedish Government. Cooperates in planning of developments affecting Sami interests (e.g., land and water planning affecting reindeer herding).</li> <li>• Gives information about Sami conditions.</li> <li>• Appoints members of the Sami school board. Leads Sami language work.</li> <li>• Distributes government and other funds dedicated to Sami collective use.</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory to Finnish government. Oversees rights of the Sami.</li> <li>• Promotes economic, social and cultural condition of Sami.</li> <li>• Initiates, makes proposals and gives reports to Finnish authorities regarding environmental protection and development in Sami homelands, water and wildlife management in Sami areas, reindeer herding, education and 'other matters.'</li> </ul>

Figure 3: The Sami Parliaments. Sources: Beach 1994, Korsmo 1996, Sillanpaa 1992, 1997

Figure 3 describes the sources of authority, powers and functions of the Assemblies in each of the Scandinavian countries. In each country, the Assemblies are advisory with no independent legislative powers. Korsmo (1996:165) argues, though, that the national context in which these bodies work and the nature of the Assemblies and their relationships with other Sami organizations create variations in the roles they play. She notes that Norway's response to Sami demands has been more comprehensive than that of either Finland or Sweden, and this response, in combination with an Assembly that has been able to project an appearance of unity to national and international audiences, has meant that the Assembly plays an important role. The introduction of the Assembly in Sweden "came about not as part of a deliberate shift in the area of Sami rights, but rather as a limited concession and an effort to balance the disparate interests among herders and non-herders" (Korsmo, 1996:168). The Swedish Sami Assembly is relatively new, and this, in addition to the conflicts within the Assembly and a less than supportive general policy context for Sami demands, has limited the effectiveness of the Assembly to date. Korsmo (1996:172) notes that it has taken time for the Finnish Sami Assembly to become part of the regular consultative process, citing both the limited resources available to the Assembly, and the 'no-hurry' attitude by government officials concerning Sami rights to water and land.

#### 3.4.1 Evaluation

The lack of protection for land or recognition of subsistence activities other than herding has meant that indigenous cultures are not well protected. Moreover, Korsmo (1996) argues that the emphasis on reindeer herding as the only recognized form of Sami traditional economies creates divisions among the Sami people. Beach notes that:

'The linkage of Saami resource rights to reindeer herders alone has not only separated many non-herding Saami from their lands and deprived them of compensation money paid by the state for expropriation, it has also placed Saami culture and identity in an extremely vulnerable position.... Hence, any threat to reindeer herding like that caused by the April 1986 nuclear disaster at Chernobyl not only jeopardizes the economy and lifestyles of the herders themselves, but it also constitutes a serious threat to Saami native rights in general.' (Beach 1994:194)

Moreover, state regulation of reindeer herding in the name of scientific management as well as continuing encroachment of extractive industries on the land has eroded the abilities of Sami herders to practice traditional herding techniques and led to questions about the sustainability of reindeer herding practices (Bjorklund 1990, Forrest 1997).

All of the Assemblies are advisory bodies only. However, their existence means that they have a structured place in policy making. Korsmo (1996:177) summarizes the lessons for approaches to representing Aboriginal peoples, to be learned from the Sami Assemblies.

'First, a nationwide, elected body of representatives has the potential to engage the national government in consultation at the preliminary and agenda-setting stages rather than during the late stages of policy making... Second, the representative assemblies provide a political channel for the assertion of territorial claims when the litigation route is either not available or not effective.'

She notes that each of the Assemblies has won important concessions with respect to territory or environment in recent years.

## 4. CONCLUSION

Self-government arrangements in the circumpolar region are quite varied, reflecting the different conditions under which they were negotiated. While none of the arrangements provide Aboriginal people with jurisdiction over their territory, some do create co-management regimes and advisory structures which provide for the insertion of Aboriginal concerns into the policy-making process. This formal role for Aboriginal representation has resulted in a number of concessions with respect to the protection of subsistence economies and the environments on which they rely. At the same time, the challenge of integrating Aboriginal decision-making systems, knowledge and values into structures of governance that reflect western cultures and that rely on western science, has not been explicitly addressed in any of these arrangements. In all of the areas examined, there are continuing questions about resolving conflicts between development and the protection of subsistence economies.

While a review of self-government arrangements that relies on legislated arrangements provides a useful framework for beginning to think about self-

government and food security, it cannot do justice to the way decision-making actually occurs in day-to-day contexts. Social and political systems for managing the environment have specific local configurations. Robbins' examination of state and local management of forest and pasture lands in Rajasthan, India, for example, found that an explanation of environmental outcomes could only be based on the particular ways both state and local power was integrated into local systems of "hegemony, domination, and control" (1998:429). In other words, legislated arrangements do not reflect all the power relationships and strategies that affect particular outcomes. A necessary next step, then, is to study the ways in which decisions reflecting food security issues are actually made in particular places at particular times.

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## Appendix I: Self-government Agreements in Northern Canada

### The James Bay Cree

The 1975 *James Bay and Northern Quebec Agreement*, as it pertains to the Cree, involved eight bands<sup>15</sup> and the area contained in the James Bay Municipality in northern Quebec. In 1996 the Cree population in the area was about 11,000, composing over 90 percent of the village populations. Each band has Category I and II lands. Category I lands were set aside for the "exclusive use and benefit" for Cree bands and communities. Cree local governments on Category I lands are ethnic in character, and primarily under federal jurisdiction.<sup>16</sup> Their powers resemble those of Quebec municipal governments with responsibilities to administer services, preserve Cree culture and the welfare of band members, and with additional powers in the areas of environmental and social protection. Band Councils have jurisdiction over band members, defined pursuant to the *James Bay Agreement*, and other residents they have given permission to reside on Category I lands. The Cree Regional Authority, a public corporation, has its corporate seat in Category I lands. Cree bands may delegate powers to administer programs to the Authority.

Category II lands which are the immediate environs of Cree settlements, are under provincial jurisdiction. These lands represent areas most extensively used in harvesting by Cree communities, and the Cree have exclusive rights of hunting, trapping and fishing on them. Category III lands are open to both Natives and Non-Natives for hunting and fishing, but Natives are exempt from provincial regulations except on wildlife reserves, and have guaranteed harvesting rights to some species. While the *Agreement* explicitly gives Quebec the rights to economic development on Category II and III lands, these rights are subject to Cree hunting rights and to the environmental regime set out in the *Agreement*. Health, social services, education, policing and justice were placed under provincial jurisdiction, but the *Agreement* created advisory bodies with Cree participation and mandated ways in which the delivery of services should be made more culturally appropriate to the Cree.

<sup>15</sup> A ninth band, the Ouje Bougoumou Band was created in 1991.

<sup>16</sup> Category I lands are split into IA lands under federal jurisdiction, and IB lands under provincial jurisdiction. Cree local government over Category IB lands is through provincially created municipal corporations. However, there are no settlements on Category IB lands at present.

### The Northern Quebec Inuit

The *James Bay and Northern Quebec Agreement*, as it pertains to the Inuit, involves 13 villages and Quebec, north of the 55th parallel. In 1996 the Inuit comprised more than 87 percent of the population in the region. Most Inuit are beneficiaries under the *James Bay Agreement*.<sup>17</sup>

Like the Cree, each Inuit have Category I and II lands. Category I lands correspond to Inuit villages and their peripheries; these have been set aside for the 'exclusive use and benefit' of Inuit beneficiaries. The title to these lands is vested in an Inuit Landholding Community Corporation in each village, which may use the lands for 'commercial, industrial, residential or other purposes' for the Inuit community. On Category II lands, adjoining Category I lands, the Inuit community has exclusive rights of hunting, trapping and fishing. Category III lands comprise the largest portion of the territory, and are public lands over which the Native parties enjoy exclusive trapping and certain other rights.

Local and regional governments are not ethnic in character—all residents, Aboriginal and non-Aboriginal may vote, be elected and otherwise participate. Each of the 13 villages is incorporated as a municipality under the *Quebec Cities and Towns Act*, with powers similar to those of other Quebec municipalities. Municipal boundaries and Category I lands do not coincide. At present, however, most municipal land is held by the Inuit Landholding Corporations. The *Agreement* gave the Kativik Regional Government powers of a northern village municipality over the territory, which is not part of the village corporations, and regional powers over the whole territory including the municipalities. Kativik manages the Inuit harvesting support program and is responsible for local administration. It administers health and social services, education, manpower training and utilization, and a regional police force for residents north of the 55th parallel. In the area of municipal services, Kativik can make ordinances with respect to local transportation and communications, and building, road construction and sanitary standards.

<sup>17</sup> A number of communities did not feel that the *James Bay and Northern Quebec Agreement* adequately dealt with issues of self-government, and in 1988 Makivik, an organization set up under the *Agreement* to manage compensation monies for the Inuit, submitted a draft self-government proposal entitled "The Constitution of Nunavik" to the Quebec government. Negotiations began in 1990 and a framework agreement was signed on July 21, 1994. Further progress has stalled in the context of sovereignty issues in Quebec.

## Yukon First Nations

First Nations peoples make up about 21% of the Yukon population of just over 33,000. The 14 Yukon First Nations participated in negotiations for self-government and for a land claims settlement concurrently. In the 1993 *Umbrella Final Agreement*, the section on self-government was developed as a statement of principle and as an enabling provision, subject to individual Yukon First Nation negotiation. At the end of the process, fourteen Yukon First Nations will have signed self-government agreements.

Under the *Agreement*, each Yukon First Nation has special rights over its traditional territory, including rights to non-commercial harvesting, and participation in the management of forest resources. Within these territories, each Yukon First Nation has two categories of Settlement Lands. Category A lands provide the First Nation fee simple title, including the subsurface. Category B lands provide fee simple title, excluding the subsurface, but with public access for wildlife harvesting. The *Umbrella Final Agreement* provides for extensive joint management regimes over all Yukon land and resources, which are not found in First Nations' Settlement Lands. First Nations can also negotiate representation on public bodies concerned with education, health and social services, justice, and 'other matters.'

The self-government agreements provide for First Nations jurisdiction over lands and citizens. With respect to its Settlement Lands, each First Nation has exclusive powers of internal management and self-administration and the ability to make laws which include municipal-like by-laws as well as laws concerning the management of natural and wildlife resources, the protection of the environment, taxation, and the administration of justice. First Nations can also make laws that apply to their Citizens in the Yukon, whether they are living on or off Settlement Lands. These laws are in areas that include health and social services, education, culture, training programs, adoption and marriage and taxation. First Nations may delegate their powers to other bodies, both Aboriginal and non-Aboriginal.

## Nunavut

The *Nunavut Land Claim Agreement*, ratified by the Inuit in November of 1992 and passed through the Canadian Parliament on June 10, 1993, set out the land regime in the eastern part of what was the Northwest Territories, and provides for Nunavut political development. The *Nunavut Act*, passed on the same date, provided for the immediate establishment of a Nunavut Implementation Commission to advise the federal and territorial governments, and Tungavik on the establishment of the

political structure for Nunavut, with provisions for a new government to come into force in April 1999.

The *Nunavut Agreement* covers more than 2 M km<sup>2</sup> and establishes several categories of land over which Inuit have various rights. Inuit Owned Lands constitute 355,842 km<sup>2</sup> and were granted to the Inuit in fee simple, alienable only to Territorial or Federal governments or to Nunavut municipalities. These lands are not under the jurisdiction of the *Indian Act*. Of these lands, Inuit have surface rights to 317,972 km<sup>2</sup> and surface and subsurface rights including mineral rights to over 37,870 km<sup>2</sup>. The Regional Inuit Associations of the three regions—Baffin, Keewatin and Kitikmeot—hold title to surface rights, while subsurface title is vested in Nunavut Tungavik Inc., which represents the Inuit residents of the territory. The *Agreement* provides for free and unrestricted harvesting rights on the remaining Crown lands, park lands, water and marine areas in Nunavut.<sup>18</sup>

According to the provisions of the *Act*, Nunavut powers and jurisdiction will be like that of the two existing territories. However, as part of a land claim agreement, the commitment to establish the Nunavut Territory and its government are constitutionally protected, although the legislative powers of the Nunavut government are not. The *Nunavut Act* provides for the establishment of a public government through an elected Legislative Assembly. Public government means that all citizens of the territory, whether they are Inuit or not, may participate in the functions of government. However, because the Inuit make up about 85 percent of the population of the territory (about 21,000 in 1996), Inuit will likely make up the majority of representation. Moreover, the *Nunavut Land Claim Agreement* provides that Inuit will have equal membership with government representatives on new institutions of public government to manage the land, water, offshore and wildlife of the Nunavut Settlement Area and to assess and evaluate the impact of development projects on the environment.

Community level authority is increased with the creation of Nunavut. Article 14 of the land claims agreement grants existing communities in Nunavut municipal status. Municipal lands, conveyed to municipal corporations in fee simple, include lands used by the community for subsistence and recreation, but exclude Inuit Owned Lands. Nunavut municipalities hold land use planning and zoning authority and the *Agreement* guarantees consultation with the municipality on wildlife management issues and regional planning decisions as well as monitoring harvesting practices.

<sup>18</sup>The inclusion of rights to marine areas is a first for a land claim in Canada.