

Remarks to the Canadian Council on International Law Conference

Canadian Museum of Civilization, Gatineau, Quebec
Friday, October 29, 2010

Nakurmiik. Merci.

Thank you for that very kind introduction, and for the invitation to speak to you today.

I should note at the outset that I am not a lawyer. But I have spent a lot of time in the company of lawyers.

Like Edith Piaf, I have no regrets. I can't speak for the lawyers, of course.

Indeed, I have learned many things from lawyers over the years. And I hope that some of them, in turn, have learned a few things from me.

In that regard, I would like to make some general comments about how the law figures into Inuit history. And I will offer some perceptions, as an Inuit leader, of the role of law in political change and policy debate, both domestic and international.

But first, I would like to tell you who I am and about the journey that has brought me here to speak to you as the President of Inuit Tapiriit Kanatami or ITK – the national voice of the Inuit of Canada.

I am an Inuk, born in the village of Kangiqsualujjuaq on the western shore of Ungava Bay in Arctic Quebec. As a young person, I lived a fairly typical lifestyle, though today it is referred to as a "traditional lifestyle."

We lived on the land, travelled by dog sled and made our own clothes, often from animal skins. And we hunted and gathered our food.

It is important to note that we had a strong respect for the rule of law. We were organized around the family and our lives were governed by a highly

evolved system of customary law, many aspects of which continue to guide our relationships today.

When Southerners first arrived in Inuit Nunangat (those of you still working on your Inuktitut might call it Arctic Canada), they brought with them a new set of unwritten rules and regulations that, over time, reduced us to the margins of power in our own homeland.

While most of Canada was experiencing a post-war economic boom, the Arctic was experiencing something quite different. Inuit were resettled from camps to communities, converted to Christianity and sent to residential schools and TB sanatoriums, some never to return.

Yet only a few decades later, we began to confront the legacy of colonization, pushed in part by landmark legal decisions that provided a new basis for discussing our rights to land and resources.

I was among a group of young Inuit and Cree who began working to negotiate the James Bay and Northern Quebec Agreement – the first comprehensive Aboriginal land claims agreement in Canada.

We were inexperienced in political matters, but we had one important skill – we spoke English. So our community leaders entrusted us with the responsibility to go forward and explain the Inuit world to the Southerners who were intent on developing our lands.

It was during this period that we began to use the tools of law to regain a share of control over our lands and waters – and our lives.

- We cited common law Aboriginal rights to challenge hydro-electric and mining developments proceeding without our permission.
- We relied on common law Aboriginal title to negotiate a chain of contiguous land claims agreements that stretch across the Canadian Arctic from the Alaskan border to northern Labrador.

- And we used public law to negotiate self-governance arrangements – joint management boards, regional government institutions and the new territory of Nunavut – the first change to the map of Canada since 1949.

With land claims agreements, the negotiations phase seems to be all about architecture. Sadly, the implementation phase is often all about policing.

So when promises made by the Crown in those agreements have not been fulfilled, we have brought litigation in the courts to enforce them, making use of their contractual, statutory and Constitutional force.

There is now a landmark lawsuit by Nunavut Inuit before the Nunavut Court of Justice in response to the failure of the Crown to implement promises in the 1993 Nunavut Land Claims Agreement.

For lawyers, this case is worth watching.

But as you would expect, we have not limited our efforts to the executive and judicial branches.

We have appeared regularly before Parliamentary committees and made concrete proposals for both policy reform and legislative amendments.

And we have done everything we can, with limited resources, to communicate closely and candidly with fellow Canadians and with the wider global community.

As a result, over time, we have been able to make significant contributions to Canadian Confederation.

Inuit were early and consistent supporters of the patriation of the Constitution in the early 1980s, including a Charter of Rights and the equal treatment of men and women in provisions relating to aboriginal peoples.

In 1980 and 1995, the Inuit of Quebec came out strongly for Canada in two plebiscites held in Quebec respecting Quebec sovereignty.

As you may recall, the No vote in 1995 was an extremely close one, and the massive Inuit vote in Quebec in favor of preserving the integrity of Canada was a crucial part of that thin margin.

We have stood up for Canada's fundamental rights and interests in the Canadian Arctic on many occasions when they have been questioned from abroad, including matters relating to the Northwest Passage and the ability of Canada to control marine traffic through the Passage.

But now, I often find myself wondering what lies ahead. What is the new frontier for up and coming Inuit politicians, lawyers and other legal and policy minds?

I have a few thoughts on this.

I believe the next generation must apply this experience to negotiating new social policy rights for Inuit.

For those of you who have been to Canada's Arctic, you will know that Canada's 55,000 Inuit are spread out across 53 communities ranging from populations of 150 to more than 7,000.

Unlike almost every other region of Canada, we are youthful. Some 35% of our population is under the age of 15 – twice that of the Canadian population as a whole.

Our population growth has swiftly outpaced the Canadian rate. Between 1996 and 2001, the Canadian Inuit population jumped 26% while the Canadian population grew by just 8%.

This, combined with the rapid modernization of our communities and the multi-generational legacy of residential schools, has placed enormous pressure on community services. Investments in housing and health services simply haven't kept pace.

These factors, among others, have produced some of the most alarming social conditions in our country.

As detailed just this month by the Conference Board of Canada, Arctic communities continue to struggle with sub-standard housing, overcrowding and homelessness. This has a tremendous impact on Inuit health, both physical and mental, and education completion rates.

Inuit suffer from a TB rate more than 185 times the rate of non-Aboriginal, non-immigrant Canadians.

We also have the highest suicide rates in Canada – 11 times the Canadian average.

Our life expectancy is 13 years less than the average Canadian – and the gap is widening.

Some three quarters of our students don't complete high school. This is the education deficit we inherited from decades of failed education policy.

And too many of our children are going hungry. The Canadian Medical Association Journal reported this year that more than 70% of pre-school children in Nunavut live in homes where there is not always enough food.

Canada cannot pursue an ambitious agenda for the Arctic with conviction when Inuit live in conditions such as these. Canada's prosperity and security in the Arctic depends on healthy communities and healthy people.

So the next frontier of social policy rights in the Arctic must be in reclaiming our health and graduating our children. I believe that we can do this, just as we reclaimed our land and resources 50 years ago.

The legal arguments and policy discussions that will establish new benchmarks in social policy for Inuit must be driven by a new wave of leadership and research that explores the innovations that have mobilized positive change.

A formal step in that direction – I hope – is not far off. By that I mean the day when our country adopts the United Nations Declaration of the Rights of Indigenous Peoples.

Inuit contributed to 20 years of work on the development of this Declaration, and we were there in the United Nations General Assembly when it was adopted in 2007.

The Government of Canada's opposition to the Declaration has discouraged us. But we have been heartened by the support of the legal community, perhaps including some of you here today. An open letter to the Government signed by more than 100 Canadian lawyers, says (and I quote),

"The Declaration provides a principled framework that promotes a vision of justice and reconciliation. In our considered opinion, it is consistent with the Canadian Constitution and Charter and is profoundly important for fulfilling their promise." (end quote).

We were encouraged to see the House of Commons endorse the Declaration in its own vote. And in the last Speech from the Throne, the Government of Canada announced that it is now looking at changing its position.

I hope that in the spirit of promoting a new frontier of social rights and improved social conditions for Inuit, Canada provides its unqualified support for this important tool.

In the context of increasing international focus on the Arctic, we have made our own statement about the rights of Inuit, called A Circumpolar Inuit Declaration on Sovereignty in the Arctic. It is remarkable for a number of reasons.

First, it calls on governments of the circumpolar world to be mindful and respectful of their obligations to indigenous peoples under a variety of international agreements.

Second, it says that Inuit have rights both as indigenous people and as citizens of the four Arctic states. For instance, I take pride in being an Inuk, a Quebecker and a Canadian.

Third, it articulates the desire by Inuit to develop innovative and creative geopolitical arrangements that balance our rights and responsibilities with those we share with others living with us, and those of States.

Governments have the responsibility to defend their territorial borders, of course. But, as I will argue in *The Hill Times* on Monday, the rhetoric that so often is used to defend militarization at home and abroad is unnecessary and irresponsible. The Cold War, which left our homeland dotted with debris, is proof of that.

So at a time when issues of sovereignty in the Arctic have been very much in the news, including disagreements about assertions of sovereignty and sovereign rights by Arctic states, the Declaration offers a reminder that the concept of sovereignty must be situated within a wider body of still-changing international law and geopolitical relationships.

What does this mean in practice? Well, this is an area that the next generation of political, policy and legal minds must explore to its fullest. Sovereignty – to Inuit – has always and will always cross jurisdictional borders as much as it defines them.

The idea that Inuit have circumpolar economic interests is currently being debated in the European Court of Justice through a challenge to EU Parliament legislation that would ban the import of seal products into Europe.

This challenge was initiated in January by an alliance of Canadian and Greenlandic Inuit and some East Coast seal hunters and exporters. ITK is a lead plaintiff.

Contrary to media reports, we have not been defeated. We continue to fight and we are appealing a decision that came down this week removing a suspension implemented in August. This particular ruling is related to our request for a temporary injunction to prevent the ban from coming into force. It does not relate to nor affect our main legal case.

We may or may not ultimately prevail in our litigation. But we believe that failing to protest when our fundamental freedoms are being ignored also carries a cost.

Perhaps the first rule of international relations – indeed, of international law – should be that “bullies can’t be allowed to get away with it.”

Inuit have also advanced suggestions for practical ways to deal with the international dimensions of increased resource development and transportation in the Arctic, including a proposal to research, in cooperation with the federal government, the concept of a joint Northwest Passage Marine Authority, drawing some lessons from the experience of the St. Lawrence Seaway Authority.

The next frontier of geopolitics must also tackle the question of legitimate consultation and partnerships.

I was happy to see that one of the opening sessions of this conference examined this issue with the intriguing title of “Arctic Sovereignty and Inuit: Passive Victims to Proactive Participants.”

If it is to advance its Arctic agenda, the Government of Canada must involve us as genuine partners. No Arctic strategy, whether focused on domestic or international opportunities, can succeed without buy-in from Inuit.

Yet, amid all these discussions of sovereignty, militarization and geopolitical change, we must not forget one simple truth. The Arctic is first and foremost our home. It is where we raise our children, it is where we come home to our families at night, it is where we celebrate, it is where we mourn, and it is where we dream.

Finally, I would like offer a few remarks on perhaps the most elusive policy challenge of our time.

Canada’s Arctic is at the epicenter of our global climate crisis.

The rate of warming in the Arctic in recent years is unprecedented, and the best scientific minds are providing evidence to suggest that conditions will continue to warm.

We know that the Arctic ice shelf is melting at an alarming rate. This will contribute significantly to a rise in world sea levels, and sea level rise is arguably the most destructive effect of climate change worldwide.

Inuit have been a steady voice calling for national and international action to curb carbon emissions.

We will also continue to push for far-reaching adaptation responses to the many climate change impacts that are now appearing in our communities.

But we are deeply troubled that Canadian public policy has so far failed to achieve any sort of workable consensus to the challenge of climate change. Indeed, Canada's emissions have grown by more than 20% since 1990.

We need action on required emissions cuts – not just good intentions with loose and receding goals. We need a range of innovative policy responses to reduce our dependence on fossil fuels.

Coming to grips with climate change is only one part of recognizing a compelling new political, ethical and legal reality in the Arctic.

But it will take collective voices and creative mechanisms straddling national borders to move what appears to be a stalled response to a global crisis.

I would like to close with a special word to the legal community, particularly those of you with the good sense to attend this conference. You play a key role!

Inuit are at a threshold. Our homeland is the focus of highly visible, overlapping national policy discussions with international dimensions, the outcomes of which will directly affect our communities.

The organization that brought you here today – CCIL – was founded by innovative thinkers who pushed the boundaries of the possible in international law.

The next generation of Inuit leaders will necessarily draw on such innovative legal minds, as we confront the many interconnected challenges facing our communities.

My challenge to those of you today who are inspired by CCIL's focus on new frontiers of legal research and international law is to continue to look North.

There are barely explored legal and political frontiers of human rights and international order that are calling out for new leaders to push the boundaries of our thinking.

I hope you will answer that call.

Thank you again for allowing me the great opportunity to speak on a subject of such enormous importance to Inuit.

Merci, Thank you.

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