

# The 2008 Nunavut Territorial Election

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Nunavut's third territorial election was extraordinary. Candidate registration was lower than in any previous Nunavut election and on 27 October 2008 ballots were cast in only 15 of Nunavut's 19 constituencies. In South Baffin (Cape Dorset and Kimmirut) no candidate stood for office by the candidate registration deadline of September 26, making it necessary for Elections Nunavut to schedule a subsequent by-election on 3 November.<sup>1</sup> In Cambridge Bay and Rankin Inlet North, the incumbent members of the Legislative Assembly (MLAs) -- Keith Peterson and Tagak Curley -- were acclaimed.<sup>2</sup> In the constituency of Akulliq (which combines the communities of Repulse Bay and Kuugaaruk), the election was postponed until 15 December, following a legal appeal by Jack Anawak about the decision of the Chief Electoral Officer to declare him ineligible as a candidate, under the *2002 Nunavut Election Act*, on grounds that he had not lived in Nunavut for twelve months prior to the election.<sup>3</sup>

Significant developments occurred in the three Iqaluit constituencies discussed later in this paper. There was a tense, closely fought race in Iqaluit West between Premier Paul Okalik and Iqaluit's mayor, Elisapee Sheutiapik. Although Okalik retained his seat in the Legislative Assembly by just 44 votes. There was a complex campaign in Iqaluit Centre, following a formal complaint to the Royal Canadian Mounted Police by one candidate's father about the eligibility of another candidate. After the RCMP investigated the complaint, Josie Okalik Egeesiak was removed from the ballot on grounds of residence ineligibility. The dynamics of the campaign in Iqaluit East were most straightforward and the outcome led to the election of Nunavut's only female MLA. Eva Aariak went on to win the Leadership Forum on 14 November, defeating Paul Oklaik to become Nunavut's second premier.<sup>4</sup>

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<sup>1</sup> Elections Nunavut "Four declarations of candidacy accepted for South Baffin by-election," News Release, 3 October 2008, <http://www.elections.nu.ca>.

<sup>2</sup> "Tagak Curley Says Thank You to the People of Rankin Inlet North," <http://www.tagak.ca/statement-Sept29-2008.pdf>; Elections Nunavut, "Find your Constituency: Cambridge Bay," <http://www.elections.nu.ca>.

<sup>3</sup> Section 7.1.c of the *2002 Nunavut Elections Act* notes that "Every person has a right to vote in an election if, on election day, the person is or would be a resident in Nunavut for a consecutive period of at least 12 months." Section 11.1 states that "Every person has a right to be a candidate in an election if, on election day, the person is qualified to vote." S.Nu. Ch. 17, 2002. See also, Elections Nunavut, "Akulliq election cancelled," News Release, 3 October 2008. <http://www.elections.nu.ca>, Jim Bell, "Nunavut's botched election," *Nunatsiaq News*, 17 October 2008: 14.

<sup>4</sup> "Eva Aariak topples incumbent to become Nunavut's 2nd premier," *CBC News*, 14 November 2008.

Ailsa Henderson has argued that the territory is the primary level at which Nunavummiut engage in public government.<sup>5</sup> Indeed, analysis of the territorial election held shortly before the tenth anniversary of Nunavut, enables us to consider how electoral politics in Nunavut have evolved in the first decade of the territory's existence. Moreover, this provides an opportunity to consider whether the conclusions reached in Henderson's insightful analysis of earlier elections in Nunavut can be reassessed in the light of developments in the 2008 election.

The 2008 election, however, was not just about public government because the residency challenges in Akulliq and Iqaluit Centre brought to the fore significant tension between Inuit identification with the public government of the territorial jurisdiction, on the one hand, and Inuit identification with Nunavut through the 1993 Nunavut Land Claims Agreement, on the other. This paper therefore develops a two-stranded analysis. First, it examines key dynamics of the 2008 Nunavut election as an election for public government, focusing in particular on the campaign in the capital city of Iqaluit. It then examines how questions about Inuit identity were played out in this election, focusing both on tensions between civic and beneficiary status that arose around questions of candidate residency, and on the way that language policy was addressed by key Inuit candidates in the election.

Field work for this paper was conducted in Iqaluit between 14 and 28 October 2008 and included interviews with six of the eight candidates on the final ballot, monitoring of campaign literature issued by the candidates, observation of the court hearing at which Jack Anawak's Charter challenge was heard, attendance at the all-candidates forum on October 20, together with analysis of the media coverage of the election campaign and results.

## **Approaching the first decade: the evolution of electoral politics in Nunavut**

The 2008 election was characterized by contradictory dynamics. On the one hand, the lower levels of candidate registration and voter turnout manifest in this election suggest a pattern of citizen disengagement with territorial electoral politics which is distinct from patterns in the 2004 election and stands in stark contrast to the high level of citizen participation in Nunavut's first election in February 1999. On the other hand, intense battles were fought in key constituencies, several cabinet ministers lost their seats, and in the Leadership Forum following the election, Paul Okalik did not succeed in retaining his position as Nunavut's premier.

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<sup>5</sup> Ailsa Henderson, *Nunavut: Rethinking Political Culture* (Vancouver: UBC Press, 2007), 145, 155.

### ***Lower Candidacy Levels***

The 2008 Nunavut Territorial Election witnessed the lowest registration of candidates running for election to the Legislative Assembly. Only 48 candidates declared their candidacy, significantly fewer than the 82 candidates who ran for election in 2004 and the 71 candidates who stood for Nunavut's first Legislative Assembly in 1999.<sup>6</sup>

From a procedural perspective, low candidate registration reflects how the pool of potential candidates was dented by the fact that sixty-six Nunavut residents, who had run as candidates or served as financial agents in the 2004 territorial election campaign had failed to submit financial returns for their campaigns by the statutory deadline.<sup>7</sup> It may also reflect the short time allotted for individuals to register their candidacy. The Nunavut election writ was issued by the Chief Electoral Officer on 22 September with the election date set for 27 October.<sup>8</sup> As candidates are required to register their candidacy by the 31<sup>st</sup> day before the election, this only allowed candidates five days to file their nomination papers.<sup>9</sup>

From a seasonal perspective, the reduction in the number of candidates may also reflect that this was the first territorial election to be held in the Fall. Ajaqtiit (the Standing Committee with responsibility for legislative procedure) had long recommended that territorial elections "should be held in the Fall, after people have generally returned to the communities from the land, but before the snow and cold make it more difficult for Elders and persons with disabilities to move about easily in the community."<sup>10</sup> Even still, the nomination process occurred at a time when people had

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<sup>6</sup> Brian Armstrong, "The Election of Nunavut's First Legislative Assembly," *Canadian Parliamentary Review* 22, 2 (Summer 1999):17; *Anawak v. Nunavut (Chief Electoral Officer)*, 2008 NUCJ 26 at 24.

<sup>7</sup> "Nunavut: a look back at 2008, Scandals, more scandals, mine troubles and one big apology," *Nunatsiaq News*, 2 January 2009.

<sup>8</sup> Elections Nunavut, "The Chief Electoral Officer issued the writs of election to all nineteen returning officers this morning," News release, 22 September 2008, <http://www.elections.nu.ca>.

<sup>9</sup> Section 70, 2 of the *Nunavut Elections Act* states that "Nomination must be made by filing nomination papers at the office of the returning officer any time between the day the writ is issued and 2:00 p.m. in the afternoon on the 31<sup>st</sup> day before election day."

<sup>10</sup> Legislative Assembly of Nunavut, Standing Committee *Ajaqtiit*, *Interim Report on the Review of the Report of the Chief Electoral Officer, Election of the First Legislative*

not fully returned to their communities for the winter.

### **Gender**

The proportion of women running in the 2008 election was higher than in previous elections. In the 2008 election 17% (8) of the candidates were women and all of them were Inuit.<sup>11</sup> Once again, however, women did not do well in the election and only one woman, Eva Aariak, was elected. Even though Aariak has gone on to become Nunavut's premier, the Legislative Assembly of Nunavut still has the lowest representation of women in any legislature in Canada.

While a significant literature on questions of gender and representation in the Nunavut Legislative Assembly emerged prior to Nunavut's creation when the Nunavut Implementation Commission's proposals to create a gender equal legislature were tested by plebiscite, there has been very little analysis of the gendered pattern of representation in Nunavut since the territory's creation.<sup>12</sup> This is unfortunate given the significant under-representation of women in Nunavut's Legislative Assembly in contrast, as I have discussed elsewhere, with women's higher representation in the bureaucratic sphere of the territorial government.<sup>13</sup>

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*Assembly of Nunavut – 1999: A New Beginning*, Committee Report 16-1(3) 27, April 2000: 7; Legislative Assembly of Nunavut, Standing Committee *Ajauqtiit*, *Report on the Review of the Report of the Chief Electoral Officer, Election of the First Legislative Assembly of Nunavut – 1999: A New Beginning*, October 2000, 17.

<sup>11</sup> On the ethnicity of female candidates in 1999 see Jack Hicks and Graham White, "Nunavut: Inuit Self-Determination through a Land Claim and Public Government," in *Nunavut: Inuit Regain Control of Their Lands and Their Lives* (Copenhagen: International Work Group on Indigenous Affairs, 2000), 76.

<sup>12</sup> Jens Dahl, "Gender Parity in Nunavut," *Indigenous Affairs*, 3/4 (1997), 42-47; Nicole Gombay, "The Politics of Culture: Gender Parity in the Legislative Assembly of Nunavut," *Études/Inuit/Studies*, 24,1 (2000), 125-48; Jack Hicks and Graham White, "Nunavut: Inuit Self-Determination," 68-75; Lisa Young, "Gender Equal Legislatures: Evaluating the Proposed Nunavut Election System," *Canadian Public Policy* 13, 3 (1997): 306-14.

<sup>13</sup> Government of Nunavut, *Public Service Annual Report, 2006-7* (Iqaluit: Government of Nunavut, 2007), 10; see also Annis May Timpson, "Rethinking the Administration of Government: Inuit Representation, Culture, and Language in the Nunavut Public Service," in *First Nations, First Thoughts: The Impact of Indigenous Thought in Canada*, ed. Annis May Timpson (Vancouver: UBC Press, 2009), 204.

### **Low Voter Turnout**

Voter turnout in Nunavut elections is difficult to gauge – and, as Ailsa Henderson has shown, is typically over-estimated in official data.<sup>14</sup> Though territory-wide data have not yet been formalized in a final report by Elections Nunavut, CBC reports immediately after the election stated that the Chief Electoral Officer had indicated that 71 per cent of voters turned out to vote in the election.<sup>15</sup> This is significantly lower than reported turnout of 89 per cent in 1999 and 94 per cent in 2004.<sup>16</sup>

Four factors may have accounted for the reduction in voter turnout. First, there was disappointment that the territorial government had not been able to accomplish all that Nunavummiut had hoped for in the first decade of its existence. Second, the election was held just two weeks after the 2008 federal election, a factor that may well have affected voter turnout at the territorial level. Third, the election was shaped by new regulations that for the first time required voters to show identification at the polls: a fact which led to a number of potential voters being declined the opportunity to vote when they arrived at polling stations without identification.

### **Incumbency**

Lower turnout did not, however, stop those who did vote from bringing about significant changes in the Legislative Assembly. Significant shifts occurred in the 2008 territorial election, in ways that happen, periodically, in the Canadian North. This was also true of the federal election, two weeks earlier, when Leona Aglukkaq undermined the Liberal Party's hold on Nunavut by succeeding as the Conservative candidate in the national election.<sup>17</sup> In comparison to Nunavut's two previous elections where 26% (5) of those elected in 1999 were incumbents of the Legislative Assembly of the Northwest Territories and 42% (8) of those elected in 2004 had held office in Nunavut's first Legislative Assembly, 41% (7) of the 17 members returned in October 2008 held office in the previous Legislative Assembly. Significant shifts occurred at cabinet level: only two cabinet members who stood for re-election (Paul Oaklik and Louis Tapardjuk) retained

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<sup>14</sup> Henderson, *Nunavut: Rethinking Political Culture*, 148-151.

<sup>15</sup> "Voter turnout drops in Nunavut," *CBC News*, 28 October 2008.  
<http://www.cbc.ca/canada/north/story/2008/10/28/voter-turnout.html>

<sup>16</sup> CBC, "Nunavut by the Numbers," *CBC News*,  
<http://www.cbc.ca/nunavutvotes2008/features/features-by-the-numbers.html>

<sup>17</sup> Canada Votes 2008: Results, Ridings and Candidates: Nunavut. 14 October 2008.  
<http://www.cbc.ca/news/canadavotes/riding/308/>. For a discussion of the Liberal Party's hegemony in Nunavut see Henderson, *Nunavut: Rethinking Political Culture*, 153.

their seats with only one (Tapardjuk) remained in the cabinet. As Jim Bell noted, “Voters fired four Nunavut cabinet ministers from their jobs and came close to firing a fifth: Nunavut's incumbent premier, Paul Okalik. Only two cabinet ministers survived: Okalik, who slipped past Iqaluit mayor Elisapee Sheutiapik by 44 votes in Iqaluit West, and Louis Tapardjuk, easily re-elected in Amittuq with about 65 per cent of the vote.”<sup>18</sup> Cabinet members Levinia Brown, Patterk Netser, David Simailak, and Levi Barnabas all lost their seats.

These patterns indicate a significant regime shift arising as a result of Nunavut's third election. Why was this so? Part of the answer lies in questions of accountability (particularly as ex-finance minister, David Simailak, although fined \$5,000 in 2008 when found guilty of breaches of the Integrity Act, was standing for re-election in Baker Lake).<sup>19</sup> Second, there was clear concern about “the climate of fear and intimidation” within the Nunavut Government that had taken root during the latter period of Okalik's premiership and was a subject of comment in candidates' campaign for the 2008 election.<sup>20</sup> Indeed, these two issues were linked in an anonymous op-ed piece for *Nunatsiaq News* in which the commentator criticized David Simailak for apologizing “only because he was caught” rather than apologizing personally “to all those Nunavut companies that may have been better off today had the minister done the right thing.” Interestingly, *Nunatsiaq News* noted that the commentator “who lives in a small Nunavut community, asked that their name not be published for fear of retribution from their Nunavut government employer.”<sup>21</sup>

## The Campaign in Iqaluit

There are benefits and limitations to focusing on the election campaign in the capital city of Iqaluit. The advantages lie in the fact that the city returns three of the 19 MLAs who sit in the Legislative Assembly and, at the point of this election, included the constituency in which the Premier, Paul Okalik, was defending his seat. In addition, the concentration of print and audio-visual media in the capital, the tightly fought race in

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<sup>18</sup> Jim Bell, “Four ministers dumped; Okalik wins squeaker Disgruntled voters opt for change,” *Nunatsiaq News*, 31 October, 2008.

<sup>19</sup> “Nunavut: a look back at 2008: *Scandals, more scandals, mine troubles and one big apology*,” *Nunatsiaq News*, 2 January 2009.

<sup>20</sup> See, for example, the election campaign literature issued by MLA Hunter Tootoo which specifies that he believes that “the GN needs to loose its culture of fear and intimidation.” *Re-elect Hunter Tootoo: MLA for Iqaluit Centre*, October 2008.

<sup>21</sup> “Inuit traditional beliefs misused by politicians?” *Nunatsiaq News*, 24 October 2008, 12.

Iqaluit West, the complexities of candidate registration in Iqaluit Centre, and the contest to replace long-term incumbent Ed Picco in Iqaluit East, led to daily news coverage and a radio broadcast all-candidates debate that raised public attention about the election.<sup>22</sup> Demographic factors that may restrict campaigning in constituencies made up of dispersed communities, because of the cost and complexity of travelling between them, are not present in Iqaluit.<sup>23</sup> Indeed, I observed that the reverse pattern appeared to happen during the 2008 election campaign in Iqaluit, namely that campaigning became so intense that it was hard for people not to talk about campaigns in all three constituencies: particularly as in one of them the Premier's seat was highly contested and, in another, the RCMP became involved in an investigation. Moreover, although Henderson has suggested that "the sheer size of constituencies [in Nunavut] inhibits all-candidate debates," this was not the case in Iqaluit.<sup>24</sup>

At the same time, however, it is important to recognize that there are limitations to focusing on the capital city: the city is not typical of the territory, as a whole, in terms of the balance between those identifying as Inuit and Qallunaat (non-Inuit). In Nunavut the balance is 84 per cent Inuit to 16 per cent Qallunaat. In Iqaluit, by contrast the balance is 58 per cent Inuit to 42 per cent Qallunaat. With a population of over 6,000, Iqaluit is also atypical in terms of population size: even Rankin Inlet, the next largest community in Nunavut has a population that is only 38 per cent of that in Iqaluit. Nonetheless, the city plays an important role in the territory's political life and provides one significant lens on electoral politics in the territory.

Distinct campaigns took place in the three ridings of Iqaluit East, Iqaluit Centre and Iqaluit West. Iqaluit East, unlike its counterparts was characterized by the absence of an incumbent candidate as Ed Picco, the veteran MLA and cabinet minister, who had represented the riding throughout Nunavut's history and previously in the Legislative Assembly of the Northwest Territories, stood down from legislative politics at the end of the 2<sup>nd</sup> Legislative Assembly retiring (for the time being) from political office.<sup>25</sup> Although there was a three-way race between Eva Ariak, Glen Williams and Kakki Peter (the

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<sup>22</sup> For a contrasting perspective on Nunavut elections see Ailsa Henderson "Northern Political Culture in Nunavut," *Inuit Studies*, 28, 1 (2004): 144 and Ailsa Henderson, *Nunavut: Rethinking Political Culture*, 142.

<sup>23</sup> See Valerie Alia, "Aboriginal Peoples and Campaign Coverage in the Canadian North," in *Aboriginal Peoples and Electoral Reform in Canada*, ed. R.A. Millen (Toronto: Dundurn Press, 1990), 105-52, cited in Henderson, *Nunavut: Rethinking Political Culture*, 141.

<sup>24</sup> Henderson, *Nunavut: Rethinking Political Culture*, 153.

<sup>25</sup> John Bird, "It's a wide open race in Iqaluit East: Picco's departure attracts high-profile contenders," *Nunatsiaq News*, 10 October 2008, 5; Ed Picco, "Thank you!" *Nunatsiaq News*, 17 October 2008, 21.

youngest candidate in the territorial election), the competition was fought primarily between Ariak and Williams, always it appears on good terms, with routine discussions between the two candidates taking place, throughout the campaign, at the Grind and Brew Café (This well-known venue in the Beaches area of Iqaluit, is co-owned by Elispee Shepiatuk who was contesting the Premier's seat in Iqaluit West).

The two candidates had three things in common: a bilingual capacity to speak in Inuktitut and English (though possibly Ariak had the advantage here given that her mother tongue is Inuktitut); previous experience of serving in political office (as a city councilor in Williams case and with the high profile appointment as Nunavut's First Official Languages Commissioner, in the case of Ariak); experience gained through employment in both the public and private sectors: in the territorial government, educational and local business sectors, in Ariak's case, and in federal, territorial and RCMP employment, as well as in the local business community, in the case of Williams.

Their campaign literature suggests a difference of approach (Tables 1 and 2). Eva Ariak's leaflet focused entirely on her broad range of experience in the public and private sectors, her work as an educator and her evident work and commitment to the promotion of the Inuit language. It also emphasized her personal integrity. The leaflet pointed out that "she now looks forward to using her voice to serve the people of Iqaluit and Apex," and emphasized her commitment to language and cultural issues in Nunavut. While it did not specify particular policy issues that Ariak would hope to take forward on behalf of constituents in Iqaluit East, the multiple images reproduced on the campaign leaflet reinforced the importance Ariak attached to Inuit culture, Elders and youth. This suggests a traditional approach to election that emphasized her capacity for community leadership.

Glen Williams, a Qallunaq candidate, emphasized his long term northern status his bilingual capacities and his experience through municipal office of consensus government. He also emphasized the diversity of his employment experience across territorial and federal government employment (including the RCMP) and, interestingly, his work for the Inuit birthright corporation, Nunavut Tunngavik Incorporated. His proposed goals as a legislator remained broad: to improve education and health care, reduce suicide, family violence, crime and substance abuse – and although likely to gain generalized support from voters, none of these issues focused specifically on challenges in the Iqaluit East constituency.

As previously mentioned, the candidate line up in Iqaluit East included Kakki Peter, one of Nunavut's youngest candidates and certainly, the youngest candidate to stand for office in an Iqaluit constituency.<sup>26</sup> Young candidates are important in Nunavut,

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<sup>26</sup> "The voice of youth," (photograph of Kakki Peter by Jim Bell), *Nunatsiaq News*, 24 October 2008.

not only to encourage younger Nunavummiut to participate at the polls but also because - as Henderson has noted -- “Nunavut has the youngest electorate in Canada. The median age of Nunavummiut is 22.1 years. The median age of the rest of Canada by contrast is 37.6 years....[and ] the median age of Inuit is 19.1 years”<sup>27</sup> Although Peter did not distribute campaign literature, he performed well at the all-candidates forum emphasizing the importance of overcoming the “ ‘disconnect’ between Nunavut leaders and the younger generation.”<sup>28</sup> As he commented, “I’m young. We need a voice for youth in the legislature.”<sup>29</sup> As an editor of the Legislative Assembly’s Hansard, for the past four years, he would have an interesting perspective on that issue.<sup>30</sup>

### ***Iqaluit Centre***

The campaign in Iqaluit Centre was less straightforward because of the complaint arising about the eligibility of (Josie) Okalik Egeesiak to run as a candidate. In this riding, the incumbent MLA, Hunter Tootoo, who had served as the representative for Iqaluit Centre since the outset of Nunavut, was defending his seat. Tootoo’s campaign literature emphasized his record as legislator, his concern to bring an end to “the culture of fear and intimidation” within the Government of Nunavut, the importance of fiscal responsibility and the need to address social problems systematically.<sup>31</sup> Tootoo had established a reputation in the legislature for demanding transparency and accountability and for his record as chair of the Standing Committee on Government Operations and Accountability. While he had not been successful in earlier attempts to secure membership of the cabinet (in part because he is not bilingual), his effectiveness as a regular MLA, who held ministers to account, stood him in good stead with constituents particularly at a point when the reputation of key cabinet members was tarnished.

Given Tootoo’s reputation and record, it was unlikely that Madeleine Redfern would defeat him at the polls. Moreover, her father’s decision to complain about the candidacy of one of her contenders inevitably impacted on Redfern’s campaign. Nonetheless, Redfern had good credentials, bringing to the campaign her qualification as a graduate of the Akitsiraq law program, her experience as executive director of the Qikiqtani Truth Commission, and her capacity to campaign on-line. Her campaign

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<sup>27</sup> Henderson, *Nunavut: Rethinking Political Culture*, 152.

<sup>28</sup> Bell, “In Iqaluit, it’s seven against one,” 1.

<sup>29</sup> Bird, “It’s a wide open race in Iqaluit East.”

<sup>30</sup> *Ibid.*

<sup>31</sup> “Re-elect Hunter Tootoo”

literature stressed the need for transparency, fiscal responsibility and accountable government, on the one hand, and the empowerment that comes through language laws and education policy, on the other.

The third contender, Joe Sageaktook, was thoughtful about key issues facing Iqaluit and the Government of Nunavut, though distinct in his call for the creation of nuclear power plant near Arviat “to generate and sell power to southern markets through the Manitoba grid.”<sup>32</sup> Though he participated at the all-candidates meeting, his campaign did not include the production or circulation of campaign literature by which voters could assess his potential as a candidate.

One of the dynamics that was particularly interesting in Iqaluit Centre was that relating to the way in which the Chief Electoral Officer would address the question of Egeesiak’s disqualification from candidacy. The decision was made, following the RCMP investigation and a hearing by Elections Nunavut, that her name should be removed from the ballot and that the election would proceed in Iqaluit Centre on October 27.<sup>33</sup> Had it not proceeded as planned on that date and a by-election proved necessary, the complex question of residency would have recurred – though in this case (because a by-election would have been involved) it would have related to the question of candidate residency in the constituency at the time of the writ rather than in the territory.<sup>34</sup>

### ***Iqaluit West***

The contest in Iqaluit West was tense throughout in a two-way race between the Premier, Paul Okalik, and the Mayor of Iqaluit, Elisapee Sheutiapik. The civility that each candidate demonstrated to each other at the all-candidates’ forum did not mirror a longer history of animosity that can be traced back at least to June 2007 when the Premier made abusive and sexist remarks to Sheutiapik about Lynda Gunn, the chief

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<sup>32</sup> John Bird, “Four candidates contest Iqaluit Centre: Contenders offer experience, education and a nuclear plant in the run against incumbent,” *Nunatsiaq News*, 17 October 2008, 6.

<sup>33</sup> Elections Nunavut, “Final Cease and Desist Order issued against Josie Okalik Egeesiak,” News release, 24 October 2008.

<sup>34</sup> Section 4.13 of the Nunavut Elections Act states that “No person is entitled to vote at a by-election unless he or she continues to be resident until election day for the by-election in the same constituency in which he or she was resident on the day the writ was issued.” Section 7.1 (eligibility for candidacy) then applies on the same criteria as eligibility to vote.

executive officer of the Nunavut Association of Municipalities, while meeting with representatives of the Nunatsiavut Government in Labrador.<sup>35</sup> Interestingly, both Okalik and Sheutiapik campaigned not only on their respective policy records at different levels of public government but also by emphasizing their commitment to an Inuit cultural agenda.

In the Premier's case this was played out with both contemporary and traditional reference points. On the one hand, he emphasized how the government he had led had encouraged economic development in the territory and investment in education. This message was supported with flyers around the constituency that showed him donning a hard hat and talking to workers on a local construction site or engaging with students outside the Iqaluit campus of Arctic College. On the other hand, he not only chose an image of the sun, as his campaign symbol, in order to reflect his traditional Inuit name, Siqiniq, but also referred routinely throughout the campaign to the importance he placed on the advice he was receiving from Elders in his constituency, emphasizing that he believed they would secure the support he needed to win.

Elisapee Sheutiapik's campaign was infused with a form of maternal feminism that emphasized both her maternal role and her call for "Honesty, Ethics (and) Respect" in a cleaned-up government. Sheutiapik played to contemporary and traditional political spheres, emphasizing her experience and effectiveness during her office as mayor of Iqaluit, on the one hand, and the importance of addressing key social and economic needs of Elders and hunters in her community. The race was very tightly fought with Sheutiapik's black and white campaign posters bill-boarded around in stark contrast to the rising sun on a blue background that was the trade mark of Okalik's campaign.

### ***Results in Iqaluit***

The results in Iqaluit East were, as anticipated, with Eva Ariak winning 63 per cent of the vote securing victory by a margin of 218 votes. Voter turnout in this constituency was reported as 73.2 per cent. In Iqaluit Centre, Hunter Tootoo retained his seat, winning 62 per cent of the votes and securing victory by a majority of 196 votes. Voter turnout in this constituency was reported as slightly lower at 69.7 per cent. In Iqaluit West the battle was closely fought with Paul Okalik securing 53 per cent of the vote and retain his seat by a margin of 44 votes. In this constituency voter turnout was high at 90.2 per cent (See Table 3).

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<sup>35</sup> "Nunavut premier taken to task over foul language," *CBC News*, 29 June 2007, <http://www.cbc.ca/canada/north/story/2007/06/29/okalik-comments.html>.

## Civic Residency vs Beneficiary Status

The 2008 Nunavut territorial election brought to the fore a tension between civic and beneficiary status of Inuit Nunavummiut: a fact that is not entirely surprising given that the origin of the public government of Nunavut lies in Article 4 of the 1993 Nunavut Land Claims Agreement.<sup>36</sup> This was played out in two key cases where prominent individuals in Nunavut's Ottawa-based diaspora, who had not been fully resident in the territory in the calendar year preceding 27 October 2008, were disqualified from voting or running as electoral candidates under the 2002 Nunavut Elections Act.

### Jack Anawak (Akulliq: Rankin Inlet)

Jack Anawak, a significant (and controversial) political figure in Nunavut, who has held both federal and territorial office, sought to run as a candidate in the Akulliq riding. Anawak had lived in Ottawa for the past three years where he had held a post as Canada's Ambassador for Circumpolar Affairs (2004-2006) before undertaking a diploma in business administration. Anawak sought candidacy for elected office (in a constituency where he owned property).<sup>37</sup> His nomination was refused by Sandy Kusugak, Nunavut's Chief Electoral Officer on grounds that he had not been resident in Nunavut for the twelve months prior to the October 27 election.<sup>38</sup> Interestingly, in passing the 2002 *Nunavut Elections Act* and thereby revising legislation inherited from the Northwest Territories, the Legislative Assembly of Nunavut had augmented the powers of the Chief Electoral Officer to make it compulsory for the CEO to refuse an application where he or she was aware that a person might be ineligible to be a candidate."<sup>39</sup>

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<sup>36</sup> Minister of Indian Affairs and Northern Development and the Tungavik, *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada*. Ottawa, 1993.

<sup>37</sup> See Elections Nunavut, *Report to the Legislative Assembly of Nunavut by the Chief Electoral Officer: Annual Report for the period April 1, 2005 – March 31, 2006* (Rankin Inlet: Elections Nunavut, 2006), 12. By self-nominating Anawak was complying with the Nunavut Elections Act regulations that individuals could self-nominate rather, than as was the case in elections legislation that Nunavut inherited from the NWT, which required individuals to obtain fifteen signatures to be nominated as election candidates. Nu, s. 7,1.c: "Every person has a right to vote in an election if, on election day, the person

<sup>38</sup> See *Nunavut Elections Act, 2002*, Ch. 17, S. 1: "Every person has a right to vote in an election if, on election day, the person is a resident in Nunavut for a consecutive period of at least 12 months," and s. 11, 1: "Every person has a right to be a candidate in an election if, on election day, the person is qualified to vote."

<sup>39</sup> *Nunavut Elections Act, 2002*, Ch. 17, S. Nu, Section 75(1).

Anawak chose to contest the Chief Electoral Officer's ruling. He argued that the residency requirements of the 2002 *Nunavut Elections Act* (which, interestingly, he had been directly involved in passing during his membership of the Legislative Assembly of Nunavut) violated his "democratic, equality and aboriginal rights under ss.3, 15, and 35 of the *Charter*."<sup>40</sup> Although the Nunavut Court of Justice released an initial decision on 7 October, declaring that Elections Nunavut had been correct to declare Anawak's candidacy invalid on grounds of residency, the appeal by Anwak necessitated the cancellation of the election in Akulliq on 27 October and the establishment of a by-election only after a decision on Anawak's appeal had been reached.<sup>41</sup>

Residency and mobility have always been complex questions for electoral practice in Nunavut. As a result legislators in Nunavut had paid particular attention to this matter when reviewing the election legislation inherited from the Northwest Territories.<sup>42</sup> The 12 month residency period is common to all three territories.<sup>43</sup> It is designed to reduce the impact of transient workers on election outcomes and ensure that "voters and candidates do not parachute into Nunavut and that they inform themselves and care about issues in their constituency."<sup>44</sup> In addition, the requirement was designed to ensure that that local voters (who are also eligible to run as candidates) are fully aware of local issues and "have the opportunity to gain confidence

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<sup>40</sup> *Anawak v. Chief Electoral Officer*, 1.2.

<sup>41</sup> Elections Nunavut, "Akulliq election cancelled." News Release, 7 October 2008. See also *CBC News* where Donna Lee reports that "in a decision handed down on Oct. 7, Johnson ruled that 'residency requires physical presence and the activities that occur in a household,' and owning a business or property in Nunavut is not sufficient. Johnson noted that Anawak was considered an Ontario resident for tax purposes for the year ending Dec. 31, 2007, and he continued to receive mail from an Ottawa address until August 2008" (*CBC News* 11 November 2008).

<sup>42</sup> See, for example, the discussion of the way mobility between the western and eastern Arctic in the year complicated the eligibility requirements in Nunavut's first election Elections Nunavut, *Election of the First Legislative Assembly of Nunavut – 1999: A New Beginning* (Iqaluit: Elections Nunavut, 1999), 38. See also Nunavut Hansard, 30 October 2002).

<sup>43</sup> *Anawak v. Nunavut (Chief Electoral Officer)*, at 86.

<sup>44</sup> *Ibid* at 59.

in the integrity and responsiveness of the potential candidate.”<sup>45</sup>

The hearing for Anawak’s Charter challenge took place in the Nunavut Court of Justice on 14 October in a court designed architecturally with reference to Inuit symbols. For example, the barrier between the court and the public gallery reflects a sledge on its side, and the carving behind the judge’s bench symbolizes the sun. Yet with the exception of the clerk to the court (who was an Inuk woman) all participants in the court hearing were Qallunaat.<sup>46</sup> There was an irony therefore that two Inuit contestants – the Chief Electoral Officer and Jack Anawak –at the core of the case, were being represented and judged entirely by Qallunaat who were representing their respective interests in an oppositional court room that was operating within a Western justice paradigm.

Significantly, the court contest centred on the limits of Anawak’s constitutional rights as a beneficiary of the 1993 Nunavut Land Claims Agreement. Anawak claimed that as a beneficiary, born and raised on the land in what is now Nunavut, he was entitled to vote for the government of that territory. As his lawyer Stephen Cooper noted, in a CBC interview on October 14 the “bottom line is that if an Inuk, who is born and bred and raised on the land, goes away for some time and comes back, is not entitled to vote, then something is wrong with the system. The whole concept of Nunavut is lost.”<sup>47</sup> By contrast, the lawyers representing the Chief Electoral Officer of Nunavut and the Government of Nunavut argued, not only that “legislatures have the right to determine their own residency criteria” but also that there was a clear distinction between eligibility to run for office in the *public government* of Nunavut and rights to hold office in Nunavut Tunngavik Incorporated and other Inuit beneficiary organizations arising from the Nunavut Land Claims Agreement.<sup>48</sup>

Indeed, this argument prevailed in Johnson’s decision, handed down (after the territorial election) on 5 November 2008. Johnson stated that Anawak was “confusing his constitutional rights, between his rights to vote and run in Inuit political institutions

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<sup>45</sup> Anawak v Nunavut, at 62, 89.

<sup>46</sup> In addition, with the exception of MLA Hunter Tootoo (the incumbent candidate for Iqaluit Centre), all visitors in the public gallery were Qallunaat (most of whom were journalists covering the case).

<sup>47</sup> Donna Lee, “Living here: the problem of residency,” *CBC News*, 11 November 2008, <http://www.cbc.ca/nunavutvotes>

<sup>48</sup> *Anawak v. Nunavut (Chief Electoral Officer)*.

ted to Nunavut's 1993 land-claim agreement, and his rights to vote and run in public government." As Johnson noted "The [Nunavut Land Claim Agreement] vests in Inuit beneficiaries the right to vote, be a candidate and receive the financial dividends flowing from the agreement. ...While the NLCA is a land claims agreement ... the public government flowing from it is not." Moreover, reflecting broader (and problematic) patterns of court decisions on Aboriginal peoples Johnson added that there was no evidence "that voting in a public government is an Inuit right that has existed over time and is of integral significance to Inuit society."<sup>49</sup>

Johnson's November 5 decision made it possible for Elections Nunavut to schedule a by-election in the Akulliq riding. The by-election on December 15 produced a two vote difference between the number of ballots cast for Stephen Mapsalak and for John Ningark, necessitating a judicial recount and a subsequent by-election on 2 March in which Ningark secured 37 percent of the vote and won by a margin of fourteen votes.<sup>50</sup>

### **Josie Okalik Egeesiak (Iqaluit Centre)**

The second case in which residency was challenged arose when a formal complaint concerning the eligibility of Josie Okalik Egeesiak to run as a candidate in Iqaluit Centre was made to the RCMP, under s.225 of the *Nunavut Elections Act*, by Colin Alexander, the father of Madeleine Redfern, another candidate in the same riding. Interestingly, Madeleine Redfern reported that the matter had been brought to the attention of Elections Nunavut, shortly before the candidate registration deadline, but the matter was not taken further at the time. This, inevitably, generated broader debate about why Sandy Kusugak had acted in the event of questions about Anawak's eligibility and not in the case of those raised about the eligibility of Egeesiak.<sup>51</sup>

Following the RCMP investigation, which established that Egeesiak had been resident in Nunavut for only ten months prior to 27 October 2007, and a subsequent

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<sup>49</sup> Ibid. at 135. For a broader discussion of the court's approach to questions of Aboriginal rights existing over time see Kiera Ladner, "Take 35: Reconciling Constitutional Orders," in *First Nations, First Thoughts: The Impact of Indigenous Thought in Canada*, ed. Annis May Timpson, 279-303 (Vancouver: UBC Press, 2009).

<sup>50</sup> Elections Nunavut, "Judicial recount required in Akulliq By-election," News release, *Elections Nunavut*, 16 December 2008; "Johnny Ningark wins Akulliq By-election," News release, 2 March 2009.

<sup>51</sup> John Bird, "Second Nunavut candidate's eligibility challenged: Iqaluit Centre contender may have lived in Ottawa less than a year ago," *Nunatsiaq News*, 10 October, 7; see also, "Nunavut's botched election," *Nunatsiaq News*, 17 October 2008: 14.

hearing by Elections Nunavut, her name was removed from the ballot on 25 October.<sup>52</sup> Votes for Eegeesiak that had been cast in advance polls were discarded.<sup>53</sup>

### **Reflection on Anawak and Eegeesiak cases**

In a press release relating to the Eegeesiak case the Chief Electoral Officer noted the importance of preserving “the integrity of the electoral process in Nunavut.” She asserted that “there is a pressing public interest to preserve the right of voters to be able to select a candidate who is eligible to be a candidate in this election and to sit as a member of the Legislative Assembly.”<sup>54</sup> The irony is that although the *Nunavut Elections Act* was designed to ensure that candidates who were not established residents of Nunavut could not run for office, the legislation actually worked against individuals who had established, long-term, relationships with Nunavut and are beneficiaries of the 1993 Nunavut Land Claims Agreement.

Election to civic office in the Legislative Assembly of Nunavut requires that an individual is resident in the territory for a full calendar year before the election, save for temporary absence for reasons such as education or employment.<sup>55</sup> By contrast enrolment as a beneficiary of the Nunavut Land Claims Agreement does not require continual residency but instead requires that an Inuk self-identify and be associated either with “a community in the Nunavut Settlement Area,” or “the Nunavut Settlement Area” as a whole.<sup>56</sup> This raises interesting questions about the distinction between “civic belonging” and “Indigenous belonging.” Moreover, broader questions about the traditional mobility of Inuit Nunavummiut as well as the economic and educational needs for Inuit mobility in contemporary society are not entirely settled by the legal outcomes of these two cases.

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<sup>52</sup> “Josie Okalik Eegeesiak removed from Iqaluit Centre Ballot,” *News Release*, Elections Nunavut, 18 October 2008.

<sup>53</sup> John Bird. “Okalik Eegeesiak removed from ballot.” *Nunatsiaq News*. 24 October 2008: 3.

<sup>54</sup> “Final Cease and Desist Order issued against Josie Okalik Eegeesiak,” *News release*, *Elections Nunavut*, 24 October 2008.

<sup>55</sup> *Nunavut Elections Act*, s.4.3.

<sup>56</sup> *Nunavut Land Claims Agreement*, Article 35.3.1.e.

## Questions of Culture and Language

Debates in the 2008 Nunavut election that were concerned with ensuring that Inuit culture remained a key focus of governance in Nunavut, did not, as in previous campaigns focus on the integration of *Inuit Quajimajatuqangit* (that which is long known by Inuit) into government policy and practice.<sup>57</sup> Instead, they focused directly on the preservation and promotion of the Inuit language.

In part this is explained by the fact that the *Inuit Language Protection Act (ILPA)* was passed right at the end of the 2<sup>nd</sup> Legislative Assembly, just days before the election writ was issued.<sup>58</sup> Significant questions remained about its implementation – particularly as the legislation is designed to make significant inroads into the private sector.<sup>59</sup> Moreover, during his visit to Nunavut to support Leona Aglukkaq's campaign to become the Progressive Conservative MP for Nunavut, Prime Minister Stephen Harper had raised anxieties about the federal government's willingness to support the implementation of ILPA measures in federal offices in Nunavut. Speaking at the Cadet Hall in Iqaluit on 20 September (two days before the territorial election was announced), Harper asserted that "The federal government is never bound by language policies of other levels of government," a reaction that caused consternation in Nunavut, particularly (as noted by Stephane Cloutier, Nunavut's director of Official Language Services) that "there is a specific provision in the federal Nunavut Act, which gives ... the legislative authority to our legislative assembly to make and pass legislations for the preservation, use and promotion of the Inuit language, as long as it does not diminish the rights, status, or privilege of English and French."<sup>60</sup>

Key candidates in the election – Louis Tarpadjuq (Amittuq), Paul Okalik (Iqaluit West), and Eva Aariak (Iqaluit East) – were directly associated with the language legislation that had finally made it on to Nunavut's statute books. Louis Tapardjuk, as minister of Culture, Language, Elders and Youth, had been directly responsible for overseeing the language legislation that had been implemented and as minister was

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<sup>57</sup> See Annis May Timpson, "Canada's New North," *British Association for Canadian Studies Newsletter*, May 1999.

<sup>58</sup> "Nunavut Legislative Assembly Approves the Inuit Language Protection Act," News Release, Government of Nunavut, 19 September 2008.

<sup>59</sup> See Robert Dunbar, "Nunavut's Inuit Language Protection Act and the evolution of language duties on non-state actors," paper presented to the Seminar on Language Policy and Planning, Celtic and Scottish Studies, University of Edinburgh, 24 March 2008.

<sup>60</sup> "Ottawa won't be bound by Nunavut's Inuit language law: Harper," *CBC News*, 23 September 2008.

engaged in promoting the language internationally during the course of the campaign. Paul Okalik, nervous about his political future throughout the campaign, repeatedly emphasized how the government he had led had progressed the rights of Nunavummiut to “live and work in the language of [their] choice.”<sup>61</sup> Eva Aariak, the former Official Languages Commissioner for Nunavut, not only emphasized her “dedication to the Inuktitut language,” but the fact that “her recommendations to the Legislative Assembly prompted the government to create, and put into law, the *Inuit Language Protection Act*.”<sup>62</sup> While it is not the only explanation for their various degrees of success in the election campaign, it is interesting that the three candidates who had been directly involved with the development of Nunavut’s significant new language legislation were all elected on October 27.

Returning to my focus on the campaign in Iqaluit, it is interesting to note how Okalik and Aariak as key players in the development of language legislation who went on to contest the premiership played to both Inuktitut-speaking and Francophone communities within their constituencies. Interestingly, in the all-candidates forum in Iqaluit, held at the Association des Francophones du Nunavut (AFN) -- where no simultaneous interpretation was provided – Okalik (who had secured the campaign endorsement of Susanne Laliberté, president of the AFN) was the only candidate to present part of his remarks in French. Moreover, when questions about the implementation of the new language legislation were posed by members of the public, Aariak (who held both her campaign coffee houses at the AFN) chose to respond in Inuktitut, only switching half way through her answer to English, drawing attention as she did so to the barrier created by the English-dominated all-candidates forum.<sup>63</sup>

While the question of developing an Inuit-sensitive language policy within a public government is less fraught than the tensions over residency and beneficiary status discussed in the previous section of this paper, they nonetheless highlight the complexities of identity politics in Nunavut’s most recent territorial election.

## Conclusion

The 2008 territorial election in Nunavut not only brought about significant changes in the membership of the Legislative Assembly and the cabinet but also resulted in a change of premier for Nunavut. It was preceded by tense election campaigns not only in Iqaluit but also in other communities in the territory. It was a campaign characterized by the contradictory patterns of low participation and significant political change.

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<sup>61</sup> “Okalik: Experienced. Dedicated. Accomplished.” Campaign leaflet, 2008 Nunavut Election.

<sup>62</sup> “Eva Aariak for Iqaluit East.” Campaign leaflet, 2008 Nunavut Election.

<sup>63</sup> Jim Bell, “In Iqaluit it’s seven against one on Oct. 27,” 4.

Above all, it was a campaign that showed how questions about the relationship between Inuit cultural identity and beneficiary status, on the one hand, and public government, on the other are still being worked out and contested ten years into the territorial development of Nunavut.

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