

Inuit Agency in the Arctic

by

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Abstract

Global warming is shortening the winter in the Canadian Arctic so that non-renewable resources are becoming more accessible, and the Northwest Passage will soon become a viable shipping route, attracting the interest of states. These changes and the effects of warming and pollution have consequences for Inuit. Drawing on constructivist theory, this thesis examines how Inuit in Canada have used the growth of environmental law to protect their culture and rights. Inuit have become effective actors through the process of environmental institutionalism and the authority gained by political engagement. Examples of governance and advocacy bodies show how Inuit have increased their political efficacy and self-determination. By example of the Northwest Passage, this thesis shows that a symbiotic sovereignty relationship exists between Inuit in Canada and the Canadian government, although the colonial relationship prevails. This symbiotic relationship exists because Inuit have gained agency by leveraging the process of environmental institutionalism.

Chapter 1: Introduction

The Inuit homeland in Canada, called Inuit Nunangat, represents one third of Canada's landmass and fifty percent of its coastline, as well as an extensive offshore area and includes the entire Northwest Passage. There are 65,000 Inuit in Canada and roughly 47,000 live in Inuit Nunangat (Inuit Tapiriit Kanatami 2019, 1), the majority of whom live in Nunavut, the territory that contains the Northwest Passage. The Arctic is warming at an unprecedented rate, which poses a grave threat to Inuit livelihoods and culture. As stated at the Arctic Council's 12th Ministerial Meeting in May 2021, "for the past 50 years the Arctic has warmed at a rate three times greater than the global average with harmful effects on the environment" (Arctic Council 2021, 3). As it warms, the Arctic is changing in international perception from a frozen hinterland to a new area of exploitation and competition, drawing international attention and reviving the decades-old question of 'who owns the Arctic'.

Historically, the appropriation of Indigenous lands and resources, and the colonization of Indigenous peoples were most thorough in regions that were most ideal for agriculture and resource extraction. The colonial view of the Arctic as a hostile wasteland not suited to colonial purposes sheltered Inuit from full colonial contact until the mid-20th century. Simon observes that there are Inuit elders today who had never encountered a non-Inuit before adolescence (Simon 2012, 2). However, once the Arctic became a subject of colonial interest, the onslaught of colonialism on Inuit was extremely rapid (Simon 2012, 2).

Even with the full contact of colonialism, Inuit remain the majority population of the Arctic by a wide margin. They comprise up to 85 percent of the population, depending on the region, across Inuit Nunangat (Simon 2012, 3). Simon notes that this and the fact that Inuit pre-contact governance structures still exist in living memory have "profound consequences for Inuit, for our

relationship to Canada and for our circumstances, priorities and aspirations within Canada” (Simon 2012, 2), and they allow Inuit a range of political possibilities that are not as available to other Indigenous peoples (Simon 2012, 3). Further, the Inuit population dominance is critically important to the future of the Canadian Arctic (Simon 2012, 2).

The Northwest Passage (NWP), which cuts through Nunavut, is a long-sought shortcut for transcontinental shipping that is now becoming a practical reality as the ice melts. Accordingly, sovereignty of the region and the waters of the NWP have been a focus of international debate as states and corporations pursue their own strategic and economic agendas. Inuit, who have lived in the region for millennia, are key actors in this debate, and are directly affected by its outcome. Even after full contact with southern (colonial) Canada, Inuit retained a measure of self-determination due to their geographic remoteness. However, their ability to be fully self-determining is undermined by Canada’s colonial state system, limiting their range of possible actions to address this burgeoning crisis. The changes in the Arctic wrought by global warming pose multiple threats to Inuit. However, Inuit have not been passive actors; they have developed means to engage with states (including Canada) to advocate for and protect their interests which is influencing the norms of international political discourse by the growing inclusion of Indigenous diplomacies in a field that has historically been the exclusive domain of states. I argue that Inuit have gained greater agency through their participation in international fora, within which they influence the behaviour of states by establishing and shaping norms that constrain state actions.

The development of the warming Arctic is approached by Canada from a conventional statist/colonialist view which focuses on maintaining sovereignty and marginalizes Inuit. The ability of Inuit to act as a fully self-determined people is circumscribed by the enduring colonial relationship with Canada. The discussion of sovereignty in realist, state-centric terms as it applies

to the Northwest Passage at first seems inappropriate when the focus of this thesis is Inuit agency. This thesis shows that this conception of sovereignty is inapplicable to Inuit. However, the Northwest Passage is regarded by states from a strictly Westphalian perspective. The unresolved debate over sovereignty of the Northwest Passage reveals a critical aspect of the colonial relationship between Inuit and Canada. With the Northwest Passage, which is the most openly challenged element of Canada's Arctic sovereignty claim, a symbiotic relationship is evident between Inuit and Canada. Canada relies on Inuit to justify its claim, through the legal transfer of sovereignty of Nunavut to Canada under the terms of the Nunavut Land Claims Agreement (NLCA) and the continued support of Inuit to maintain this legal basis; while Nunavut is forced to depend on the state for financial support as it struggles to improve the standard of living within the territory. This relationship is asymmetrical, in that Canada receives the benefit of a legal basis through Inuit support for the Canadian sovereignty claim but has demonstrated reluctance to follow through on all aspects of the NLCA that it agreed to. Canada chose to delay the process of Devolution, in which powers are devolved from the federal government to the Government of Nunavut, on the basis of a lack of capacity that the federal government could help resolve.

Arctic waters were, until the 1960s, almost completely impassable for commercial shipping. Since then, global warming has reduced the sea ice in the Canadian Arctic, so that the Northwest Passage will become practically navigable in the foreseeable future and is forecast to be ice-free in the summer by 2050 along with the rest of the Arctic (L. W. Brigham 2011, 20; Inuit Tapiriit Kanatami 2019, 1). The time when usage of the Northwest Passage for international shipping becomes not only possible, but practical, is on the horizon. With the warming Arctic, the discourse with respect to the Northwest Passage on sovereignty, commerce, natural resources, and shipping is shifting to centre stage, and has attracted the attention of non-Arctic states.

In the Arctic and Northern Policy Framework: Inuit Nunangat, Inuit Tapiriit Kanatami

(ITK), a national Inuit advocacy organization, states that

There is now clear evidence that climate change impacts are experienced more profoundly in Inuit Nunangat {the region stretching from the Alaska-Yukon border east to northern Labrador} than in the rest of Canada. Indeed, warming temperatures have had rapid and stark impacts on the Arctic environment, communities, and Inuit for decades. The impacts of climate change exacerbate social and economic inequities by placing additional strain on existing infrastructure, introducing complications to deployment of new infrastructure, changing the population dynamics and behaviours of wildlife on which Inuit livelihoods, health, and food security depend, and causing increased risk of travel on sea ice to name a few (Inuit Tapiriit Kanatami 2019, 5).

The changes associated with the rapid warming of the Arctic are increasing the availability of navigable waterways in the Arctic Ocean, and consequently international shipping via the high Arctic is becoming a viable alternative to the conventional routes via the Panama Canal and the Suez Canal. Technologies for resource exploitation have also greatly evolved in the 21st century and there is also greater global demand for Arctic resources. The confluence of these factors has led to a growth in marine traffic in Arctic waters that will accelerate into the foreseeable future. There are challenges facing the existing legal and regulatory structures governing marine safety and environmental stewardship, including the general lack of marine infrastructure in most of the Canadian Arctic (L. W. Brigham 2011, 20).

Inuit have expressed their concerns with increasing marine traffic through the Northwest Passage. In 2018, Inuit Tapiriit Kanatami produced a short video expressing these concerns (Inuit Tapiriit Kanatami 2018). One interviewee in the ITK video stated that “the Northwest Passage is a viable shipping route; but it is not a preferable one”, insisting that it is best left to be preserved. This is because Inuit rely on the ice bridges covering the route as part of their traditional hunting ground. These ancestral lands, seas, and ice provide a basic human need for Inuit - the procurement

of foodstuffs for sustenance. A shipping route would endanger the natural habitats of the hunting and fishing stocks on which they rely.

In addition to this impact on Arctic fauna, shipping poses a great risk to the already melting sea ice of the Northwest Passage. For example, in 2017, an Inuit hunting party was stranded on an ice floe tracking a herd of caribou when a ship crossed their path late in the season with no prior communication, severing the ice bridge that was their only way back home (Inuit Tapiriit Kanatami 2018). They had to wait for the ice to freeze before they could cross back. Year-round shipping is of greatest concern as it could easily have deleterious effects to the Inuit way of life. This incident also points to the necessity of having regulated traffic through the Northwest Passage, for the safety of the ships and the residents. However, ITK also expresses a practical economic interest in the development of a shipping route in the Northwest Passage with the hope that it would provide much needed resources more efficiently than the current transportation systems used to ship food, fuel, and consumer goods to their communities.

The possibility of economic growth in the Arctic associated with increased shipping is enticing for some Inuit; however, it is also deeply concerning for many. These concerns bind Inuit and Canada in a sovereignty partnership because a supported internal waters claim is critical to maintaining regulations and control over these contested waters. Controls are needed to protect the ecology of the region. Inuit are also acting internationally to affect international laws that would reduce the risk of pollution.

In this thesis I ask, in what ways have Inuit gained agency outside of their relationship with the Canadian government, to protect their interests as a self-determined people? Through a single N case study on Inuit in Canada, I argue that Inuit have gained agency by participation in international fora such as the Arctic Council and the United Nations, within which they have

influenced the behaviour of states by shaping and establishing norms that constrain state actions. Inuit have done this through: the process of environmental institutionalism; establishment of domestic and international organizations and a robust framework of self-government and informal engagement; and the manipulation of their relationship with Canada concerning Arctic sovereignty. This agency gives them power in their relations with Canada, where they remain “un-decolonized”.

There are three key concepts explored in this thesis: self-determination; agency; and influence. Self-determination is the freedom of a population to determine their own political status without external influence (Cats-Baril 2018, 1). It is related to, but distinct from, the concept of sovereignty. Westphalian sovereignty is a foundational concept in international discourse, but Indigenous conceptions of sovereignty have different ontological roots that make them incompatible with the prevailing state-centric system, and instead are better understood as the pursuit of self-determination (Inuit Circumpolar Council 2009). Inherent sovereignty is shown to be rooted in the relationship between humans and the land, and exists in the everyday actions of Indigenous peoples, which is described by Simpson as ‘grounded normativity’ (Simpson 2017). Inherent sovereignty is shown by Kuokkanen (2019) and Bruyneel (2007) as being the inalienable foundation of Indigenous self-determination that exists regardless of whether the state recognizes it or not. Indigenous self-determination is a right guaranteed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Alongside other Indigenous actors, Inuit in Canada have actively fought for the recognition of this right. Whether it is recognized or not by the state, Indigenous sovereignty is historical and enduring and provides the foundation for Indigenous self-determination. More to this point, Inuit have a degree of self-determination and as shown by this

thesis are acting to increase their capacity to be self-determining by gaining greater agency in their affairs.

In response to environmental concerns in the Arctic, Inuit in Canada formed a national organization (Inuit Tapiriit Kanatami – ITK), and later an international organization (Inuit Circumpolar Council – ICC) that represent Inuit nationally and internationally. Inuit self-government in Nunavut is also explored in this thesis. These are all expressions of Inuit self-determination, that have enabled Inuit to gain greater agency, which in this context means the application of power, or ability to exert power, according to an actor’s interest. However, discussions of Westphalian sovereignty have dominated international discourse on the Arctic, particularly with respect to the Northwest Passage. The international acceptance or rejection of Canada’s claim that they are internal waters has consequences both for Canada and Inuit that are well understood. Inuit greatly strengthened the legal basis of Canada’s claim by ceding their rights, claims, and interests in the territory and its adjacent waters to Canada via the Nunavut Land Claims Agreement (NLCA) (Government of Canada 1993), which has put Inuit in a stronger negotiating position with Canada. Yet through both ITK and the ICC, Inuit have plainly stated that they seek self-determination, and they are partners with Canada in Arctic sovereignty (Inuit Tapiriit Kanatami 2019, 1-2; Inuit Circumpolar Council 2009).

Influence can be a formal or informal expression of agency, where a party uses their authority to gain power and cause a change in other actors (Wilson-Rowe 2018, 104). Formally, in the Arctic Council, the ICC has moral and expert authority which enables them to affect the behaviours of other delegates, for example by ‘naming and shaming’ them publicly when appropriate (Wilson-Rowe 2018, 119). Informal influence can be seen in the engagement of the global public by Inuit actors through social and other media. Influence can also be passive – by

being present as the subject in other media, such as national news reports on residential schools, or engaging the global public in other less formal ways such as protests and social media campaigns, Inuit can also gain a measure of public awareness and support.

I identify environmental institutionalism as a process that Inuit has enabled Inuit to gain agency through their contributions to it and use of it. Environmental institutionalism is the gradual process of encoding the growing body of environmental knowledge into laws, treaties, and agreements by a group of actors whose main purpose is to establish the rules for environmental management and conservation. Starting with the establishment of the Arctic Environmental Protection Strategy, Inuit via the Inuit Circumpolar Council have been internationally engaged with environmental policymaking and have gained agency as a result.

A constructivist lens is applied to analyze the process of environmental institutionalism and the ways in which Inuit informally and formally shape the norms and behaviours of state actors in Arctic governance. Constructivism is used as it places emphasis on the development and evolution of norms in its explanation of social change. To show how Inuit have been able to gain greater agency in their affairs by influencing the international process of environmental institutionalism, I draw on Keck and Sikkink's work on social movement theory and transnational advocacy networks. As transboundary actors engaged in both international and domestic politics, Inuit exist outside of the spatio-temporal mapping of colonial ontologies. Postcolonialism is used to inform how Inuit as marginalized non-state actors challenge conventional narratives that are central to international relations and the political mapping of the states system.

Within constructivist theory, actors' behaviours are understood in the context of international norms. Lightfoot introduces the concept of the "transformational norm vector" which can be understood as a set of actions within the framework of global Indigenous politics that

facilitate the transition from one ‘plane’ of norms to another, where “new ways of doing global politics and new imaginings of political order... can come to exist” (Lightfoot 2016, 4). According to Lightfoot, global Indigenous politics operates in a dual capacity. In one capacity the Indigenous rights movement has provided “specificity within existing individual rights regimes for Indigenous peoples’ issues” (Lightfoot 2016, 16). In the other, global Indigenous politics “serves as a transformational norm vector, helping to move global politics from one plane to another” (Lightfoot 2016, 17). The shift from ‘norm plane A’ (the current international order) to ‘norm plane B’ (a new imagining of the global order) represents a revolutionary shift in the way global politics is conducted and shaped (Lightfoot 2016, 17). Evidence of this transformational norm vector is seen with the signing of UNDRIP and the ICC involvement in the Arctic Council as Permanent Participants. This framework is used to show how Inuit, as a part of global Indigenous politics, have contributed to shifting international politics from one norm plane to another by asserting agency in Arctic affairs.

Lightfoot’s analysis draws on constructivist arguments of social movements and transnational advocacy networks (TANs). Constructivist scholars Keck and Sikkink have shown through their work on social movements how transnational advocacy networks show marginalized actors are increasingly visible in international and regional politics (1999). According to them, “a transnational advocacy network includes those actors working internationally on an issue who are bound together by shared values, a common discourse, and dense exchanges of information and services” (Keck and Sikkink 1999, 89). TANs are comprised of members of civil society, non-governmental organizations (NGOs) and international organizations (IOs), and act as a critical party in state affairs to influence the behaviour of a state by mobilizing information strategically to “help create new issues and categories, and to persuade, pressurize, and gain leverage over much

more powerful organizations and governments” (Keck and Sikkink 1999, 89). As mentioned, Lightfoot and other Indigenous scholars have applied this argument to show how Indigenous actors mobilize transnationally to carve out a space in which they are able to influence policy decisions. Inuit have developed a transnational organization in the ICC that has increased the profile of Inuit internationally as Permanent Participants of the AC, having consultative status in the UN, and is recognized as a legitimate political actor, that has so far been largely successful in advocating for Inuit. Inuit actors such as the ICC and ITK are effective organizations within TANs shaping the norms and rules of international governance through the Arctic Council.

Inuit transnational advocacy takes shape through both formal and informal networks. In addition to engagement through formal networks and systems, Inuit also effectively engage through informal networks such as social and other international media, where along with other Arctic Indigenous peoples, they have developed a disproportionately large media and political presence and gained the attention of states (Coates and Broderstad 2019, 18-19). Overall, by engagement with a series of formal and informal international networks and systems, Inuit have developed and maintained a high profile through which they have gained agency in international affairs concerning their homelands, waters, culture, and environment.

An analysis of documentary sources informs much of this thesis. Sources include: related academic books and journals; policy documents and proceedings from ITK, the ICC, the AC, and the UN; government records and websites, legal documents including UNCLOS, UNDRIP, and the NLCA; credible news and media sources; and environmental and shipping data from sources such as the Arctic Council, the United Nations, and the International Maritime Organization. The findings of this thesis are further supported by longitudinal historical process research including ITK, ICC, and governance of Nunavut. By tracing the collective accomplishments of Inuit

advocacy and governance organization over a span of three decades, this research shows how Inuit responded to internal and external challenges by forming a cohesive force in Arctic governance to assert agency. Theoretically this is where I draw on the work of Keck and Sikkink and extend the arguments of Lightfoot and Simpson to show how Inuit are affecting change through informal and formal engagement in transnational advocacy networks. It also shows how in so doing, Inuit have increased their capacity as self-determined actors in international fora both through their roles in IO's as non-state actors and through the process of environmental institutionalism. In this way, Inuit have directly challenged statist conceptions of power through the realization of environmentalism. Finally, I show that Canadian Arctic sovereignty can be impacted by Inuit, whose concerns and efforts to be self-determined are dismissed by the federal government. Inuit are marginalized in the current debate of Canadian Arctic sovereignty but have the capacity to impair Canada's claim due to the influence and agency they have gained internationally.

This thesis is divided into six chapters following the introduction. Chapter two, the literature review, contrasts Westphalian and anti-colonial understandings of sovereignty and self-determination, to reveal the foundational differences between the concepts and identify the Inuit interpretation. The theories here are applied in the subsequent chapters to show the disconnects and conflicts between colonial and post-colonial governance, and the transformative nature of Inuit engagement in international politics. Chapter three examines the process of environmental institutionalism (EI) in Arctic governance and shows how Inuit both use and influence this process to shape the norms and rules of Arctic governance in their interest. Chapter four discusses Inuit agency through diplomacy in Arctic governance, showing how Inuit organized to engage with international organizations (IOs). The ICC is a transnational advocacy network (TAN), and I will show how Inuit, through their work in the ICC and their engagement at the Arctic Council and

various United Nations bodies, have shaped norms and behaviours of state actors engaged in Arctic politics.

Chapter five examines Inuit governance, NGO's and social activism. Canada's delays on promises and commitments associated with UNDRIP and the Nunavut Land Claims Agreement are reviewed, along with transnational advocacy and protest movements, to reveal the efforts made by Inuit in Canada to advance and protect their interests and self-determination. This chapter shows how in the face of their challenges in Canada, Inuit are mobilizing informally to challenge the colonial relationship. Chapter six is the example of the Northwest Passage, where the growing importance of this region is explored, and other interested actors are engaging in the sovereignty debate and appealing to Inuit communities. Here I show the symbiotic sovereignty relationship between Inuit and Canada and the agency Inuit because of this, even though the overarching colonial relationship dominates in all other aspects of the relationship between Inuit and Canada and colours Canada's perception of the sovereignty relationship.

Chapter seven is the conclusion. I find that Inuit gained greater agency in their affairs by forming national and international organizations that leverage the process of environmental institutionalism to engage states, but the colonial relationship remains an impediment to their self-determination. The agency and influence they have internationally is ignored by Canada in the state's treatment of Inuit, even though through the NLCA Inuit can fatally undermine Canada's Arctic sovereignty claim, because the colonial relationship leads the state to be dismissive of this risk. Treatment of Inuit as equals in the Arctic sovereignty relationship, by facilitating greater self-determination through rapid devolution and assisting with closing the capacity gap in the government of Nunavut, would strengthen Canada's Arctic sovereignty.

Chapter 2: Literature Review

Much of the international discourse concerning the Canadian Arctic, particularly the Northwest Passage, has centered around the concept of Westphalian sovereignty, particularly questions of ‘who owns what’ concerning coastal areas and the seabed, and who (if anybody) ‘owns’ the waters of the Northwest Passage itself. As explained by Huebert, sovereignty discussions in the Arctic have typically focused on “states’ actions and efforts to maintain security through military efforts” (Huebert 2021, 82). Similarly, Greaves notes that “historically, sovereignty in the Arctic referred to the consolidation of political control over distant northern regions by the southern capitals of circumpolar states and tended to focus on perceived foreign threats to territory, maritime boundary disputes, and control over national resources,” identifying that Indigenous people are often not contemplated in the dominant literature on Arctic sovereignty (Greaves and Lackenbauer 2021, 5). Both Greaves’ and Hubert’s statements highlights the state-centric and imperial focus of state sovereignty objectives in the Arctic.

International discourse concerning Canadian Arctic sovereignty has been strictly in Westphalian terms as per the United Nations charter and its institutional components including UNCLOS, in which only states with territorial boundaries are recognized, sidelining Indigenous peoples. This is because Indigenous philosophies are founded on an oppositional ontological basis from that of Westphalian sovereignty, and so it is necessary to interrogate the normative roots of sovereignty in order to understand the fundamental differences between Western and Indigenous philosophies. Once these differences are made clear, it is then possible to consider what Inuit in Canada ultimately seek, which is self-determination. Accordingly, this chapter challenges the ontological underpinnings of Westphalian sovereignty to elucidate Indigenous and Inuit perspectives. This chapter further shows that negotiations of sovereignty between the state and

Indigenous peoples leads to further entrenchment of the colonial relationship. Inuit do not claim sovereignty, but the right to self-determination as “citizens of the Arctic state” (Inuit Circumpolar Council 2009), who, in the case of Nunavut, chose to cede Westphalian sovereignty to Canada via the NLCA, bolstering Canada’s sovereignty claim and gaining for themselves a stronger position to negotiate with Canada through their agency internationally. Finally, this chapter presents Indigenous self-determination in its varied forms as a counterforce to colonial impositions of power. This is explained through Lightfoot’s transformational norm vector and Simpson’s radical resurgence project, both of which Inuit deeply engage with through the collective work of the ICC, the ITK, and their everyday actions.

Westphalian sovereignty: Who has it and what it means

Sovereignty is understood in international law as something that is only applicable to states which have derived sovereignty from the ‘sovereign’, where that could be a monarch, or an expression of the will of the people such as an elected government. For example, Canada initially gained jurisdictional, legislative, and executive powers through the Crown. In this sense, sovereignty could only be given by sovereign powers, which historically were monarchs. The ‘discovery’ and conquest of the ‘New World’ provide the legal basis in international law for the ensuing sovereignty claims. The idea that the ‘conqueror’ or ‘discoverer’ could have a valid claim of sovereignty over the foreign land dates back to the 15th century. In that period, Papal Bulls allowed Christian explorers to claim to foreign lands they ‘discovered’, regardless of whether they were inhabited by Indigenous peoples, in the name of Christian monarchs, allowing them to establish settlements and expand their empires. This was called the *Doctrine of Discovery*.¹ The transfer of

¹ This doctrine has been applied as recently as 2005 (Lightfoot 2016, 7).

land to monarchs who had dominion (or dominance) over Indigenous peoples and their lands through their ability to defend from perceived foreign threats consolidated sovereignty through force. In this way, the concept of sovereignty emerged through the “meta-narrative of empire, colonialism, imperialism, and racism” (Henderson 2008, 13). The colonial foundation remains apparent in modern statist interpretations of sovereignty that are enshrined in international law and politics.

Westphalian sovereignty includes the exclusive right of a state to domestic jurisdiction within the framework of an international states system, which is an anarchic collection of independent powers. Recognizing the international states system, the principle of sovereignty is enshrined in the 1945 United Nations Charter, which states that “nothing...shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state” (United Nations 1945, 3). By delimiting jurisdictional boundaries between states on the basis of territoriality, sovereignty imposes an order or way of doing international politics through the states system. This order informs conceptions of security as sovereignty is justified in reference to what is externalized. The normative, Westphalian understanding of sovereignty is fundamental to the states system. However, when it is applied to the context of Nunavut and the Northwest Passage, it erases the human realities of the region supplanting them with hypothetical externalized threats.

Westphalian concepts establish within the context of international law: a) the legal right of a state to maintain jurisdictional authority over its territory and domestic affairs to the exclusion of all external powers, on the principle of non-interference in another country’s domestic affairs; and b) each state is equal in international law. Sovereignty, in this sense, is bound to territoriality in that it is a defining characteristic of the state as mentioned above. Westphalian state sovereignty is premised in Weberian notions of territorial fixity (i.e., defined borders), the ability to defend

one's borders through an organized force, and the legitimate application of force within those borders. Further, it requires external recognition or legitimacy, which is produced through a demonstrable ability to use force to defend a given territory and its inhabitants. By this definition, the state and its ability to defend against threats are the locus of power. Therefore, concepts of sovereignty and security are inextricably linked as sovereignty is defined in relation to what is perceived as external.

Externalizing in the context above leads to colonial blindness obscuring Indigenous realities that cannot be categorized as either internal or external. As mentioned, Canada's approach to Arctic sovereignty has been limited to focus on external threats. This is because of the deep ontological embeddedness of territorial fixity in Western political thought. As a result, Canada does not prioritize the wellbeing of Inuit as a threat, as it is seen as an internal issue when in fact it has broader implications for Canada's sovereignty. This reveals the colonial nature of the relationship between Inuit and Canada.

Walker deconstructs traditional understandings of sovereignty that are circumscribed by realist assertions and the counter-assertions of political idealism or utopianism. Walker explains that these paradigms share a similar spatial imagery "rooted in seventeenth- and eighteenth-century ontological traditions" (Walker 1993, 126). The spatial character of the state is most apparent in geopolitical contexts, where political actors articulate their strategic agendas for political gains. More subtle forms of spatiality are deeply entrenched in theory and provide an ontological foundation that has shaped Western political thought (Walker 1993, 128).

Like Walker, Bartleson explains that the concept of sovereignty is deeply entrenched in international political discourse and remains central to theoretical endeavors in international relations as it forms the basis for the development of other concepts, like security. Concepts like

security flow from the territorial assumption of boundaries that are justified by the concept of sovereignty, which it is ultimately defined in reference to what is externalized. Sovereignty, as Bartleson explains, is an ordering principle that implies a certain “givenness” in international political theory whereby “sovereignty signifies what is inside the state, either constituted by the fall from a primordial unity, or simply taken for granted at the level of definition” (Bartleson 2011, 24). In either case, “sovereignty is constituted as a primitive presence from which all theorizing necessarily must depart, if it is to remain international political theorizing” (Bartleson 2011, 24). Therefore, the possibilities of what counts as ‘inside’ or valid within the scope of international political theory is narrow and bound by Weber’s criterion: geographical space and a distinctive community of peoples that exercise jurisdictional authority within territorial boundaries establishing a distinct polity that is part of a greater system of states (Weber 1946). Thus, the divide between domestic and international politics is embedded in conceptions of sovereignty as a ‘built-in’ feature of the international political system and thereby delineates internal politics from foreign politics. In this way, “internal sovereignty is legitimized with reference to what is externalized”, epitomizing Walker’s inside/outside dichotomy (Walker 1993, 134). By this definition, it is apparent that Inuit in Canada, who have been subjected to the dispossession of settler-colonialism, are neither inside nor outside the state. Inuit in Canada are implicated in the political ordering of sovereignty and have engaged on all fronts (internationally and domestically) to counter the deeply colonial rendering of the ‘states-system’, this is explained below in the context of resurgence.

As previously stated, the givenness of sovereignty infers the fundamentality of the concept to the configuration of the international system. Therefore, “its locus must be treated as a constant rather than as a variable in international political theory; most theories in international politics presuppose a solution to the inherently normative problem of the proper locus of sovereign

authority inside the state; a solution which then is turned into a necessary condition of outward agency” (Bartleson 2011, 26). Treated as a constant, sovereignty is static in nature, implying a rigidity and inability to adapt to historical transformation. The static nature of sovereignty informs state perceptions of sovereignty and prevents the consideration of other cosmologies.

Bartleson urges consideration of “the question of sovereignty as a question of the unthought foundations of our political knowledge and how they relate to the concept of sovereignty, when stripped of all the predetermined content and opened to definitional change over time” (Bartleson 2011, 4). In this way, Bartleson challenges theorists to imagine the various possibilities in the way the relationship between people, power, and space over time are conceptualized and more importantly, to consider what is lost when Westphalian sovereignty is reified through positivist epistemologies. Moving beyond these conceptions and turning to post-colonial epistemes is necessary to meaningfully examine the distinct idea of sovereignty as it relates to Indigenous peoples, particularly Inuit.

As mentioned above, Indigenous peoples, including Inuit, disappear in international discourse concerning sovereignty. Sovereignty is the defining characteristic of states, which interact in an anarchic international political system. However, Indigenous peoples do not depend on territorial borders and other defining characteristics of the Westphalian state to define themselves or express authority. More to this point, they have been historically marginalized as they are viewed as existing within the state because of settler-colonialism, and so, they are neither solely inside or outside the state and are thus not regarded as sovereign entities. Indigenous actors are instead labelled as non-state actors in a system where states with territorial boundaries matter, as territoriality informs the configuration of the international states system. This status as non-state actors circumscribes the agency of Indigenous peoples in the international system as it categorizes

Indigenous peoples (including Inuit) in the same group as corporations and special interest groups where they have limited ability to directly engage in international politics (Koivurova and Heinämäki 2006, 102). However, the Arctic is a special case, where the evolution of an environmental legal regime through the process of environmental institutionalism and the characterization of the region as a ‘zone of peace’ created an opportunity for Inuit and other Arctic Indigenous peoples to engage in Arctic governance within the Arctic Council with near-state powers. In this role, through the ICC Inuit have a level of self-determination and agency in their affairs that directly challenges colonial ordering principles, like Westphalian sovereignty, that are fundamental to the practice of international politics.

Anti-colonial critiques of sovereignty

As an ordering principle, Westphalian sovereignty forms the basis of international relations which Lightfoot (paraphrasing Beier) asserts is a “fundamentally colonial discipline, internalizing many discourses of colonialism in North America, most notably the absence and erasure of Indigenous peoples” (Lightfoot 2016, 5; Beier 2009). This erasure is evident in sovereignty discussions, particularly in the case of Inuit and the opening of the Northwest Passage.² This is because of the rigid dichotomies Walker identifies that are created through the justification of Westphalian sovereignty, creating the grounds for what American scholar Bruyneel describes as the imperial binary: “assimilation-secession, inside-outside, modernity-traditionalism,” (Bruyneel 2007, 704). Kuokkanen identifies another dichotomy of sovereignty: the binaristic gendering of the political/social world, which she applies in her interrogation of Westphalian sovereignty and territoriality.

² In this region, Canada has historically claimed sovereignty as mentioned above. When Inuit were mentioned at all, they were spoken of as a feature, but never directly engaged in the discourse.

These dichotomies exclude Indigenous actors from sovereignty narratives as they frame a series of binaristic choices that conform to the imposed boundaries of the state system. However, as Bruyneel argues, Indigenous actors neither exist within or outside of the state, instead they occupy a “third space of sovereignty” (Bruyneel 2007, 194) that they achieve through forms of resistance to colonial rule which exist on the boundaries of the inside/outside dichotomy. Bruyneel explains that “this is a supplemental space, unassimilable to the institutions and discourse of the modern liberal democratic settler-state and nation” (Bruyneel 2007, 194). In other words, sovereignty of Indigenous peoples cannot be subsumed by the state. To explain this point, Bruyneel asserts that inherent sovereignty is a “historically persistent and constitutive feature of the cultural and political identity of Indigenous tribes and nations” (Bruyneel 2007, 1143). This means that sovereignty is not territorial, but a historical process that exceeds the spatio-temporal limits of the state. Through this perspective, Indigenous peoples, including Inuit, have historical or inherent sovereignty that exists regardless of colonial assertions of power. Moreover, Inuit exist in the third space of sovereignty that Bruyneel describes (Bruyneel 2007, 194) as they engage through informal and formal expressions of agency that are forms of resurgence countering settler-colonialism.

Among Indigenous and non-Indigenous scholars there is much debate regarding sovereignty and whether it is a meaningful goal for Indigenous peoples considering its colonial roots. Alfred critically engages with the nature of this struggle, suggesting that “the practice of sovereignty in the structures of government and the building of institutional relationships between Indigenous governments and state agencies offered another forum for the subordination of principle” (Alfred 2002, 462). The formal assimilation of Indigenous peoples into the overarching framework of domestic governance through processes of institutionalization has led some

Indigenous scholars such as Alfred (2002), Cornassel (2008) and Coulthard (2003) to question the viability of working within the system and considering themselves as ‘nations within’. This is described by Kuokkanen as self-government, which “commonly refers to delegated powers to Indigenous peoples by the state (i.e., administrative, representational, or consultative authority and tasks),” (Kuokkanen 2019, 61). In defining self-government, Kuokkanen posits that working within the states system is not a path towards greater Indigenous agency because it remains within the colonial framework.

To show how Indigenous ontologies are erased by narratives of territoriality and sovereignty, Tully emphasizes intellectual forms of dominance whereby injustice towards context to Indigenous peoples is “deeply rooted in the basic injustice of normalized power relations within the state itself”, suggesting a form of intellectual colonization Indigenous peoples are subjected to what he calls “the three post-imperial values: consent, mutual recognition, and cultural continuity” (Tully 1995, Alfred 2002, 464). This form of intellectual domination is a product of the embeddedness of the widely accepted goal of ‘sovereignty’; the unconscious action by scholars and Indigenous leaders is to view ‘sovereignty’ as part of self-determination for Indigenous peoples. Alfred notes this, saying that “new institutions are constructed in communities to assert Indigenous rights within a ‘Tribal sovereignty’ framework” (Alfred 2002, 465). It must be noted that Indigenous peoples made substantial progress in their pursuit of ‘sovereignty’ via the Red Power movement during the late 1960s, establishing a legacy of Indigenous activism that remains prevalent in both Canada and the United States. However, as shown by Alfred, ‘Aboriginal rights’ and ‘Tribal sovereignty’ are gained in exchange for entering the state’s legal and political system, meaning that they are circumscribed, ersatz versions of the real thing (Alfred 2002, 465).

Sovereignty, in this sense, is more of a bargaining ploy to procure cooperation than a mode of emancipation.

Glen Sean Coulthard similarly challenges “the increasingly commonplace idea that the colonial relationship between Indigenous peoples and the Canadian state can be adequately transformed via *politics of recognition*” (Coulthard 2003, 4). Politics of recognition “refers to the expansive range of recognition-based models of liberal pluralism that seek to ‘reconcile’ Indigenous assertions of nationhood with Crown sovereignty via the accommodation of Indigenous identity claims in some form of renewed legal and political relationship with the Canadian state” (Coulthard 2003, 4). Coulthard takes issue with the conciliatory language employed by the settler state as it reifies the colonial relationship between Indigenous peoples and the Canadian state showing the consequences of working with the liberal state.

By asserting that sovereignty as a social construction that is more likened to a process rather than a completed project, Bruyneel reimagines the concept of sovereignty attributing it to a historical process and the global Indigenous rights movement. Kuokkanen deepens this argument by problematizing the political categories of nation, sovereignty, and state in an effort to deconstruct the normativity of the state and address the enduring heteronormative and heteropatriarchal structures within Indigenous nationalisms that overlook women’s roles and contributions (Kuokkanen 2019). Alfred similarly takes issue with sovereignty and demonstrates how it is a colonial concept that reifies colonial assertions of power as it is rooted in European ideas of dominion that are oppositional to Indigenous ontologies (Alfred 2002). This point is further supported by Tully (1995), and Coulthard (2003). This critique of sovereignty is necessary because it interrogates Western cosmologies and ontological traditions that have constructed the present political ordering and shows how Indigenous philosophies are oppositional to that

normative understanding allowing for transformational shifts in both the structure and practice of international politics (Lightfoot 2016, 4). Moving beyond the problematic roots of sovereignty and its ontological primacy, Kuokkanen presents Indigenous self-determination as a path towards the restructuring of Indigenous-state relations. From this viewpoint, the efforts of the ICC, ITK and the Government of Nunavut, can be viewed as acts of an increasingly self-determined people.

Self-determination, rather than Westphalian sovereignty, is what Inuit in Canada represented by the ICC seek, as shown in *A Circumpolar Inuit Declaration on Sovereignty in the Arctic* (Inuit Circumpolar Council 2009). The concept of Indigenous self-determination rethinks Indigenous-state relationships by challenging the normative structures of the present political order. Inuit challenge state structures by asserting agency through international politics. As mentioned, Kuokkanen distinguishes between the concepts of self-determination and self-government to show the transformative power of self-determination in restructuring Indigenous-state relations. She describes self-determination as an inherent right to self-govern on all matters of cultural significance, saying that “in Canada self-determination relies heavily on pre-existing sovereignty of Indigenous nations, treaty making, and the consequent nation-to-nation relationship with the Crown” (Kuokkanen 2019, 92). In recognizing the pre-existing sovereignty of Indigenous nations, Kuokkanen supports Bruyneel’s argument of sovereignty as a historical process that exists regardless of colonial erasure. As the historical residents on the Arctic, Northern Indigenous peoples, including Inuit, obtain this form of historical or pre-existing sovereignty through present forms of self-determination.

While Indigenous self-government is limited by the state, the pursuit of self-determination serves as a form of “resurgence” of Indigenous nationhood that counters state-driven self-government (Kuokkanen 2019, 61). Resurgence is also examined by Lightfoot and Simpson as a

means of transforming the present political order into a new postcolonial system. Resurgence is collective action to reclaim Indigenous ways of being through forms of self-determination. Inuit are proponents of these efforts and contribute to the progress of the Indigenous rights movement in ushering transformative shifts in the structure and practice of international politics. Inuit self-determination and expressions of agency that are discussed throughout this thesis are forms of resurgence.

Lightfoot exemplifies the concept of Indigenous resurgence in her analyses on how global Indigenous politics “is forging major changes in the international system, through the process of rethinking and reordering conceptions of sovereignty, territoriality, decolonization, liberalism, and human rights that is captured by the United Nations Declaration of the Rights of Indigenous Peoples” (Lightfoot 2016, 4). According to Lightfoot, Indigenous rights, such as those in UNDRIP (United Nations 2007) and the ICC Declaration (2009), are transformational insofar that they reimagine political relations by challenging conventional assumptions of Western international relations (IR) theory and practice. This is similarly noted by Stewart-Harawira in Beier’s *Indigenous Diplomacies* (Beier 2009, 207). Moreover, Lightfoot examines how the Indigenous rights movement provides examples of alternative ways of engaging in global politics. Lightfoot demonstrates how Indigenous rights, and the Indigenous rights movement, are indicative of shifts in both the structure and the practice of global politics, serving as the transformational norm vector described above. The transnational Indigenous rights movement, as noted by Lightfoot, relies on the problematization of Western conceptions of IR.

Discussing Indigenous freedom through radical resurgence and resistance, Simpson similarly problematizes Western ontological and epistemological traditions that are enshrined in academy and expands on the concept of resurgence. Radical resurgence, as explained by Simpson,

offers “a flight out of the structure of settler-colonialism and into the processes and relationships of freedom and self-determination encoded and practiced within grounded normativity” (Simpson 2017, 17). Quoting Coulthard, Simpson discusses how grounded normativity exists in the everyday practices and knowledge systems of Indigenous peoples as “ethical frameworks generated by these place-based practices and associated knowledges” (Simpson 2017, 22; Coulthard 2003, 60). Simpson further explains how radical resurgence relies on grounded normativity to instigate resurgence through everyday practice. Radical resurgence exists at the ontological level in which it provides a direct opposition to Western ways of doing and/or being, which is subversive to the established political order.

To Lightfoot, significance lies with the transformative capacity of Indigenous rights and the Indigenous rights movement and is evidenced by cumulative successes of Indigenous self-governance and self-determination that have directly/indirectly amounted to the signing of UNDRIP. Some of the successes she acknowledges that are relevant to Canada and Inuit include: the establishment of the Nunavut Land Claims Agreement Act; the Nunavut Act, and the creation of the territory of Nunavut in 1999. Despite the revolutionary success of UNDRIP and the transnational Indigenous rights movement, in terms of the space it provides for Indigenous rights in international fora, these successes are undermined by the pervasive character of settler colonialism, against which Inuit struggle. Examples of the deep embeddedness of settler colonialism are discussed in Chapter five regarding Inuit in Nunavut. In the case of Canada, Lightfoot explains; “the paradoxical nature of Indigenous rights in Canada has made it so that there is state tolerance of soft Indigenous rights, particularly in language, cultural arts, and even in relation to internal governance” (Lightfoot 2016, 183). In other words, although Canada presents

itself internationally as a champion of human rights, it is committed to the maintenance of a colonial and deeply paternalistic and hierarchical relationship with Indigenous populations.

Kuokkanen shows how Indigenous self-determination and self-governance challenge structures of the state. Indigenous expressions of self-determination are a part of Lightfoot's transformational norm vector in shifting global politics from norm plane A to norm plane B. This is because a reordering of the international political system requires a restructuring of relations, which is gained through Indigenous self-determination as expressed through the Indigenous rights movement and global Indigenous politics. Lightfoot conveys how the transnational Indigenous rights movement has produced a shift in both the structure and practice of global politics. As Lightfoot, Simpson, Coulthard, Alfred, and Kuokkanen all recognize, resurgence is transformational to the established political order. There are two types of resurgence: direct, such as legal actions and lobbying; and indirect, which is more subtle and subversive because it exists at the ontological level and is embodied by grounded normativity or the everyday actions and practices of Indigenous peoples. Both direct and indirect forms of resurgence work together to challenge the present political order and establish new norms. Inuit engagement in national politics through ITK and international politics through the ICC, along with the formation of the Government of Nunavut, represent strong examples of both forms of resurgence. These structures demonstrate a transformative path forward in shifting the present political order to incorporate Indigenous peoples outside of the conventions of states.

Chapter 3: Environmental Institutionalism

‘Environmental Institutionalism’ (EI) is the name I apply to the process where the growing global body of scientific and social knowledge concerning the natural world and the impact of human activity is encoded in laws, standards, and agreements created by a group of actors whose main purpose is to establish the rules for environmental management and conservation. This is an ongoing and dynamic process. This thesis reviews the international environmental laws and agreements that apply to the Canadian Arctic Archipelago. But this process is relevant anywhere a group of actors take collective action to encode in laws, standards, and agreements to establish the rules for environmental conservation and management. In the Arctic, which is recognized as very environmentally sensitive, and the region most dramatically affected by anthropogenic global warming, EI has been a key feature of political discourse for the past five decades. Alarmed by the climatic changes occurring throughout the Arctic, Arctic states, non-state actors, and non-Arctic states have engaged in multilateral cooperation to address environmental concerns.

The process of EI began with the 1973 United Nations Conference on the Human Environment (UNCHE) held in Stockholm, Sweden, where Canada made an initial effort to pass an article on maritime pollution specifically related to the extreme climatic conditions of Arctic waterways (United Nations 1972). UNCHE is often described as “the conceptual cornerstone of modern international environmental law” (Lalonde 2016, 2). Principle 7 of the Stockholm Declaration established that “States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea” (United Nations 1972). The Stockholm Declaration set the foundation for the cooperation of states on environmental issues that posed a global threat.

Shortly thereafter, the Inter-Governmental Maritime Consultative Organization (IMCO, which would later become the IMO) held the International Convention for the Prevention of Pollution from Ships (MARPOL) in 1973 (International Maritime Organization 1973). The legal regime concerning the marine environment grew dramatically, in parallel with the growing global environmental awareness. The growing understanding and acceptance of anthropogenic global warming as another dire consequence of industrialization, globalization, and neoliberal economics has buttressed the environmental platform as a politically legitimate position.

While states undertook the process of encoding growing understanding of environmental issues into their laws, Indigenous organizations like Inuit Tapiriit Kanatami (ITK) and the Inuit Circumpolar Council (ICC) were gaining autonomy in both domestic and international politics through various forms of resistance, including, but not limited to: social mobilization and protest movements; political organization; litigation; and lobbying states to increase their self-determination. This process has been noted by scholars such as Wilson (2019), Koivurova and Heinämäki (2006), and Loukacheva (2009) where Indigenous organizations, particularly the ICC, have made major contributions to the growing body of agreements and laws relating to the Arctic environment.

Arctic Exceptionalism and its impacts to Environmental Institutionalism

The understanding that the Arctic ecosystem is extraordinarily sensitive to pollution and its characterization as a region of cooperation led to the multilateral engagement of Arctic states to protect the Arctic as an ‘exceptional’ region. This was catalyzed by Canadian diplomatic efforts to establish the ‘Arctic exception’, or Art. 234 of UNCLOS III and form the Arctic Environmental Protection Strategy (AEPS) to defend its sovereignty claim (United Nations 1982). Through the

ICC, Inuit representatives played a major role in the AEPS advancing the promotion of their rights and the protection of their homeland. The concept of Arctic Exceptionalism (AE) created a political environment that allowed Inuit (via the ICC) to engage states in international political discourse. Through the Inuit Circumpolar Council (ICC), which played a key role in the formation of the AC and continues as a Permanent Participant, Inuit in Canada and other states have operated as political actors on the international stage, and their role has expanded internationally to include the United Nations in a consultative status II role since 1983, along with involvement with other international organizations.

Environmentalism, the acknowledgement of global interdependence, and the recognition of the human impact of climate change have been drivers of cooperation in the Arctic. This has been noted in works by Arctic scholars, such as Griffiths (2011), Young (1992), Lackenbauer (2009), Koivurova (2010), Byers (2009), and Exner-Pirot (2012), in the context of Arctic exceptionalism (AE). Arctic exceptionalism has been accepted as a unique characteristic of peace and security in the Arctic since Gorbachev's 1987 "zone of peace" speech and so it is also widely debated and well documented (Hodgson and Hoogensen Gjørv 2019; Gorbachev 1987). As Lackenbauer points out, "Arctic exceptionalism is directly linked with norms-based multilateralism and institutionalism" (Lackenbauer 2020, 330). This multilateral effort is predicated on attempts to environmentally protect the Arctic through a process of environmental institutionalism. The result of this is the high level of cooperation in the Arctic which is supported by binding environmental legislations and institutions such as the Arctic Waters Pollution Prevention Act (AWPPA) (Government of Canada 1985), the Arctic Cooperation Agreement (Government of Canada 1988), AEPS (1991), and the Ilulissat Declaration (2008).

By establishing the uniqueness of the Arctic environment, Arctic exceptionalism not only created a point of agreement between Canada and the U.S. regarding the Northwest Passage, but it also led to the establishment of the Arctic Council, which evolved from AEPS. The Arctic Council (AC) continues as a forum for Arctic states, Permanent Participants (Arctic Indigenous peoples) and Observer states to interact that is structurally isolated from non-Arctic issues.

Despite its relevance to the institutional process of environmentalism in Arctic governance, the concept of AE can be problematic when it is used - as in the case with Canada - to consolidate sovereignty in faraway Arctic regions as it obscures the human realities of those regions. Hoogensen Gjørnv argues that the narrative of AE “relies on a rejection of broader security perspectives insofar as it insists on focusing on the relations among states, rather than on the multilevel relations among states, societies, communities, and individuals” (Hoogensen Gjørnv 2021, 203). In this sense, AE is a neoliberal institutionalist argument because it narrowly defines what security is and who it is for, ascribing it only to the actions of key states, like Canada.

While AE is useful insofar that it facilitated the process of environmental institutionalism in the Arctic, it advances a myth about Arctic cooperation and security that depicts the region as terra nullius. Hoogensen Gjørnv shows how despite Arctic cooperation, “there is still the tendency to view the Arctic as an open space, with resources and lands that are for the taking” completely ignoring the human aspect of the Arctic (Hoogensen Gjørnv and Lanteigne 2020, 429). This is because AE is a normative theory that implicitly overlooks Indigenous insecurities in its prioritization of state. This normative position is still the dominant view of states. Nevertheless, Inuit through the ICC engage as legitimate political actors within the AC and the UN through their contributions to the development of environmental norms and rules in international politics. So, although AE can promote state views that diminish Inuit voices, it also created an opportunity for

Inuit to gain agency at an international level through the involvement of the ICC in the formation of Arctic environmental agreements and governance bodies.

Inuit contributions to the process of Environmental Institutionalism

In an Arctic context and more generally, EI benefits from the role of Inuit and other Northern Indigenous actors in the establishment of environmental norms and rules in Arctic governance. However, as non-state actors, their contributions are often downplayed or overlooked. Nevertheless, Inuit involvement through the Inuit Circumpolar Council (ICC) has been crucial to the evolution of perspectives towards the Arctic. The ICC is recognized as a legitimate political actor with agency in international fora such as the Arctic Council and the United Nations. The recognized moral and expert authority of the ICC enables Inuit to operate within the state-centric political system to successfully advocate for their people by establishing norms and rules that govern international behaviour through the process of environmental institutionalism.

The increasing global awareness of environmental concerns spurred the development of a growing legal regime that is critical for the Arctic, given the extremely delicate nature of its ecosystem. In this way, not only have environmental issues worked their way to the forefront of international discourse, but they have also become institutionalized in a body of law and policy so that they are now applied routinely. Arctic states have leveraged the system of laws as they relate to the Arctic, in part to protect the Arctic environment, and, at least in the case of Canada, to support claims of sovereignty or other state interests. Like other Arctic Indigenous peoples' organizations, in response to the direct threat to their environment and way of life, ICC Canada and ITK have successfully taken advantage of the global environmental consciousness to increase their self-determination in relation to the opening of the Northwest Passage.

Through the ICC, Inuit participated in the development of the Arctic Environmental Protection Strategy (AEPS) which evolved into the Arctic Council (AC) in 1996. With Inuit involvement through the ICC, the AC has conducted reports on climate change, oil and gas, and shipping (including the Arctic Marine Shipping Assessment (2009), and the Arctic Climate Impact Assessment (2005)) through its four working groups: the Arctic Monitoring Assessment Program (AMAP); Conservation of Arctic Flora and Fauna (CAFF); Protection of the Arctic Marine Environment (PAME); and Emergency Prevention, Preparedness, and Response (EPPR), which have informed policies and positions at the Arctic Council. The ICC, along with the five other Permanent Participants, have informed much of the work done by these working groups through their involvement and traditional environmental knowledge of Arctic regions. The ICC is active in various working groups, task forces and individual projects and contributes to “cutting edge environmental, ecological, and social assessments through the Working Groups of the AC” (Arctic Council n.d.). Through their role in the AC, the ICC contributes to the growing body of legislation, treaties and agreements in Arctic governance, which formally guides international rules and norms in the Arctic as a part of the process of environmental institutionalism. By engaging in this process, Inuit through the ICC gained moral and expert authority on most matters concerning the Arctic which provided the ICC political agency in Arctic politics. As an autonomous actor, the ICC in turn influences the process of EI through their involvement in the AC working groups.

As inhabitants of the Arctic, which is suffering the most severe impacts of climate change and pollution, Inuit are figuratively ‘at the front lines’. They have recognized the threats to their health, wellbeing, and culture that accompany these issues, and they have also recognized that their most effective means of protecting themselves and their environment is to engage law- and policymaking using an environmental platform internationally. One key example of this

international engagement, leveraging the growing global awareness of environmental issues, was seen in 2005 when Sheila Watt-Cloutier, as past president of ICC Canada and chair of ICC, filed the world's first human rights petition to the Inter-American Commission on Human Rights (IACHR) against the US for its contribution to global warming and inaction to resolve the issue. This effort consisted of a petition from 62 Inuit hunters and elders from across Canada and Alaska. In this way, Inuit are trailblazers; this case set a precedent that has since been adopted internationally by other plaintiffs. This case is also evidence of Inuit directly challenging the state-system to influence state behaviour and hold the industrialized south accountable for its contribution to global warming, which is most acutely felt at the poles. Although ultimately unsuccessful, this was precedent-setting as it was the first claim linking human rights to anthropogenic global warming, and it was among the earliest cases overall against governments and corporations for their part in global warming (Sabin Center for Climate Change Law 2005). Since 2015, plaintiffs have filed more than one thousand global warming cases globally, and the number of cases is growing each year (Schiermeier 2021), in concert with the growing concern internationally. With this action, Inuit via the ICC established a norm holding emitters accountable for the externalized costs of their emissions.

Overall, the evolution of a new international regime of environmental law has developed via the process of environmental institutionalism – the encoding of global scientific understanding and public awareness of environmental concerns into law and policy, and the application of this growing body of law and policy to address man-made pollution and global warming and their impacts. Inuit in Canada have rapidly adapted from being a culture with limited contact with Europeans until the mid-20th century to leveraging environmental consciousness in international discourse to protect their interests. Although AE is a normative theory that diminishes the role of

Indigenous actors, it created both the conditions for EI to expand into the Arctic and an opportunity for the ICC to gain international agency through their foundational involvement in the regionalized conditions of state cooperation to protect the Arctic environment. Further, Inuit continue to contribute significantly to the process of EI by sharing their knowledge of Arctic flora and fauna and advising on Arctic affairs and have used this process to accrue power and authority.

Chapter 4: Inuit agency through diplomacy in Arctic governance

Inuit formed the Inuit Circumpolar Council in 1977 and this has served as their main organ to engage in international relations since. The ICC participated in the creation of the Arctic Environmental Protection Strategy (AEPS) and is one of six Permanent Participants in the Arctic Council. Within the AC, the ICC have powers that are built into the organization's structure and are also recognized as expert authorities on the Arctic environment. Outside of the AC, the ICC participates in the UN as consultative status II participants and have filed a claim against the US for its contribution to global warming and its effects on their environment. Inuit in Canada have gained agency internationally through the ICC and its contributions to the process of environmental institutionalism but remain challenged by the colonial relationship with Canada which prevails in domestic affairs. Inuit through the agency the ICC has attained internationally are influential actors in shaping the norms and rules guiding state behaviour in Arctic politics as it relates to the environment, its resources, and their lifeways and traditions, ultimately allowing for Inuit in Canada affect policy decisions that directly impact them. More to this point, by working through the ICC, Inuit challenge statist conceptions of sovereignty and the political ordering that it informs. By asserting their autonomy through international diplomacy, the ICC problematizes colonial cosmologies, contributing to shifts in both the structure and practice of international politics.

The Inuit Circumpolar Council

Following the Arctic Peoples Conference (1973) and the Inuit Circumpolar Conference (1977), the Inuit Circumpolar Council (ICC) was formed in Barrow, Alaska (1977) to protect the fragile Arctic environment from encroaching industrial development. The ICC incorporated Inuit

organizations from the entire circumpolar North, with ICC Canada, ICC Greenland, ICC Chukotka and ICC Alaska being the member organizations. Indigenous organizations like the ICC emerged from Indigenous social movements of the 1960s and 1970s. Wilson-Rowe observes that “the ICC was pushed forward by a complex set of North American domestic and international factors, and quickly became an important actor within burgeoning Indigenous internationalism taking place in international organizations, such as the United Nations” (2018, 115). The ICC’s charter states that it formed to: promote Inuit rights and interests; strengthen Inuit unity; “ensure the endurance and growth of Inuit culture and societies for both present and future generations”; and to “promote wise management and use of non-renewable resources in the circumpolar region and incorporating such resources in the present and future development of Inuit economies, taking into account other Inuit perspectives” (Inuit Circumpolar Council 2011). By incorporating social and environmental concerns, the ICC created a platform to address both simultaneously, in recognition of the close relationship between the two fields. The ICC is a Permanent Participant in the Arctic Council and has Consultative Status II in the United Nations.

Inuit are deeply connected to the Arctic environment and have approached both international and domestic politics holistically to assert agency and gain authority in their affairs. Inuit activist and former chair of the Inuit Circumpolar Council, Sheila Watt-Cloutier (2015), discusses how the Arctic ice Inuit have relied on for millennia is rapidly diminishing in front of their eyes, resulting in a host of consequences for Inuit and their way of life. Confronting this reality, Watt-Cloutier shows how a holistic approach is necessary and can only be realized through honouring the deep interconnectedness of Inuit life ways and the environment to ensure “the protection of a stable and secure environment that allows Inuit to practice their social and economic

freedoms” (Watt-Cloutier 2015, xvii). The ‘right to be cold’³ described by Watt-Cloutier offers a multifaceted way of preserving and sustaining Inuit culture, the Arctic, and the planet as whole by recognizing the link between climate change and human rights (Watt-Cloutier 2015, viii). This is a holistic approach to the future of the Arctic, and its application is found in the ICC human rights petition against the US in the IACHR, among other examples.

Food insecurity in Inuit communities is heightened by POPs (persistent organic pollutants) that are destroying the food chain and ecosystem that provide the ‘country food’ which is an important part of their diet. POPs are compounds that are resistant to environmental degradation, meaning that POPs bioaccumulate. POPs originate from industrialized southern regions and migrate northward via wind, water and food cycles. The accumulation of POPs in Arctic waters has resulted in the illness and weakening of hunting and fishing stocks, which Inuit rely on. Inuit institutions, organizations, and social structures have faced several challenges in their fight to advocate for the preservation of their livelihood, culture, and the delicate environment in which they live. This has translated into an accumulation of collective experience, which Watt-Cloutier states is indicative of Inuit expertise in challenging colonial structures to defend their rights. The Inuit Circumpolar Council (ICC) has worked extensively in international forums to eliminate DDT use, which is a major component of accumulated POPs in Arctic waters and ice. Efforts have included ICC participation in the creation of the Arctic Environmental Protection Strategy, as well as the drafting of the UN Environmental Protection Strategy, and the development of the Arctic Climate Impact Assessment (ACIA) which has influenced global environmental politics by ensuring a holistic approach is taken.

³ Watt-Cloutier defines the ‘right to be cold’ as “the assurance of a stable safe climate in which Inuit people can exercise their economic, cultural, and social freedom” (The Right to be Cold 2015, viii).

The Inuit Circumpolar Council and the Arctic Council

In the present configuration of the political system, there is a hierarchical division between international and domestic politics favouring key state actors in forums of high politics, like the United Nations (UN) and the Arctic Council (AC). The ICC, along with other Indigenous non-state actors, are restricted in the ways they can interact with the states system to effect changes in policies and laws. This is because the international bodies that exist were created by states, and states exclusively reserve voting rights for themselves.

The Arctic Council (AC) was formed by the eight polar states (Canada, the USA, Russia, Norway, Denmark, Sweden, Finland and Iceland) as Arctic States and six Arctic Indigenous peoples' organizations as Permanent Participants. The Permanent Participants, including the ICC, can address AC meetings, raise points of order that require deliberation, and may propose supplementary agenda items. The Permanent Participants engage in all Senior Arctic Officials meetings and Ministerial meetings. As a consultative member to the AC and its various working groups, Inuit influence decisions at the international level concerning the protection and development of their ancestral lands as they inform a great deal of research and development in the Arctic and ultimately have a decisive role in setting the agendas for these meetings. Through the robust network of legislation and agreements at this level that seek the protection of the Arctic environment, Inuit and other Northern Indigenous peoples are brought to the fore in Arctic governance issues.

The ICC informed aspects of the AEPS and were foundational to the structure of the Arctic Council, and they have been integral to the development of the AC since its inception. As Simon notes, "the ICC participated (in the formation of the AC), through an independent panel established to consult Arctic leaders, in the preparation of a 'framework report to establish an international

Arctic Council” (Simon 1992, 22). This report made recommendations to guarantee the full engagement of Indigenous peoples in Arctic governance. Indigenous perspectives and traditional knowledge are thus foundational aspects informing the structure and objectives of the AC.

The fact that Permanent Participants cannot vote within the AC does not imply that they necessarily lack ‘power’. The power they exercise is supported by the structure of the AC itself, and also by the moral and expert authority they exercise within and outside of the Council. Wilson-Rowe describes power as a “performance facilitated by relations of dominance and deference” rather than a capacity or quantity in a zero-sum game where power gained by a non-state actor corresponds to a loss of power by a state (Wilson-Rowe 2018, 104). One way to examine these relations is by considering authority, which in this context is interpreted as “the capacity to secure deference from others in a given setting by wielding successfully whichever forms of capital are highly prized in that particular policy field” (Wilson-Rowe 2018, 104). In other words, “all actors involved in a policy field are engaged in negotiation over what counts as authority in the first place, and by extension, who is recognized as performing diplomacy authoritatively” (Wilson-Rowe 2018, 104). There are different types of authority: moral; expert; delegated; and so forth, that are claimed in these types of relations. The ICC expresses moral and expert authority in political realms of Arctic governance like the UN and AC. Through the expressions of authority described here, the ICC exercises the agency they have gained in international politics.

Problems of capacity within Indigenous organizations frequently impair their ability to participate within the AC as permanent members (Wilson-Rowe 2018, 117). This issue is also found elsewhere, with the Government of Nunavut. In both instances, the challenge is rooted in the fact that the Indigenous peoples are comparatively small in number but have a broad and growing portfolio to manage. However, within the AC, Permanent Participants participate more

consistently than Observer states, but not as deeply (Wilson-Rowe 2018, 117; Knecht 2017, 8-9). Being states, the Observer states have more resources at their disposal than the Permanent Participants so the fact that Observer states participate less than they do, but more deeply, is reflective of a focused agenda and not a limit in resources.

The structure of the Arctic Council is unique in that it incorporates the permanent participation of Indigenous peoples in the processes of law- and policymaking, with powers and a role that exceeds those of NGO's or Observers that Indigenous peoples would otherwise be relegated to in other international fora. In this way, the concept of the AC can be seen as a transformative model for other regions to improve the representation of Indigenous peoples (Koivurova and Heinämäki 2006, 101-102). Within the AC, Permanent Participants employ 'soft law', in the form of "declarations and action programmes, which often contain very broad and vague normative guidance" (Koivurova and Heinämäki 2006, 103). Although not legally binding, the norms adopted are at least politically binding, and it is generally understood that over time they will evolve into 'hard' treaty or customary law (Koivurova and Heinämäki 2006, 103). An example of 'soft law' from the ICC is seen in the *Circumpolar Inuit Declaration On Sovereignty in the Arctic* (Inuit Circumpolar Council 2009).

Permanent Participants can and do establish norms within the Arctic Council. For example, they established that the "cooperative cross-border nature of the Arctic region must be preserved, even considering conflict between Arctic countries outside the region" after Russia's actions in Ukraine became a concern in 2014 (Wilson-Rowe 2018, 118), which has been maintained since as a norm that allows the AC to be a forum for 'low politics' discussion among Arctic states. However, Young observes that with the Arctic is now the subject of 'high politics' due to resource access and strategic and economic considerations, leading to Arctic and non-Arctic states to assert

the need to protect their interests or pursue their interests respectively. Consequently, non-Arctic states pursue their agendas within the AC as Observers but may also bypass the AC and seek separate agreements to advance their agendas (Young 2019, 6). This is alarming, but unsurprising given the economic and strategic implications of the warming Arctic. Young recommends changes in both the Council's remit and membership to maintain its relevance (Young 2019, 11), but he makes no recommendations regarding the Permanent Members, who are not factored into his state-centric analysis. Regardless of whether the AC makes changes, the Permanent Participants are put at risk of being sidelined, which could impair their ability to advance their agendas within the council.

Within the AC, in addition to the more formal roles the Permanent Participants perform, they can also constrain and guide state behaviours in two less formal ways. First, they can effectively call states to account when their views are not considered or properly reflected in state initiatives, by “naming and shaming” on the record, something that state representatives do not do, as mentioned above (Wilson-Rowe 2018, 119). Wilson-Rowe cites three examples of this ‘calling out’ of states and individuals. In 2013, the Chief of the Athabaskan Council, Michael Stickman, criticized the inaction and perpetual re-establishment of task forces to address the concern of black carbon, and directly asked Russian Foreign Minister Sergey Lavrov to explain why Russia opposed the creation of a concrete plan to address this issue (Wilson-Rowe 2018, 119). The Swedish Saami representative also used the same home-turf ministerial meeting in Kiruna (Sweden) to present a bleak picture of Indigenous rights in Sweden (Wilson-Rowe 2018, 119). RAIPON⁴ appears to use the AC as a forum to address issues that other Permanent Members would likely have addressed domestically. In 2009, they observed that Russia had yet to provide

⁴ Russian Association of Indigenous Peoples of the North.

any data to the Arctic Marine Shipping Assessment, and in 2010 RAIPON requested that they be more involved in Russian governmental work on Arctic issues (Wilson-Rowe 2018, 119). Relating specifically to the ICC, their *Circumpolar Inuit Declaration on Sovereignty in the Arctic* (2009) publicly asserts the peoplehood of the circumpolar Inuit and mitigates the sovereign claims of states (Wilson-Rowe 2018, 120). In addition, as an example involving the IMO Marine Environment Protection Committee, the ICC has publicly expressed their concern with the effectiveness of the Heavy Fuel Oil (HFO) regulation and promises to continue progressive movement on the regulation through the AC and all partners, states, and stakeholders (Inuit Circumpolar Council 2020).

The second way the Permanent Participants can constrain the behaviours of states is by their mere presence. In the AC, “states cannot derive authority by speaking on behalf of the populations of their state. Rather they must interface with and cooperate (or fail to do so at their own expense) with representatives of a ‘third space diplomacy’ – the Permanent Participants’ organizations who are both inside multiple states and outside them at the same time” (Wilson-Rowe 2018, 120). This forces states to directly confront their colonial past by cooperating with Indigenous organizations in the Arctic Council.

Regarding the performance of power through ongoing discussions of authority, Wilson-Rowe observes that states and Permanent Participants claim overlapping authority based on “geography, statehood and peoplehood to speak on behalf of the Arctic and its peoples, extending beyond an expertise-based authority that science actors may bring” (Wilson-Rowe 2018, 123). So, while scientific input is required in Arctic policy, the field has evolved so that “the most successful performance of authority remains explicitly political, rooted in the logics of sovereignty and statehood” (Wilson-Rowe 2018, 123). While Indigenous politics may be a transformational norm

vector in that they point the way towards a new world order, and Indigenous peoples in the Arctic Council are adeptly working within the council, their influence and agendas are exposed to risk from the encroachment of Observer states due to the growing strategic and economic interest in the Arctic.

Lindroth and Sinevaara-Niskanen show that Indigenous peoples through the AC “have historically gained a politically recognized status as experts on the phenomena that take place in their lifeworlds”, (Lindroth and Sinevaara-Niskanen 2017, 8). This expert authority has contributed to the ICC’s power in the policy field of Arctic governance. The authors further explain that “the way in which the Council has made environmental protection and scientific aspirations distinctive elements of Arctic politics has enabled Indigenous issues to become recognized as relevant to development in the Arctic and the world at large” (Lindroth and Sinevaara-Niskanen 2017, 9), reinforcing the authority Northern Indigenous peoples including Inuit have gained as environmental actors.

As a transnational organization of an Indigenous people, the ICC must navigate the state-centric system, which involves power relations as described above. Structurally, the Permanent Participants of the AC (including the ICC) have near-veto power in the AC although they are not voting members (Blåhed 2018, 5; Koivurova and Heinämäki 2006, 104), but most often their power is exercised through agenda setting and consultation, as required by the structure of the AC, for example. The ICC has enjoyed numerous successes in establishing rules and norms to protect the Arctic and their culture within the AC and the UN. These ‘soft polity’ successes show that Inuit, via organizations like ITK and the ICC, are effective political actors.

While the Permanent Participants of the AC are consulted and involved in ‘soft polity’ issues such as lifestyle, culture, and language, currently they are generally excluded from ‘hard polity’

discussions relating to legal and jurisdictional subjects including economic development, maritime safety, and surveillance. The ICC clearly stated that the Permanent Participants should be included in these ‘hard polity’ conversations as well in the 2017 Ministerial Meeting (Blåhed 2018, 38). The official status of Permanent Participants circumscribes the scope of their activity and thus they are viewed as somewhat less independent political actors by the member states (Blåhed 2018, 39). Nevertheless, they are acknowledged as legitimate actors that exercise a degree of power in the council (Blåhed 2018, 39). Formally they are recognized as such in statements by member states, such as the *Statement on Canada’s Arctic Foreign Policy*’ where it states that “Canada recognizes and values the important role Northern governments, Arctic Indigenous organizations at the Arctic Council (known as Permanent Participant organizations) (...) have played, and will continue to play, in shaping Canada’s international actions” (Government of Canada 2010, 22; Blåhed 2018, 25).

Overall, Inuit have been shown to be legitimate political actors who are an expert authority on issues concerning the Arctic and Arctic development. They are thus able to affect regulatory decisions at the international level regarding the opening of the Northwest Passage and Arctic development. They attained this power by forming an Indigenous international organization outside the scope of the colonial state that acts independently of the state. The ICC operates within the AC and UN, where, although they still struggle against the state-centric structure of these bodies, they have agency as representatives of Inuit and affect policy decisions relevant to their affairs. The ability of Inuit through the ICC to affect decisions regarding their livelihoods in the context of Arctic development is evidence of their self-determination. Moreover, the agency Inuit have attained through the ICC is transformative insofar that they are actively influencing the norms

and rules around Arctic development and also challenging normative beliefs by successfully engaging in a deeply colonial system.

The Inuit Circumpolar Council and the United Nations

As a part of the growth in Indigenous internationalism during the 1960s and 1970s the ICC gained NGO status in the UN Economic and Social Council (ECOSOC) in 1983 and “actively assisted in the drafting of the Universal Declaration on the Rights of Indigenous Peoples (UNDRIP)” (Wilson and Smith 2011, 914). This aided in demonstrating the legitimacy of Inuit as political actors in the eyes of states, but it is only one point along a timeline of increasing Inuit engagement with international politics and governance, and the corresponding increase in the ‘audibility’ of their voice in international fora that Beier discusses (Beier 2007, 127).

With the founding of the ICC, Inuit established an environmental and human rights platform that has become legitimized in international politics. In 1992, Inuit participated in the UN Conference on Environment and Development (UNCED), which is informally known as the Rio Earth Summit, as permanent consultative members. Through its consultative role, “the ICC contributed scientific and technical input into the final agenda 21 documents, the Biodiversity Convention and the Rio Declaration” (Simon 1992, 24). The Convention seeks to reduce the greenhouse gas emissions to stabilize the Earth’s climate and reduce anthropogenic human induced interference with the environment. This conference also established the UN Framework Convention on Climate Change (UNFCCC) and subsequent Conference of the Parties (COP) symposiums. As permanent members of UNFCCC, Inuit address COP meetings and must be consulted on all agenda items. Inuit also serve as consultative members to: Convention on International Trade of Endangered Species (CITES), which is part of UN Environment Protection

Programme (UNEP); the International Whaling Commission (IWC); International Union for the Conservation of Nature (IUCN); and the World Trade Organization (WTO). In this way Inuit engage in a variety of formal and informal networks in global politics to exert influence relative to their self-determination.

Another major step for Inuit is the ICC's application for consultative status to the International Maritime Organization (IMO). In February 2021, the ICC presented its case for consultative status at the International Marine Organization (IMO) and is awaiting a decision that was expected in July 2021.⁵ This is especially relevant for the Northwest Passage because Inuit are reliant upon the marine environment and are concerned with the increasing shipping traffic and its attendant consequences. They state that:

As an IMO member of consultative status ICC will support the responsible management and sustainable development of Arctic waterways to ensure safe passage for vessels and crews while preserving the unique and now vulnerable ecosystem. Moreover, the health of the Arctic marine ecosystem ensures food security, continued hunting, fishing, and harvesting activities, ways of life, culture and language preservation, and continued Inuit health and stability (Inuit Circumpolar Council 2021).

This is another example of Inuit effort to affect policy through the engagement of their organizations as legitimate political actors within the state-centric system. More pointedly, in applying for consultative status to the IMO, Inuit are challenging statist conceptions of sovereignty by seeking direct engagement with a bastion of state sovereignty: Law of the Sea (LOSC). UNCLOS assumes traditional state sovereignty insofar that each article of UNCLOS only pertains to state actors acting within the states system, thereby relegating non-state actors to the sidelines of international policy decisions regarding maritime disputes. However, as argued, Inuit have relentlessly challenged these conceptions regarding extractive industrial development along the

⁵ Note that as of October 27, 2021, there was no information concerning the status of the ICC's application for consultative status at the IMO.

Northwest Passage through their tireless efforts in engaging in international politics through the process of environmental institutionalism as it applies to the Arctic and more specifically Nunavut. This effort by the ICC is one aspect of the transformational norm vector of global Indigenous politics to a new set of international norms and further evidence of Inuit agency applied to international bodies.

Although the Canadian government has used Inuit to buttress its claim of sovereignty, it does not reliably act in the best interest of Inuit, prompting Inuit in Canada to act independently through the ICC to protect their interests. For example, the IMO implemented a heavy fuel oil ban for Arctic regions in 2020. Heavy fuel oils (HFO's) are much less volatile than other fuels, which means they are much more persistent in the environment. When spilled, this leads them to become trapped in ice much more easily and much more challenging to recover, especially in the Northwest Passage where there is very little infrastructure or response capability. Further, the soot emissions from HFO use deposit on the ice and snow, reducing their reflectance and contributing to global warming. However, the ban that Canada agreed to in the IMO will not be fully in effect until July 2029 because of all the built-in exemptions that weaken it. Scandinavian states and the ICC sought a much stricter ban (Quinn 2020a). In this instance, Inuit were consulted by the Canadian government, in accordance with its Arctic policy framework, but the government chose not to listen and acted in a way that does not protect either the Arctic or Inuit for a significantly long time (Quinn 2020b). In this way, Inuit knowledge and concerns were downplayed by the Canadian Government, effectively marginalizing Inuit in a key decision that directly impacts their lives. In this case, Inuit acted internationally through the ICC, yet the state prioritized other concerns over those of the inhabitants of the region directly affected by the legislation, showing

that even though Inuit have gained agency internationally, they are still challenged by the colonial relationship with the state.

Other examples of Inuit engagement with international politics

Wilson and Smith observe how the ICC has been politically successful in Arctic governance since its founding (Wilson and Smith 2011, 910). For example, the ICC has had a prominent role in multilateral discussions in international fora regarding global warming and pollutant accumulation in the Arctic, which is evidenced through the ICC's role in eliminating the use of POPs. Another example of their engagement is seen in their 2005 IACHR human rights petition and Watt-Cloutier's 2007 testimony at the first IACHR hearing on climate change and human rights. The growing capacity of Inuit to affect policy is supported by Watt-Cloutier's *Right to be Cold* (2015) where she demonstrates how Inuit institutions, organizations, and social structures have accumulated collective experience in advocating for their rights at an international level, highlighting Inuit expertise in challenging colonial structures to defend their rights as tenacious and powerful agents protecting the Arctic environment.

In 2010, Poul Krarup, former editor of *Sermitsiaq*, a leading Greenlandic newspaper, pointed out that "at age 30 ... the ICC...is already a success: it has accomplished everything on its original to-do list" (Krarup 2010). Krarup mentions:

Individual Inuit areas collaborate across international borders; States work together in the Arctic Council; Human rights are respected in all Inuit areas; Inuit culture, language and way of life are universally respected; and a permanent UN committee has been set up for indigenous groups, thanks in part to the tireless work of the ICC. The world lends its support to Inuit in cases of human rights violations, or abuses of Arctic culture, language or way of life. Not only is supporting Inuit causes fashionable, in fact, it's actually politically correct. All of the above have been accomplished by the ICC over the past 30 years (Krarup 2010).

Acknowledging the successes of the ICC, Wilson and Smith convey how through the ICC, Inuit collectively “challenge the state-centric status quo and dominant economic ideologies that shape the current world order” (Wilson and Smith 2011, 910). In this sense, Inuit directly challenge normative conceptions of sovereignty, security, and the political order because they engage in both international and domestic politics as legitimate actors. This is supported by Bruyneel’s conception of the ‘third space of sovereignty’, in which Indigenous actors exist neither solely inside nor outside the state system and instead occupy a third space that is predicated on forms of Indigenous resurgence, such as the political organizations Inuit have created to interface with and navigate the state-centric system (Bruyneel 2007, 227).

Wilson and Smith also demonstrate how Inuit form a unified voice in international politics. This is similarly argued by Simon in the context of Inuit and ITK in Canadian domestic politics. The unified voice of Inuit in international politics has enabled them to have a strong and clear message concerning the Arctic that is transnationally supported by individual Inuit communities. Therefore, Inuit have an audibility that translates to external recognition and political effectiveness. This is supported by Beier’s work on Indigenous diplomacies (2007). Beier shows how the increasing audibility of Indigenous voices has resulted in the external recognition of Indigenous diplomacies as political actors. This increasing audibility is a direct result of the “increasingly visible diplomatic mobilization of functioning political communities that invests their voices” (Beier 2007, 127). In the case of Inuit in Canada, the obvious examples are ITK and ICC, as well as the territorial government of Nunavut. Beier also concludes that by “taking notice and responding to change (the audibility of Indigenous voices in this case), therefore, states confirm the claims of Indigenous peoples, authenticating them as viable political communities and

legitimate global actors” (Beier 2007, 129) - acknowledging the legitimacy and authority of transnational Indigenous organizations such as the ICC.

Another example of Inuit engagement with states is seen in the case of the Labrador Innu “who launched an international diplomatic campaign in an effort to end NATO low-level flight training over northern Labrador and Quebec” (Beier 2007, 121). Other examples include the efforts of Inuit lawyers and scholars to lobby states against the EU seal ban in 2009. Inuit have thus been influential actors in international politics through the process of environmental institutionalism which has been realized through the recognition of the interconnectedness of human development and climate change, demonstrating additional ways they express agency.

Domestically, Inuit in Canada formed ITK; while internationally they united with Inuit in other states to form the ICC, through which they have gained the ability as authoritative actors to influence policy internationally. Inuit authority in this context is a direct result of the process of environmental institutionalism; their accumulated expert knowledge of the Arctic environment; and the moral authority they earned through both the suffering the human rights abuses associated with colonization and by historically occupying a region at grave risk of fundamental changes due to pollution and global warming. The ICC functions outside and independently of the states, within the AC, UN and elsewhere, but is challenged by the statist foundations of these organizations. Since the onslaught of colonial efforts to exploit the Arctic, whether for defence or natural resources, Inuit have increasingly engaged with international politics and governance, increasing their ‘audibility’ along with their acknowledged authority, which have grown with their engagement. Inuit in Canada are now in a curious position: they have agency yet remain vulnerable domestically, due to the imposed colonial relationship with the state, while internationally they have the ability to influence policy decisions and the actions of states.

Chapter 5: Inuit governance, NGO's and social activism

This chapter examines the engagement of Inuit in Canada to increase their self-determination and protect their environment. Inuit formed both national and international organizations, like ITK and ICC, as adaptations to engage with the imposed states system. The collective work of Inuit in Canada, through ITK and ICC Canada, transcends colonial boundaries to engage holistically and in concert with one another. By analyzing the challenges of capacity faced by Inuit in Nunavut it becomes evident that Canada has not upheld its commitments in the terms of NLCA by stalling the process of devolution which would provide Nunavummiut with a greater capacity to be self-determining. In disregarding Inuit priorities, rights, and interests, Canada undermines its contentious sovereignty claims to the NWP, as well as its position as a supporter of the international human rights regime, and risk the mismanagement of the climate crisis as Inuit well-being and self-determination are directly linked to the viability of the Arctic in the face of global warming.

Gaps in Inuit well-being and self-determination are fundamental problems that have consequences for Canada as it can affect Canada's Arctic sovereignty claims. Watt-Cloutier shows how the well-being of Inuit is intimately connected to the well-being of the Arctic and emphasizes the need for a holistic approach which ensures greater Inuit self-determination as it is critical to improving the wellbeing of Inuit (Watt-Cloutier, 2015). The connection between Inuit and the Arctic environment is deep. By not advancing Inuit self-determination through devolution, Canada limits their access to foods by increasing marine protected areas and prevents them from exercising better control of their regional environment by giving Inuit no direct authority with resource extraction companies that are polluting on Cown lands. Canada has shown that it does not respect Inuit or their relationship with the environment. Instead, Canada delays the process of devolution

and withholds assistance when needed. Inuit have responded in each of the examples in this chapter through various means of resurgence: creating an advocacy organization and lobbying; engaging the wider public; and have developed a means to respond diplomatically.

There are three key advances in self-determination discussed in this chapter: the signing of UNDRIP into law; the Nunavut Land Claims Agreement and the associated creation of an Inuit territorial government in Nunavut. Each of these initiatives promise to increase Inuit self-determination and wellbeing, and in each case the federal government has delayed or backed out of commitments. UNDRIP, which was developed with involvement from the ICC and other Indigenous groups globally, took fourteen years to become law in Canada. The NLCA includes the formation of an Inuit territorial government in the newly-created territory of Nunavut, to which significant rights and powers were to devolve – only to have devolution delayed by the federal government due in part to a lack of capacity in the Government of Nunavut. The Government of Nunavut is challenged by a high turnover of staff and an inability to meet the targeted ratio of Inuk employees, which the federal government is unwilling to assist with, and are working with an imposed Western government model which does not mesh well with Inuit modes of governance. With all of these challenges, Inuit have engaged through the territorial government, ITK and informally via transnational advocacy and protest movements to protect their interests and self-determination and challenge the colonial relationship. Through the NLCA, and the agency they have gained internationally through the ICC, Inuit in Canada have gained the ability to apply pressure to Canada through the sovereignty relationship.

Formation of Inuit Tapiriit Kanatami

In response to industrial encroachment into Inuit Nunangat, Inuit in Canada formed Inuit Tapiriit Kanatami (ITK), which was originally named Inuit Tapirisat of Canada (ITC), in 1971 to voice their concerns at the federal level of governance, in recognition of the need to interface with a state-centric system (the Canadian Government) in terms and forms that are familiar to it. ITC created a unified voice on issues of development that impacted the Inuvialuit Settlement Region in the Northwest Territories, Nunavut, Nunavik in Northern Québec, Nunatsiavut in Northern Labrador, the various regional land claims organizations (Qikiqtani Inuit Association, Nunavut Tunngavik Incorporated, Makivik Corporation, etc.), and Inuit as a whole. Founding members of ITC were concerned by the then-proposed Mackenzie Valley pipeline in the Northwest Territories and the James Bay Project in Northern Québec. The formation of ITC was not an isolated event. During the 1970s, Inuit along with other Indigenous peoples throughout the Arctic mobilized in response to resource development projects that threatened their traditional homelands, precipitating great changes in domestic and international Arctic politics. ITK is closely tied to ICC Canada, which is a member of the Inuit Circumpolar Council (ICC). For example, the current president of ICC Canada, Monica Ell-Kanayuk, is also the vice-president of ITK. Both organizations formed out of a need to intervene in policy decisions at a domestic and international level to protect their rights, environment, and culture.

ITK identifies itself as a pan-territorial Inuit advocacy group that promotes the recognition of Inuit rights in Ottawa (Inuit Tapiriit Kanatami n.d.). Through ITK, Inuit have an independent authority from the federal government in Arctic affairs. However, the colonial presence affects the capacity of Inuit to be self-governing. Because of this Inuit have had to find alternative ways to assert political agency, which is testament to their adaptability as actors. Inuit were able to create

and maintain certain political organizations that other Indigenous communities in Canada could not due to their geographical remoteness (Simon 2012, 2). Colonization happened quickly in Canada's Arctic, which meant that Inuit too had to adapt quickly, which they did by forming ITC. The formation of ITC and other Arctic Indigenous organizations are examples of the forms of resistance that Bruyneel describes (Bruyneel 2007, 227). By resisting state-centric policies and decisions through the organization of ITC, Inuit in Canada established a path towards greater agency in their affairs.

Adoption of UNDRIP

As mentioned, along with other organizations of Indigenous peoples, Inuit through the ICC contributed to the establishment of the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), which was adopted by the United Nations General Assembly in 2007 (United Nations 2007). This was transformative in that it established a global legal foundation for the rights of Indigenous peoples within an organization that is founded upon the assumption of the supremacy of states. While the Arctic remains 'un-decolonized', UNDRIP "exerts certain pressures in support of policy approaches that advance contextualized decolonization of the Arctic" (Newman 2020, 427). Recognizing this, the ICC has identified UNDRIP as a vital tool for Inuit in the ongoing struggle to protect human rights, cultural traditions, economic advancement, and political development (Inuit Circumpolar Council 2009).

Reflection of UNDRIP in Canadian law has unfortunately been a very slow process. Canada is a dualist state with respect to international law, meaning that the implementation of international laws and treaties requires domestic legislative steps before they can have any effect. So, Canada tabled UNDRIP as Bill C-15 (Parliament of Canada 2021), which received royal assent

in Canada in June 2021, after consulting with ITK and other Indigenous organizations. It is now entered into law, as Statutes of Canada SC2021, c 14. However, it should be remembered that Canada was one of four states along with Australia, New Zealand, and the United States, that voted against UNDRIP when it was first tabled at the UN General Assembly in 2007. Canada did not change its position on UNDRIP until nine years later, in May 2016, and adapted it into law five years after that. Setting aside Canada's dilatory response to UNDRIP, the sweeping majority in favour of UNDRIP at the UN, as Lightfoot argues, "is forging major changes in the international system, through the process of rethinking and reordering conceptions of sovereignty, territoriality, decolonization, liberalism, and human rights that is captured by the United Nations Declaration of the Rights of Indigenous Peoples" (Lightfoot 2016, 4). By finally adopting UNDRIP in law, Canada is moving forward with policy changes that were internationally identified as necessary two decades ago. However, Canada's slow response is consistent with its historic treatment of Inuit and other Indigenous peoples and is further evidence of the persistent colonial relationship that marginalizes them.

UNDRIP has provided a mechanism through which Inuit rights can be better realized and applied to address the complexity of Arctic environmental issues and human wellbeing, which as Watt-Cloutier argues are one and the same regarding Arctic Indigenous peoples (Watt-Cloutier 2015). Newman states that "UNDRIP is likely to exert meaningful influence on the Indigenous rights discussions in most Arctic states" (Newman 2020, 431). UNDRIP provides the legal framework through which the 'right to be cold' can be realized and enacted as it would provide the grounds on which Inuit can litigate over marine and environmental protection in the high Arctic. In addition, the implementation of UNDRIP in Canada has policy implications regarding the relationship between Inuit and marine life which is used for their subsistence, culture, and

economic well-being. In the past, issues such as the EU seal ban and POP/DDT use have been litigated in international courts under more general human rights claims, which do not adequately address the unique relationship between Indigenous peoples and the environment, especially the Arctic. UNDRIP allows this relationship to be legally recognized and safeguarded.

Inuit and the Indigenous rights movement: Informal engagement

The Indigenous rights movement is transformative insofar that it provides examples of alternative ways of engaging in global politics. The collective engagement of Indigenous actors to assure Indigenous rights through transnational advocacy has solidified the role of Indigenous actors in international relations. A result of this was the signing of UNDRIP, which is indicative of shifts in both structure and the practice of global politics. This agreement now stands on Lightfoot's 'norm plane B', where new norms can lead to changes in the global order. This argument in the context of Inuit political expression conveys how alternative approaches to politics have provided ways in which Inuit can interface with the state-centric system while maintaining agency.

The success of the ratification of UNDRIP in Canada is evidence of the collective strength of Indigenous transnational advocacy. Transnational advocacy takes on two forms, formal and informal. Evidence of the former has been discussed elsewhere in this thesis in the context of the many successes of the ICC and can be seen as a direct intervention of colonial ontologies. Informal expressions of Inuit advocacy are also evident, where individuals and organizations engage the international public through their media presence. Inuit in Canada have exploited social media to raise general public awareness of their concerns. For example, in 2021 the 'Respect Inuit or Leave' Facebook page was created in opposition to the phase 2 expansion of the Mary River mining project. The Mary River mine operation includes a harbour port at Milne Inlet, on the northeast

coast of Baffin Island, and a potential port at Steensby inlet on the southwest coast, closer to the mine. Both locations are along the Northwest Passage. The mine began operation in 2014 and gained international notoriety in 2021, with Inuit residents protesting the planned expansion of the mining operation to include a railway between the mine and Milne Inlet, and an expansion of the port itself. Inuit protests have been recognized internationally as they raise awareness to the risk the project entails to their culture and their food sources, including the fish, seal and narwhal populations locally that may be impacted by the expected increase in shipping traffic, as well as the environmental toll they have already witnessed with the mine operation up to now (Kestler-D'Amours 2021).

Another example of Inuit informal engagement through social media is seen in the ‘#sealfie’ Twitter campaign, in which Inuit engaged with opponents of seal hunting, a renewable resource for Inuit that provides food to a people who suffer food insecurity, as well as clothing and other materials to support their lives and culture (Holland 2017). ITK supported the #sealfie campaign and integrated it into their “A Taste for the Arctic” event in Ottawa in 2017, setting up a photo booth with seal furs that visitors could wear and be photographed in.

In addition, Inuit have been strong proponents of the Indigenous rights movement in Canada. Inuit along with First Nations and Métis have collectively advocated for restitution through Murdered and Missing Indigenous Women (MMIW) campaign and the resolution to the residential school system. Former Nunavut MP Mumilaaq Qaqqaq used her platform to demand that retired French Oblate priest Joannis Rivoire be extradited to Canada to face charges of sexual abuse of children in residential schools in Nunavut (Rogers 2021). In all these cases, Inuit acted to protect their environment, culture, livelihoods, and rights. Formally, through the ICC, they contributed to the creation of UNDRIP. Through ITK, Inuit worked with the Canadian government

to see it pass into law. Informally, through the actions of groups and individuals, Inuit have maintained a media presence and advocated for their environment, their culture and their rights. Collectively, these examples of informal resurgence represent Inuit expressions of agency outside the formal engagement of the ICC in global politics.

The Nunavut Land Claims Agreement: lack of capacity, Canada delaying devolution

Inuit in Canada have expanded the scope of their agency and their influence through the formation of the ICC and ITK. Through the ICC, they have been Permanent Members of the Arctic Council since its inception, challenged states for their responsibility in causing global warming and POP contamination of the Arctic, and contributed to the establishment of UNDRIP. Through ITK, the new territory of Nunavut (where 46.4% of Inuit in Canada live (Statistics Canada 2019)) was created in 1993 via the Nunavut Land Claims Agreement Act (NLCA), with an Inuit-led government.⁶ In addition to the creation of a new territory with an Inuit government, this act also includes the lawful transfer of Inuit rights, claims and interests in the territory and its waters from Inuit to Canada, and the gradual devolution of powers from the federal government to the government of Nunavut. The domestic vulnerability of Inuit is exposed in the context of the application of the NLCA, which is explored here. Internationally, the agreement provides a strong legal foundation for Canada's sovereignty claim of the Northwest Passage, both with the surrender of Inuit rights, claims and interests to Canada, and with the endpoint of the agreement being Inuit self-government, which is a milestone in self-determination. Recognizing this, to maintain its sovereignty claim Canada needs to adhere to the terms of the agreement and allow Nunavut to

⁶ Nunavut Tunngavik Incorporated (NTI) was established as the Tungavik Federation of Nunavut by ITK to negotiate on behalf of all Inuit in Nunavut with Canada in the creation of the NLCA. It continues today in its role of ensuring compliance with the NLCA.

achieve greater self-determination, while the government of Nunavut endeavours to improve the standard of living in the territory, to achieve and maintain a harmonious relationship.

However, the government of Nunavut is young and faced with challenges of capacity, and it is gaining more responsibility through the process of devolution and will shoulder an even greater burden as it strives to improve the standard of living in the territory. This section examines the NLCA and its associated devolution process, the governance structures in Nunavut, and the bureaucratic capacity challenges faced by the government of Nunavut, to expose the challenges faced by Inuit in the territory, which are products of the persistent colonial relationship and the colonial governance structure they have been forced to adopt. This is relevant to this thesis as it shows that Inuit have gained agency in spite of these challenges through the NLCA and their public support of Canadian sovereignty, which allows them to influence the sovereignty relationship with Canada.

Many of the challenges faced by the Government of Nunavut appear insuperable and are linked to a small population spread over a wide geographic area, challenges with educational attainment, high turnover of government staff, limited opportunity for revenue generation and a bureaucracy model that appears incompatible with Inuit culture. As a consequence, the capacity challenges are used by Canada to delay devolution and maintain the status quo of the colonial relationship, with Canada in control.

The government of Nunavut has been gaining additional responsibilities as the devolution of governance progresses, cascading responsibilities down, from the federal government, to the territorial government of Nunavut, to the municipal governments.

Devolution is part of the 1993 settling of the Nunavut Land Claims Act (NLCA), which recognizes that Nunavummiut (collectively the Inuit living in Nunavut) have an inherent right to Inuit-owned lands (and its resources) as affirmed in Canadian law. As a result, Nunavummiut have gained a measure of self-determination over

their political and economic affairs within their homeland” (Ritsema, et al. 2015, 159).

However, the degree of self-determination gained by Nunavummiut through the process of devolution is impaired by the delay imposed by Canada.

A case study was performed in 2015 in Pond Inlet, a community in Nunavut on the north end of Baffin Island, and Iqaluit, the territorial capital, by a team of researchers to understand the factors that contribute to and hinder the local development of Inuit communities (Ritsema, et al. 2015, 157). The researchers found that despite the greater degree of self-determination over political and economic affairs that the devolution of governance has in theory provided, the citizens of Pond Inlet overwhelmingly felt that they lack self-determination (Ritsema, et al. 2015, 165). One reason is that the Canadian federal government retains significant power in the NLCA in a few ways. First, Nunavut was created as a territory within the state of Canada, not as an autonomous region. Second, the federal government retains decision-making authority over non-renewable resource development on Crown lands (specifically on those lands not included in the NLCA) (Ritsema, et al. 2015, 165; White 2009, 59). It should be noted here that Crown lands comprise the majority of Nunavut. Third, after a proposed resource project on Inuit-owned lands has passed territorial regulatory reviews, the federal minister of Northern Affairs (until 2017, this would have been the federal minister of Aboriginal Affairs and Northern Development Canada (AANDC)) has final approval over the conditions that will allow the project to progress (Nunavut Tunngavik Incorporated 2004). Thus, “the federal government has de facto veto power as the final project approver and, more indirectly, through its capacity to invest in infrastructure, training, and other aspects that impact the appeal to private sector investors and its ultimate success for local communities” (Ritsema, et al. 2015, 165).

Another reason given by citizens of Pond Inlet to explain why they do not see improvement in self-determination lies in the formal meetings between the community, regulators and industry representatives required by the NLCA for local input into development plans. These meetings are not viewed as the appropriate method for asserting their rights in the process, and thus the citizens of Pond Inlet felt that they had no power to affect the course of the Mary River iron mining project (Ritsema, et al. 2015, 165-166), which is local to their community. They also felt that their elected municipal government was powerless in any effort to ensure that the local needs and values are considered in the development (Ritsema, et al. 2015, 166). As a result, the citizens of Pond Inlet became apathetic, and all but a few disengaged from the consultative process (Ritsema, et al. 2015, 166).

The territorial government of Nunavut is responsible for day-to-day operations in the territory. There are 22 constituencies in the territory, each represented by an independent Member of the Legislative Assembly (MLA). The Legislative Assembly is unicameral and makes the laws for the territory. However, “unlike provinces, whose powers derive from the Constitution, territorial governments have no inherent jurisdiction” (W. Greaves 2012, 10). Although devolution results in more powers being transferred to the territorial government, the endpoint will still not be federalism as enjoyed by provinces, leaving the Government of Nunavut dependent on the federal government and not truly independent, perpetuating the unequal colonial relationship.

The relationship between the territorial government of Nunavut and the federal government remains a source of problems with respect to evolving self-determination of Inuit, but it at least marks a degree of progress. In Canada’s federal system, power is divided between federal and provincial governments. This arrangement protects each from unilateral action by the other, and both the provincial legislatures and federal parliament are sovereign within their own spheres (Roy

2001, 91). Nevertheless, Nunavut (as with other territories) does not have true sovereignty in its own sphere because “as an administrative rather than an autonomous region of Canada, the Government of Nunavut can exercise only those powers delegated by the federal government. As a result, the Canadian government has a great deal of say in the operation of Nunavut” (Ritsema, et al. 2015, 167). The Canadian department of Intergovernmental Affairs explains:

There is a clear constitutional distinction between provinces and territories. While provinces exercise constitutional powers in their own right, the territories exercise delegated powers under the authority of the Parliament of Canada. Historically, this authority has meant that the North was largely governed by federal officials. However, over the past 40 years, major changes have occurred in the governance of the territories. Federal statutes have established a legislative assembly and executive council for each territory and province-like powers are increasingly being transferred or “devolved” to territorial governments by the Government of Canada. This process, known as “devolution”, provides greater local decision-making and accountability (Government of Canada 2021).

So, while devolution is conferring more local “decision-making and accountability” to the governments of territories, the relationship remains a far cry from the federalism enjoyed by the provinces because power is being dispensed at the pleasure of the Crown, which still leaves the federal government as the ultimate seat of power. Further, the Canadian government retains de facto authority in Nunavut by controlling transfer payments and program funding to the territory (Ritsema, et al. 2015, 167). These two issues underline the continuing colonial relationship between Inuit and Canada.

One of the most important powers enjoyed by provinces but denied Nunavut is the ownership and control over Crown lands, and over non-renewable resources (White 2009, 68).

White explains:

Nunavut and the NWT (Northwest Territories) are in the same position as the prairie provinces were prior to 1930, in that Ottawa retains title to Crown land. This is of profound import in that the great bulk of these territories consists of Crown land, the only substantial exceptions being Aboriginal-owned lands as set out in land-claims settlements. Thus the massive royalties generated by diamond mines, oil and gas

wells, and the like accrue to the federal treasury rather than the territories, and environmental regulation remains largely a federal prerogative. Devolution of control over non-renewable resources to the territories has been Ottawa's stated goal for some years. In the NWT, the principal stumbling block has been the inability of the territorial government and the many Aboriginal groups and governments to reach agreement on a revenue-sharing scheme, but in Nunavut Ottawa's perception of the government's lack of capacity has loomed large (White 2009, 68).

This was written in 2009. Since then, Yukon and the Northwest Territories have gained control over their lands and resources, but the only change for Nunavut has been the signing of the *Nunavut Lands and Resources Devolution Agreement in Principle* (AIP) (Government of Canada 2019) on August 15, 2019. According to CIRNAC,

it will take approximately 5 years from signing the AIP to when all responsibilities are formally transferred to the Government of Nunavut.

The timeline allows for:

- negotiation of a final devolution transfer agreement
- training for certain positions within the Government of Nunavut
- negotiation of an implementation schedule
- drafting of legislation to create the legal framework needed for the Government of Nunavut to take over the responsibilities

(Government of Canada 2020)

So this next step in devolution is expected to be complete in 2025, and there are some concerns that the federal government's initiatives to create additional protected lands and waters will severely constrain the Inuit opportunities for economic development, which led the Premier of Nunavut to state in February 2020 that the government of Nunavut will not support any new marine protected areas (MPAs), or any new federal conservation areas in the territory, until after the devolution agreement between Canada and Nunavut is in effect (Bell 2020).

The concern noted above regarding the government of Nunavut's capacity is an important point. It was commented upon in a report commissioned by the Canadian federal government in 2007, which argued that devolution should not proceed until Nunavut adequately addressed its capacity issue, saying that

If devolution negotiations are to be successful, the most significant challenge will be to ensure that the [government] has the human resources it needs in order to be fully ready and capable to honour its devolved responsibilities on the devolution effective date. Bluntly said, if this issue cannot be satisfactorily dealt with, then the right conditions will not be in place to transfer federal responsibilities (Mayer 2007).

The report described Nunavut's "difficulty 'in attracting and retaining professionals and specialists' in both the public and private sector as 'already monumental'" and warned this would worsen with the expansion of mining and other resource development-related projects (White 2009, 68). Paul Okalik, the former premier of Nunavut, rejected this argument, called the federal government "paternalistic" and commented upon the negative perception of the Ministry of Indian and Northern Affairs as detested by most Indigenous peoples as an entity that continually puts up roadblocks whenever they are challenged to cede authority over Indigenous lives.⁷ Okalik further argued that using the capacity of the Nunavut government as a reason to halt devolution was "unfair and ill advised" but did not refute that Nunavut continues to suffer from a serious shortfall in capacity (White 2009, 68).

It should be noted that this limited capacity was also identified by the citizens of Nunavut in 2015. Many commented that the government of Nunavut was fully aware of the challenges facing the territory, "including the need to develop human capacity and strengthen institutional infrastructure, but that it has been ineffective in identifying solutions to these problems" (Ritsema, et al. 2015, 169). As an example, they "pointed out that the government of Nunavut has yet to achieve the principles of Article 23 in the NLCA, which require proportional Inuit representation in government staffing, and that the underrepresentation of Inuit in managerial positions within

⁷ Okalik's expressed view on the conduct of the federal government has been stated by others as well. Greaves commented, saying that "while some see progress on Aboriginal recognition and rights realized through the judicial system as a sign of improving structural conditions for Indigenous peoples in Canada, others contend that colonial powers will only recognize collective rights and identities of Indigenous peoples insofar as recognition does not throw into question the background legal, political, and economic framework of the colonial relationship itself" (W. Greaves 2012, 10).

the territorial government persists” (Ritsema, et al. 2015, 169). The competition for skilled Inuit is fierce between the government of Nunavut, NTI and other land claim organizations, the federal government, municipal governments and the private sector (White 2009, 73), compounding the difficulty faced by the government of Nunavut in hiring and retaining staff, especially since they are constrained by the intent to maximize the ratio of Inuit in their staff. This situation is made even worse when the wages and benefits offered by other organizations often exceeds what the territorial government can offer (White 2009, 73).

In addition to the daunting challenge of providing sufficient human resources to effectively administer Nunavut, the government of Nunavut is faced with severe constraints on its ability to generate revenue. As of 2009, over 90% of the government of Nunavut’s revenue came in the form of transfer payments from the federal government (White 2009, 69). This situation is only slightly changed for the 2020-2021 budget forecast, where total revenue is \$2.615B, of which \$2.148B are transfers – 82% of all revenue (Nunavut Department of Finance 2020). The dispersed population and challenging geography of Nunavut, combined with the rapidly growing Inuit population, “impose costs on the territory borne by no other Canadian government, most notably in the health and energy sectors” (White 2009, 69). Access to health care is severely hampered, and so transportation of patients was a correspondingly massive fraction of the total health care expenditure at 19% of the overall Department of Health and Social Services budget in 2009 (White 2009, 69). Similarly, by virtue of being isolated small communities, electricity distribution is a great challenge, and the territory greatly relies on local diesel generators, which are staggeringly expensive on a cost per kilowatt-hour basis compared with the established power generation and transmission infrastructure in southern Canada. The revenue generated within the territory is small – 18% of all revenue forecast in 2020-2021 (Nunavut Department of Finance 2020) – and although

the government has taxing powers, the tax base is very narrow and offers little scope at present for raising revenue, and the government correspondingly has limited borrowing power (White 2009, 69). Overall, this presently limited capacity to generate revenue for the territorial government is a major obstacle in the path of sustaining a stable, efficient bureaucracy, and thus leaves the Government of Nunavut fiscally dependent upon Ottawa, perpetuating the colonial relationship.

Government of Nunavut structure and staffing challenges

As explained above, one of the conditions of the NLCA was the requirement of proportional Inuit government staffing, and the failure to achieve this is identified in the Mayer Report (Mayer 2007, 12). This and the associated challenge of capacity are key reasons for the delay in the process of devolution. The federal government could assist in addressing these issues by increasing funding for payroll of government employees, enabling them to attract and retain Inuit talent. However, this was not implemented, and devolution was delayed, which prolongs the colonial relationship and hinders the self-determination of Inuit in the territory.

When the territory of Nunavut was created in 1999, “a central goal of Inuit leaders in pushing for a land claim and a Nunavut territory was the establishment of a government that would not only be numerically dominated by Inuit but would also operate by Inuit cultural principles” (White 2009, 58). So, not only was the new territorial government faced with the daunting task of creating the structures necessary for the government to function properly, but the people of Nunavut also expected it to be done in a way that was compatible with their culture (White 2009, 58). Poelzer and Coates quote Asch, saying that “with the right political will and justification, as exists in the territorial North, it is possible to adjust existing political systems to accommodate Aboriginal political aspirations. These accommodations, in their different forms, can function

effectively within a Canadian federal system” (Poelzer and Coates 2016, 105). With the formation of the government of Nunavut, much of the pre-existing structures from the previous government of the Northwest Territories were preserved to avoid creating a system that the people did not understand. Unfortunately, this meant that the government of Nunavut “was not designed to reflect Inuit cultural principles” (White 2009, 63; Price 2007, 13). So, the initial goals of the government of Nunavut were not met and remain difficult to achieve due to the challenges in hiring and retaining skilled Inuit professionals and specialists. This expectation severely shrinks the talent pool, forcing the government of Nunavut to hire from southern Canada as they work with NTI to grow the pool of skilled Inuit able to perform the necessary functions.

This temporary hire of southern Canadians has a few undesirable side effects. Very few of the applicants “come with any real appreciation of Inuit culture and virtually none speak or learn anything more than rudimentary Inuktitut” (White 2009, 74). Further, temporary hires result in institutional memory loss when they leave (White 2009, 71), although this symptom is similarly associated with the high turnover rate of Inuit government employees. White describes the incompatibility of the two modes of government, saying that

Many of the defining characteristics of the modern Weberian bureaucracy, as it has come to dominate government throughout Canada, are either inconsistent with or completely antithetical to key elements of Inuit culture. The rigidly hierarchical, command-and-control structure, the emphasis on office-holding rather than personal authority, the formal rules, the demarcation of the private from the public, the aspiration to neutral analysis, the expectation that ideas will be routinely and aggressively challenged, and other essential elements characteristic of Euro-Canadian government administration sit uneasily with the precepts of IQ (Inuit Quajimajatuqangit – Inuit values and world views) (White 2009, 76).

None of this is to say that hope of a government that is compatible with IQ should be abandoned.

It is a more difficult path than carbon-copy adoption of the model of Weberian bureaucracies of

southern Canada in some functional ways, but to neglect the original intent of creating a true Inuit government creates far greater issues.

In addition to the municipal, territorial, and federal governments there are Inuit land claims organizations. NTI represents Inuit under the NLCA, and in some key ways has been the effective Inuit government for the territory (Ritsema, et al. 2015, 167). This relationship between NTI and the government of Nunavut has been codified in *The Clyde River Protocol* and *Iqqanaijagatigiit*, a follow-on agreement that states

The GN (Government of Nunavut) recognizes that NTI occupies a special place in the affairs of Nunavut as the primary Inuit organization with the mandate to speak for the Inuit of Nunavut with respect to the rights and benefits of Inuit under the Nunavut Land Claims Agreement. The GN further acknowledges that NTI's mandate embraces additional responsibilities designed to protect and promote the interests of the Inuit as an aboriginal people (White 2009, 61).

Under the terms of the NLCA, there are Designated Inuit Organizations (DIOs) that are tasked to “represent Inuit interests, ensure that the NLCA articles are honoured, and to help operationalize Inuit self-determination” (Ritsema, et al. 2015, 167), including Nunavut Tunngavik Incorporated (NTI). NTI also includes “Inuit regional development corporations, Inuit economic development corporations, Inuit investment corporations, and Inuit wildlife organizations” (Ritsema, et al. 2015, 167). This web of governmental and quasi-governmental agencies has also been commented upon by Martin Papillon, who remarked on their often-overlapping jurisdictions (Papillon 2020, 228).

Overall, this collection of governance bodies not only leaves the citizens of Nunavut at a disadvantage, but the hierarchical structures that they also represent, which is typical of western-style bureaucracy, is at odds with the historical governance structures and decision-making methods of the Inuit. In addition, the participation in the market economy promoted by the federal government rewards individualism over the collectivism that is characteristic of Inuit culture. Pre-contact Inuit decision-making was confined to their immediate small group, was inclusive and

consensus-based, and their groups emphasized sharing over personal gain (Ritsema, et al. 2015, 170; Pauktuutit (Inuit Women of Canada) 2006). This stands in stark contrast to southern Canadian communities, where a distinct hierarchy and a free-market economy are norms. This disconnect between the modes of governance creates further challenges for the government of Nunavut.

Residents of Nunavut repeatedly expressed their preference for localized, inclusive, consensus-based decision-making to make decisions and felt this needs to be kept in mind for development, so that there is consultation instead of dictating (Ritsema, et al. 2015, 171). Additional concerns identified included: a lack of effective communication between levels of government and regional organizations; a general feeling that the community leadership needed to deal with a resource-based economy was too young to be effective; and a common lack of a comprehensive understanding of how to navigate the complex system governing development that often hindered the citizens' ability to fully exercise their rights and powers (Ritsema, et al. 2015, 174). So, at a municipal level, not only are communities in Nunavut faced with the common issues of any municipality in Canada, but there are also challenges unique to Inuit communities that threaten their viability as municipal governments, which have broader implications regarding the relationship between the Inuit and Canada.

Creating the opportunity for Inuit self-government in Nunavut is unquestionably a necessary step in recognizing Inuit self-determination. However, using the capacity challenges faced by the Government of Nunavut and the municipal governments as a reason to slow or halt devolution is disingenuous. The Government of Nunavut is competing for a very small pool of Inuit with the requisite skills for a functioning bureaucracy, who are in demand by other governments and corporations. The Government of Nunavut is unable to afford to offer higher pay, as they are challenged by their limited revenue sources and fixed transfer payments from the

federal government. The federal government could work with the government of Nunavut to find a resolution to this issue, through their own hiring practices and with financial incentives to make up for the territorial government's present inability to offer appealing wage and benefit packages. As another alternative, Canada could allow the government of Nunavut to tax industry more broadly, including those on federal crown lands, which comprise most of the territory.

Instead of working with the Government of Nunavut to find agreeable solutions together, Canada chooses to delay devolution in Nunavut based on the capacity gap in governance which will likely exist until a significant change occurs. Such a change requires the intervention by the federal government, so in this way the federal government has put itself once again in control, allowing it to dictate the pace of devolution and profit directly from resource extraction activity in Nunavut. This leaves the Government of Nunavut dependent upon Canada, as Canada continues its pattern of neglect.

Devolution and Arctic sovereignty

Inuit in Canada, through the terms of NLCA and the agency they have through their sovereignty relationship with Canada, can apply pressure on Canada if their frustration with Canada's delays and treatment reached the point where they felt they had no other option. Through its international affiliations such as the AC and the UN, ICC Canada can publicly withdraw its support of Canada's claim of sovereignty, which would seriously impair Canada's position by undermining its legal foundation in the NLCA. Through the ICC Inuit have an authoritative voice in international politics, and by stating they no longer support Canada's claim, it would put Canada in a very difficult position in trying to defend its sovereignty claim, especially given the large and growing strategic and economic interest in the region.

Inuit leaders have expressed frustration with Canada's slowing of the implementation of the NLCA, and the apparent failure of Canada to implement the agreement, in spite of the fact that the agreement strengthens Canada's Arctic sovereignty claim through the surrender of Inuit rights, claims and interests in the territory and the intended self-determination and funding for Inuit (Byers 2009, 119). NTI stated this plainly to the Standing Senate Committee on Fisheries and Oceans (Byers 2009, 119). However, because they have been continually frustrated by the federal government, Inuit have stated that they may consider withdrawing their support for the Canadian claim of sovereignty (Byers 2009, 119-120) – which implicitly shows the existence of Inuit self-determination outside the limits of the Westphalian concept of sovereignty. This could be dangerous, because of the environmental and other risks that would follow from the Northwest Passage becoming an international strait, but it is not outside the realm of possibility if they felt they had no other options (Byers 2009, 119-120). Judging by its conduct with Inuit since, it is evident that Canada missed the figurative 'shot across the bow' when this statement was made in 2009. This was a real warning to Canada backed by a legitimate threat, that has only grown as Inuit have continued to engage internationally independently of Canada and gained agency in doing so. As Byers says, "We cannot take the Inuit for granted; if we wish to maintain their support, we have to keep our promises" (Byers 2009, 220). The fact that Canada struggles with this shows that it does not prioritize Inuit or respect their concerns and downplays Inuit agency in international fora. This is evidence that colonial attitudes and perspectives obscure the reality of the Inuit threat, diminishing it to perceived insignificance, even though Inuit have agency internationally and the capacity to retaliate.

Chapter 6: Inuit agency and the Northwest Passage

The melting of polar sea ice and the subsequent opening of a potential shipping route, the Northwest Passage, of which sovereignty is contested are complex issues of international maritime law with direct implications for the traditional stewards of the region, Inuit. Inuit have expressed concern for the increase of maritime traffic through their traditional lands, seas, and ice (Inuit Tapiriit Kanatami 2018). The sovereignty debate amongst politicians and academics over the region has historically centered on a ‘use it or lose it’ perspective which has driven much of Canada’s actions to demonstrate ‘use’ of the Arctic for decades. However, Inuit have gained agency internationally through the ICC that enables them to undermine Canada’s Arctic sovereignty claim should they choose and engage with other states and corporations to build capacity.

The Northwest Passage is a group of parallel routes through the Arctic Archipelago of Nunavut that, when the water is open, permits transit across the northern extent of the North American continent. It was largely ignored after British exploration efforts to navigate it ended in the 19th century, until the mid-20th century when new technologies in the form of nuclear submarines, ICBM’s and intercontinental bombers made it strategically relevant. Canada’s position is that they are internal waters and thus enfolded into the state’s sovereignty claim of the Arctic, whereas the position of the US, and now a number of other states, is that they are an international strait, meaning that vessels from all states may freely transit without requiring permission. The consequences of it being recognized as an international strait are negative for Inuit and Canada, making this sovereignty debate, Canada’s relationship with Inuit and Inuit agency in international fora fundamental to the future disposition of the Northwest Passage.

Interest in the Northwest Passage

As an alternative commercial shipping route, the Northwest Passage, along with the Russian North Sea Route, offers numerous advantages over existing trade routes. First is a reduced distance from East Asia to North American and European Atlantic ports, with a corresponding reduction in shipping costs and time. From a carbon emissions standpoint it means a reduction per tonne shipped. Second is the avoidance of regions of high incidence of piracy around the Horn of Africa, the Gulf of Guinea, the Strait of Malacca and the South China Sea. Third is the avoidance of narrow choke points that are not only attractive to pirates but are also vulnerable to disruption. A recent notable example of such disruption was the *Ever Given* container ship losing steering control and becoming stuck sideways in the Suez Canal on March 23, 2021, which blocked shipping for six days, at an estimated US \$9.6bn of trade per day being interrupted, as estimated by Lloyd's (Russon 2021). Further, analysis by German insurer Allianz showed the blockage could cost global trade between \$6bn to \$10bn a week and reduce annual trade growth by 0.2 to 0.4 percentage points (Russon 2021). An additional consideration is that ships that do not travel through the Panama or Suez Canals would no longer be constrained by the limits on ship design imposed by these routes, although any that were to transit the Northwest Passage would need to be suitably engineered for that environment, much as Russian Yamalmax LNG ships are designed for navigating the Arctic waters of the North Sea Route. So, while Inuit have expressed their position that the Northwest Passage should not be used for shipping, international economic and commercial imperatives will continue to increase the demand for this alternative shipping route as global warming eventually renders it viable.

Due to the increasing international interest in Arctic resources and shipping, thirteen non-Arctic states have been granted observer status in the Arctic Council, including China and India.

The addition of these states, each with their own agenda, promises to complicate the governance of the Arctic and present a risk to Inuit interests. While the United States' interest in the Northwest Passage is primarily strategic, China's interest appears to be primarily commercial. Approximately 46 per cent of China's GDP is from international trade (Lackenbauer, et al. 2018, 74). Given how dependent China's economy is on trade, China must ensure global logistical chains are developed and strengthened to support further economic growth. This imperative forms the background for China's 2015 "One Belt, One Road" initiative, which is a series of international projects to further develop the infrastructure connecting Europe, the Middle East and Africa to Asia (Dolata 2018, 1). As part of this plan the Chinese government intends to invest \$900 billion (US) in terrestrial projects (the "Belt") such as pipelines, power plants and railways; and in marine projects (the "Road") such as ports (Dolata 2018, 1). In 2017, the One Belt, One Road initiative was reflected in the Chinese Constitution, ensuring an ongoing commitment to this massive effort to reduce costs and increase efficiency (Dolata 2018, 1). As of 2020, over \$4 trillion (US) had already been invested by the Chinese government (Baruzzi 2021). So, China is investing a massive amount of money in the development of transportation infrastructure globally, and with the opening of the Northwest Passage, a portion of that investment may soon be directed to Nunavut.

Shipping is a major component of China's overall international transportation infrastructure, which supplies crucial raw materials in bulk to China and indeed is the only means to deliver finished goods to North and South American markets. Recognizing the costs, limits to carrying capacity and risks associated with the current trans-global routes through the Panama and Suez Canals, in January 2018 the State Council Information Office of the People's Republic of China released a white paper called "China's Arctic Policy", which includes foreign direct investment plans and an intention to 'support Indigenous people' (The State Council Information Office of

the People's Republic of China 2018). This is an addition to the One Belt, One Road initiative, which encodes in policy all of China's activity with respect to the Arctic that was already underway, following President Xi Jinping's declaration in 2014 that China intended to become a "polar great power" (The Economist 2018). Chinese scholars are forecasting that up to fifty per cent of the Chinese container shipping through the Panama and Suez Canals will be diverted to Arctic routes, like the NWP, by 2030. This is dependent on the outcome of the sovereignty debate on whether the Northwest Passage constitutes internal or international waters.

For Indigenous governments, like the Government of Nunavut (GN) and the associated Nunavut Tunngavik Incorporated (NTI), who are committed to pushing forward much-needed infrastructure projects to address local needs and priorities, Chinese investment is enticing. As a result, "these governments are partnering with foreign and domestic private firms to realize infrastructure development beyond central government leadership" (Charter, Greaves and Sarson 2020, 49). Canadian security concerns of Chinese investment in Arctic projects are mounting and rightly so, as Canada has consistently failed to support Inuit in their efforts to raise their standard of living, maintaining the hierarchical colonial relationship by marginalizing Inuit. Thus, it is not surprising that Inuit have started to look elsewhere for support, exercising the agency they have accrued.

As an observer on the AC, India has also expressed an interest in Arctic matters. The state is engaged in "scientific diplomacy" and seeks to have more say in a region of growing global interest due to environmental changes, growing resource accessibility and the possibility of greater geopolitical competition for Arctic influence (Lanteigne 2021). Specific to the Northwest Passage, ArcelorMittal is the world's largest steel producer, headquartered in Luxembourg but Indian-owned. With the Energy and Minerals Group, a private equity investment firm, ArcelorMittal is

the co-owner of Baffinland, the company operating the Mary River iron mine on northern Baffin Island, in Nunavut. While separate from the Indian government, ArcelorMittal represents a sizable national interest and so correspondingly the Mary River mine has touch points with Indian policy. As mentioned above, this mine was the focus of Inuit protests in 2021 with regard to its planned expansion. This mine is one example of foreign direct investment along the Northwest Passage and illustrates some of the problems associated with resource extraction in the Arctic. With the opening of the Northwest Passage not only will there be pressure to increase shipping traffic, but non-renewable resources will also become more accessible. Both foreseeable changes are attracting the interest of non-Arctic states, including India, which have sought and gained observer status on the Arctic Council.

Wilson observes that the addition of non-Arctic states as ‘observers’ in the Arctic Council presents a threat to Inuit and other Permanent Participants within the AC as they pursue their own interests and agendas (Wilson 2019, 37). The Permanent Participants expressed concern over “outsiders’ lack of understanding regarding their culture and traditions” and “this disquiet is further strengthened by an uncertainty surrounding their privileged position within the [Arctic Council] and whether it might be retained if powers such as the [European Union] and China were to gain a greater presence within [Arctic Council] proceedings” (Wilson 2019, 37; Graczyk and Koivurova 2013). Wilson anticipates that these pressures will only increase as the Arctic becomes more accessible for shipping and resource exploitation (Wilson 2019, 37). The implication of this is that any discussions of sovereignty and access to the Northwest Passage will soon involve many nations and corporations, and the addition of non-Arctic states introduces a risk that Inuit may be sidelined.

Evolution of the Canadian claim of sovereignty

The Canadian claim of sovereignty of the Northwest Passage is primarily based on Inuit occupation and traditional use of these lands, and the legal surrender of Inuit rights, claims and interests in the lands and waters of Nunavut to Canada via the NLCA (Government of Canada 1993). These waterways are ice-covered for most of the year (at least until recently), forming ice bridges that are regularly used by Inuit for hunting, attributing terrestrial characteristics to sea ice. These ice bridges and their use have important ramifications to Canada's internal waters claim, in that they would form part of the defence of the claim should Canada have to defend it before an international tribunal (Byers 2013, 132). Further, Inuit hunt and fish in and on these waters, taking caribou, seal, narwhal and other animals for sustenance. The waters of the Northwest Passage are central to sustaining the Inuit way of life, so the emergence of an international shipping route through the Northwest Passage would directly threaten the wellbeing of Inuit and their self-determination.

The development of Canada's claim of sovereignty in the Arctic and the Northwest Passage pre-dates the twentieth century, but for much of the twentieth century the discourse was confined to traditional strategic statecraft. This was the case until global environmental awareness grew into a political consideration, which led to the development of international agreements, policies, and laws that Canada took advantage of to reinforce its claim of sovereignty of the Northwest Passage. However, until the *Nunavut Land Claims Agreement* (NLCA) (Government of Canada 1993) was developed, and then introduced in 1993, Inuit were not engaged as partners.

Early in Canada's history as a state, the *Colonial Boundaries Act* (1895) enabled the Canadian government to assert some sovereignty over its Arctic territories, which were endowed to the state in 1880 by the English monarch. A Dominion order-in-council was passed creating the

districts of Ungava, the Yukon, Mackenzie, and Franklin, and police posts were set up in these districts. Two years later, a second order-in-council gave the Yukon and Mackenzie districts all islands up to 20 nautical miles from their coasts and the remainder to Franklin (Pigott 2011, 53).

Canada's Arctic policy evolved in three distinct phases. From the late nineteenth century to the early 1950s, Canadian governments assumed ownership and exercised nominal control over the northern waters. The Royal Canadian Mounted Police and other officials asserted Canadian authority by regulating foreign whaling activity and sometimes treating the Northwest Passage as national terrain (Lajeunesse 2016, 9). The second phase began in the early 1950s, when American military traffic in the Arctic increased with the Cold War. As a result, the Canadian government, led by the Department of External Affairs and the Interdepartmental Advisory Committee on Northern Development (ACND), was forced to clarify the country's position in the North. By the mid-1950s, a rough outline of a coherent policy formed that included a heavy reliance on Inuit occupation of these lands to maintain its claim, and thus Canada exploited Inuit for this purpose. This included the forced relocation of ninety-two Inuit from Northern Québec and Mittimatalik (Pond Inlet, Nunavut) to settle on islands in the high Arctic, many hundreds of kilometres further north. In this way, Inuit were used as 'flagpoles' to bolster Canada's Arctic sovereignty. This reduction of Inuit to objects is characteristic of the prevailing colonial relationship with Canada, against which Inuit have struggled since the rapid encroachment of the state into the Arctic in the mid-twentieth century.

Canadian interest in the Northwest Passage is viewed in terms of Westphalian sovereignty and territorial integrity. This is at least partly a response to U.S. interest, which is mainly strategic i.e., free passage for naval vessels, including submarines. Prior to the 1970s, sovereignty was claimed by Canada, although this position was occasionally challenged by the United States.

Throughout the 1950s and 1960s, Canada was engaged in bilateral negotiations with the United States while playing an active role in two *United Nations Convention on the Law of the Sea* (UNCLOS) conferences. The goals were to secure a wider territorial sea, enhanced fisheries jurisdiction, and the right to enclose “special maritime areas” off the East and West Coasts as internal Canadian waters (Lajeunesse 2016, 11). The final stage in this evolution was ushered in by the 1969 voyage of the icebreaking US supertanker *SS Manhattan*. The *Manhattan*'s transit was an experimental voyage designed to test the feasibility of shipping Alaskan oil through the Northwest Passage. Although the stated intention of the passage was not to challenge Canadian sovereignty, Washington's public insistence that the passage constituted an international strait showed just how tenuous Canada's position really was.

Following the transit of the Northwest Passage by the *SS Manhattan*, Canada finally established a clear public position on sovereignty, which is that the waters of the Arctic Archipelago were historic internal Canadian waters (Lajeunesse 2016, 11). These sentiments were not ratified through legislation, but they did represent official policy and prompted the necessary harmonization of policy within the government and across party lines.

Near the end of the Cold War, Canada saw an opportunity to improve circumpolar relations. In a 1989 speech in Leningrad, Prime Minister Brian Mulroney suggested that the time had come to create a multilateral body that would bring together the Arctic states, improving cooperation between former enemies. Neither the Americans nor the Soviets accepted the initial effort to create this council. Instead, Canada joined Finland's initiative to create the *Arctic Environmental Protection Strategy* (AEPS), which was an agreement to examine the emerging circumpolar environmental problems.⁸ This was less ambitious than Canada's original plans for

⁸ The ICC along with The Saami Council and what would later become RAIPON assisted in preparation of the strategy as observers and remained as Permanent Members of the Arctic Council.

the council, although Canadian officials viewed it as the best means of establishing some degree of cooperation within the international community. However, Canada remained committed to its goal of forming an Arctic Council. Their efforts came to fruition in 1996 with the transformation of the AEPS into the Arctic Council under the Ottawa Declaration (Griffiths, Huebert and Lackenbauer 2011, 36).

Bilateral diplomatic initiatives concerning Canada's sovereignty over the archipelagic waters in the northern Canadian latitudes began soon after the establishment of the *Arctic Waters Pollution Prevention Act* (AWPPA) (Government of Canada 1985). After months of talks, Canadian negotiators secured American agreement in principle to refrain from challenging Canadian sovereignty or jurisdiction. This new approach was quickly drafted into an Arctic Treaty. The treaty was intended to establish an Arctic Commission, as well as a series of zonal authorities (made up by a series of individual states) that would establish a set of circumpolar environmental rules designed to protect the environment from maritime pollution through the legislation of vessel construction standards. This would offer financial compensation for damage caused by pollution. Beyond this international approach states would be free to establish a set of national environmental regulations in addition to those already agreed upon by the commission.

Article 234 of UNCLOS, commonly referred to as the "Arctic Exception", appeared in the 1982 final draft (United Nations 1982). This internationally legitimized the AWPPA and geographically exceptionalized Arctic waters by delimiting them from other similar bodies, placing them in a special category. The exceptionalism of Arctic waters in this sense refers to the presence of ice in these waters for the most part of the year. Later in 1988, Canada and the U.S. signed the *Arctic Cooperation Agreement* (Government of Canada 1988), which addressed a key issue in Canada-U.S. relations in the Northwest Passage by taking the issue of transiting U.S. Coast

Guard icebreakers out of legal dispute. This exceptionalism made Canada-U.S. discussions over the Northwest Passage less contentious.

Until the creation of the AEPS in 1989, Inuit were excluded from environmental policymaking and the related sovereignty discussions, even though the ICC was formed in 1980 and ITC was formed in 1971. So over much of the legislative and diplomatic history of the Northwest Passage, Inuit in Canada had little to no agency internationally. Their participation through the ICC in the creation of the AEPS marks an inflection point in their agency and international recognition as expert authorities on the Arctic environment. Since the 1980s, as shown above, Inuit in Canada have considerably increased their agency internationally through the formal work of the ICC, the process of environmental institutionalism, their informal engagement through social activism and protest movements, and finally through their manipulation of the sovereignty relationship with Canada over the Northwest Passage.

The evolution of the legal regime concerning the protection of the marine environment progressed rapidly and has been used by Canada as another means to establish sovereignty. Key environmental concerns that apply to the Northwest Passage – overfishing (as a future risk), and vessel and land-based pollution and the destruction of marine habitats – have been drivers for the remarkable growth in international law since the 1970s (Lalonde 2016, 1). Much of this is encapsulated in the *UN Convention on the Law of the Sea* (UNCLOS), and the *Convention on the International Regulations on the Prevention of Pollution from Ships* (MARPOL) (1973-78) (Lalonde 2016, 6). This process of environmental institutionalism has not only provided Canada with a means to defend its sovereignty claim, but it has also created a framework of laws and policies that Inuit employ in their efforts to protect their environment, culture and people.

After decades of statecraft that excluded Inuit, Canada engaged with Inuit to create the *Nunavut Land Claims Agreement* (NLCA) in 1993, which lawfully transferred Inuit claims and rights over the Northwest Passage (and the rest of the territory of Nunavut) to Canada, in exchange for funding, opportunities for employment and other benefits for Inuit. The NLCA provides Canada with a legally defensible claim to sovereignty of the Northwest Passage (Byers 2013, 132). This formal ceding of Inuit rights claims and interests in Nunavut lands and waters to Canada is foundational to the Canadian sovereignty position and forms the bedrock on which the internal waters claim rests, without which Canada would not be able to legally defend its position in an international court of law. In this way, Canada is dependent not only on Inuit occupation of Arctic territories, but also upon their intentional surrender of their claims, rights, and interests.

The U.S. position with respect to the Northwest Passage is that it is an international strait. Should this position be accepted internationally, the consequences to Inuit and Canada would be far-reaching and negative unless it was agreed that they could administrate the routes. Without administrative power, it would mean the Inuit Government of Nunavut and the Government of Canada would both be unable to control the timing and the specific routes taken by ships and communicate the shipping schedule publicly for the safety of Inuit. It would also mean that territorial and national environmental protections would be impaired, so that only international laws and agreements would remain in effect. It could also mean much greater pollution in the waters and surrounding terrestrial snow cover from an increasing frequency of ship transits (PAME 2021) and the number of ships burning HFO as fuel (Inuit Circumpolar Council 2020). This would be an undesirable outcome for Inuit.

The transits of the American tanker *Manhattan* and the U.S. Coast Guard icebreaker *Polar Sea* through the Northwest Passage without first asking permission from Canada to do so underline

the U.S. view, along with numerous other transits by U.S. SSN's and SSBN's (nuclear attack and ballistic missile submarines) during the Cold War era. Byers asserts that Canada's closest neighbours are concerned with ensuring their Navy's freedom of manoeuvre, and anything that might impede, or enhance, their ability to quickly and quietly deploy worldwide is looked at very critically (Byers 2009, 59). A U.S. Navy Commander was quoted in an issue of the *International Journal of Marine and Coastal Law*, saying that "maintaining a stable regime that ensures global maritime maneuverability and mobility is considered a cornerstone of the nation's economic and national security" (O'Grady 2007). The disagreement of sovereignty between the U.S. and Canada adds another level of complication to the already challenging geopolitical landscape of the Northwest Passage.

Inuit Surrender of Rights, Claims, and Interests to Canada via NLCA

Much of the discourse on the Northwest Passage centers on conceptions of state sovereignty and the territoriality to which it is bound. The territorial rights, claims, and interests were transferred to Canada by Inuit through the terms of the NLCA in exchange for greater self-determination through devolution and the creation of the Government of Nunavut. This greatly strengthens the legal foundation of Canada's sovereignty claim in the Arctic. More to this point, Canada has exploited Inuit in most of its efforts to defend its Arctic sovereignty. This is evident in the forced relocation of Inuit to northern latitudes to show that the Arctic is being actively 'used' by the state.

As mentioned, Inuit have expressed that they seek self-determination as equal partners to Canada, not in the context of Westphalian sovereignty. Self-determination was promised through the devolution of powers, and the creation of a Government of Nunavut, but the former has yet to be invoked limiting Inuit self-determination. While the Indigenous self-government of Nunavut is

limited by the state, the pursuit of self-determination serves as a form of “resurgence” of Indigenous nationhood that counters state driven self-government (Kuokkanen 2019, 61). From this perspective, the Inuit Government of Nunavut may not be seen as advancing self-determination since the government is bound within the existing state. However, with the NLCA Inuit have gained a mechanism to apply pressure on Canada, through the support of Canada’s sovereignty claim and the agency they have developed internationally. In this case, Inuit in Nunavut have agency and are increasing their self-determination through the manipulation of their sovereignty relationship with Canada with respect to the NWP.

In the case of Nunavummiut (Inuit in Nunavut), through the NLCA they have ceded to Canada “all claims, rights, title, and interests if any, in and to lands and waters anywhere within Canada and adjacent offshore areas within sovereignty or jurisdiction of Canada” (Byers 2013, 170), creating a legal foundation for Canada’s present sovereignty claim. Nunavummuit did this in exchange for self-government, funding, and employment opportunities. This may be perceived as a ‘surrender’ insofar that it enfolded Inuit into the overarching framework of Canadian sovereignty. However, as stated clearly in the *Circumpolar Inuit Declaration on Sovereignty in the Arctic*, Inuit identify themselves as citizens of the Arctic States (Canada in this case), who “struggle to gain recognition and respect as an Arctic Indigenous people having the right to exercise self-determination over (their) lives, territories, cultures and languages” (Inuit Circumpolar Council 2009). Further, they also state that “Canada’s claim to sovereignty and leadership in the Arctic is founded in its partnership with Inuit” (Inuit Tapiriit Kanatami 2019, 1). Inuit in Canada represented by the ICC identify that they seek the self-determination they have a right to and are partners in sovereignty with Canada (Inuit Tapiriit Kanatami 2019, 1). With the territorial government of Nunavut, Inuit organizations (ITK and the ICC), and their engagement

with the Arctic Council and the United Nations, they are in a stronger position to protect and develop their self-determination than ever before.

Sovereignty as recognized by the dominant international community upholds Westphalian notions of exclusive jurisdictional authority over land, with territorial boundaries, defensible borders, and a populace to defend with some sort of organized power. It is rooted in 17th and 18th century ontologies that no longer suffice in a globalized world, where states are not the only actors, yet it persists in modern renderings of the political international system. This is because sovereignty is an ordering principle which shapes the political mapping of the social world. From it, concepts of security arise allowing for the structuring of the international states system. Thus, state sovereignty is taken as a given feature of international law and other features of international politics. This is problematic because state sovereignty is justified in reference to what is externalized, creating the inside/outside dichotomy, and thereby excluding non-state actors, particularly Indigenous actors who exist neither solely inside nor outside the state. Therefore, state perceptions of sovereignty are inherently an imperial, colonial, and racist because of the imperial binaries that are implicit assumptions in the political ordering of the state. This ontology is dismissive of Indigenous actors, like Inuit, who are marginalized by imperial binaries of a colonial system. In the context of the opening of the Northwest Passage, state sovereignty remains the defining principle of debates regarding ‘who owns what’ and determining what security is, leaving little to no space for Inuit to be recognized within the debates. However, Inuit have acted through various forms of resistance to colonial impositions of power to assert agency in their affairs and protect their future as a self-determined people.

Overall, while Inuit in Nunavut through their occupation, use and relationship to the Arctic region, they stated plainly in the ICC Declaration on Sovereignty that they do not seek sovereignty

in a Westphalian sense (Inuit Circumpolar Council 2009). Instead, Inuit represented by ICC Canada increase their self-determination by working within the colonial state system and shifting global politics with other Indigenous peoples to include their voices. Inuit Tapiriit Kanatami and ICC Canada see themselves as partners of Canadian sovereignty in the Arctic. As stated in the 2009 *Circumpolar Inuit Declaration on Sovereignty in the Arctic*:

The inextricable linkages between issues of sovereignty and sovereign rights in the Arctic and Inuit self-determination and other rights require states to accept the presence and role of the Inuit as partners in the conduct of international relations in the Arctic... The foundation, projection and enjoyment of Arctic sovereignty and sovereign rights require healthy and sustainable communities in the Arctic (Inuit Tapiriit Kanatami 2019, 1; Inuit Circumpolar Council 2009).

This declaration was established and signed by the Inuit Circumpolar Council (ICC) and forms the foundation of the ITK position with regard to sovereignty of the Arctic and Inuit self-determination in Canada. Mary Simon, current Canadian Governor General, past president of Inuit Tapiriit Kanatami (ITK), and past president of the ICC, describes the statist (Westphalian) conception of sovereignty as an outdated model that is incapable of effectively addressing complex issues confronting Northern Indigenous peoples in Canada (Simon 2009, 252). This argument applies to the increasingly apparent security concerns in the Arctic and the Canadian government's approach to defence of Canada's Arctic territories. Simon highlights the irony in the traditional 'use or lose it' mentality that describes Canada's approach to security issues in the Canadian Arctic. Stated plainly, Simon observes, "Inuit have been living in...and using...the Arctic for millennia and have no intention of 'losing it'" (Simon 2009, 252). Inuit clearly have a historical and permanent presence in the North and their presence must be respected and incorporated in any effort to develop the Arctic. Thus, Canada's claim to sovereignty in the Arctic is indivisible from its partnership with Inuit.

For Canada, preserving the Northwest Passage as Canadian internal waters is a priority that grows in importance as the ice melts, and it becomes more practically navigable. Having the Northwest Passage recognized as an international strait would mean that shipping of natural resources such as oil and gas from the Alaskan north slope and the Beaufort Sea eastward through the Northwest Passage would be a potential. This would have serious implications for the AWPPA, as Canada would be unable to regulate foreign commercial shipping to protect the Arctic marine environment from the various forms of pollution associated with it, and there is presently no infrastructure in the region to respond in the event of an oil spill. The process of environmental institutionalism in law and governance bodies have provided means for Canada to support its claim of sovereignty, a claim that is provided a legal basis by Inuit historical and cultural occupation of these lands, seas, and ice. Further, the laws and policies brought about by growing public awareness through the institutionalization of environmentalism are also employed by Inuit to engage internationally to protect the fragile environment upon which they depend.

'Use it or lose it' logic

International law established at the Permanent Court of Arbitration in the 1928 *Island of Palmas Case (US v. Netherlands)* “requires that title to territory be consolidated and maintained by regular activity” (Byers 2013, 11-12) (Permanent Court of Arbitration 1928, 35) and “a continuous and peaceful display of state authority” (Permanent Court of Arbitration 1928, 35). Further, a 1931 ICJ ruling states that “it is the exercise of authority within a territory that is the principal consideration when dealing with matters of sovereignty. This control even supersedes prior claims to discovery or contiguity” (Lajeunesse 2007-2008, 78). Much of the international discourse regarding the Northwest Passage has centered around this ‘use it or lose it’ realpolitik viewpoint of sovereignty

and was echoed by Canada's former prime minister Stephen Harper on several occasions (Bergfalk 2012, 1; Dodds 2011). To demonstrate 'use', Canada has performed sporadic 'sovereignty patrols' through the Northwest Passage, along with Coast Guard and military overflights, and 'Operation Nanook', an annual exercise in the Arctic Ocean. Prime Minister Harper also proposed various Arctic infrastructure projects to bolster the perception of 'use' in the Arctic (Simon 2009, 252), few of which came to fruition or benefitted Inuit in any meaningful way. This conventional understanding of 'use' being requisite to sovereignty pervades the thinking of other states, as would be expected from the case law explained.

This understanding is implicit in a 2019 statement by U.S. Secretary of State Mike Pompeo in which he called Canada's internal waters claim "illegitimate" and expressed interest in the possibility of new shipping opportunities in the circumpolar north, declaring that "Arctic sea lanes could become the 21st century's Suez and Panama Canals" (The Associated Press 2019). This claim was promptly repudiated by the ICC Canada President, Monica Ell-Kanayuk, who stated unequivocally that Pompeo's understanding was faulty. She then explained that Canada's sovereignty is founded upon land claim agreements between Inuit and the Canadian government, and Inuit habitation and use of the land, water and ice for over four thousand years (Latrielle 2019). Pompeo's statement appears to be an aberration typical of the Trump Administration, rather than a substantial shift in policy, as there have been no supporting statements from the current Biden Administration. However, it highlights that in spite of the diplomatic and legal negotiations over the Northwest Passage with the U.S., the position that the Northwest Passage is an international strait persists in that government.

Since it is Nunavummiut who occupy and use the Northwest Passage and the coastal areas adjacent to it, their presence formed the grounds for Canada's historical and geopolitical claim.

The Canadian government has heavily relied on the Arctic Rangers - who are primarily Inuit - to “protect Canada’s sovereignty as well as defend her [sic] coastal interests...” (Smol 2020). Canada has also used Inuit as pawns to support its position of Arctic sovereignty, as shown by the forced relocation of Inuit in the 1950s. More recently, with the NLCA, Inuit in Nunavut formally ceded their claims, rights and interests of the lands and waters of Nunavut to the Canadian Government, legitimizing Canada’s position on Northwest Passage sovereignty in international fora. A cooperative Inuit presence is an integral part of Canada’s internal waters claim thus necessitating cordiality. Simon argues further that an essential component of Canadian Arctic sovereignty is the wellbeing of Inuit (Simon 2009, 251), which she contends is fundamental to developing Canada’s Arctic presence beyond “military hardware and pipelines” (Simon 2009, 258). Thus, Inuit in Nunavut and Canada engage in a symbiotic relationship specifically with respect to sovereignty⁹: Canada relies on Inuit in Nunavut to justify its Arctic and internal waters claims; while Inuit depend on the state for the fulfillment of basic needs, such as healthcare, education, social services, et cetera. In other words, Canada’s sovereignty of the Northwest Passage is supported both by the presence of Inuit and their lawful surrender of their claims, interests and rights in the lands and waters of Nunavut to Canada via the NLCA. Canada’s position would be further strengthened by providing adequate funding for the services necessary (upon which Inuit depend) to raise their standard of living to that of other Canadians. However, this relationship is characteristically asymmetrical, in that Canada benefits from all the Inuit have provided but remains parsimonious in its provision of funding for services to Inuit.

Another consideration regarding ‘use it or lose it’ is the understanding of what ‘use’ entails in an Arctic environment. Inuit use the land, seas, and ice in the Northwest Passage. They are a

⁹ In all other respects the relationship between Inuit and Canada is colonial, racialized and hierarchical.

small population, widely spread out across a vast area, but this is reflective of the fact that the resources they need for survival are also sparse and thinly spread out. Inuit ‘use’ of the region reflects what the region can reasonably sustain. The expectations implicit in applying a ‘use it or lose it’ viewpoint derive from a view of the Northwest Passage that ‘use’ exclusively implies exploitation of non-renewable natural resources, “ports, training facilities and military exercises”, and neglects the wellbeing of Inuit communities (Simon 2009, 252). So, these expectations need to be modified with a more complete understanding of what ‘use’ looks like in an Arctic environment.

With respect to the Permanent Court of Arbitration (PCA) and ICJ requirement of ‘exercise of authority’ to define sovereignty, Inuit are thinly spread out over a wide geographic region of sparsely distributed resources, but they are all subject to the laws of their municipalities, territories, provinces and state, and they all are provided services by these same institutions that all citizens have a right to, even though there are massive gaps in the delivery of these services. By providing services and enforcing laws uniformly in the Arctic, it can be argued that Canada meets the ‘exercise of authority’ requirement.

Finally, land possession has not figured prominently in Inuit conceptions of sovereignty. Historically, Inuit communities were mobile as an adaptation to an environment that does not lend itself to settled agriculture and relied largely on hunting and trapping for food (Pauktuutit (Inuit Women of Canada) 2006, 7).¹⁰ This reliance on ‘country food’ is still an important part of their culture and diet, and it engendered an understanding of sovereignty as a relationship with the environment, within which they are self-determined actors. Inuit see the deep connections between their way of life and the environment (Watt-Cloutier 2015, xvii). Inuit speak of sovereignty in

¹⁰ In the 1950s and 1960s, Canadian police slaughtered Inuit sled dogs to “reduce Inuit mobility and essentially force them into permanent settlement” (W. Greaves 2020, 369).

terms of self-determination and partnership with Canada (Inuit Tapiriit Kanatami 2019, 1-2). This view is comparable to Alfred's description of Indigenous sovereignty, where he shows that, as opposed to a Westphalian understanding in which humans own, dominate and exploit land, there is instead a partnership with the land. Land was created by a power greater than humans and therefore humans cannot possess it and have no right to dispose of it as they wish. The partnership gives humans responsibilities within the land they use and occupy, creating natural and sacred links between humans and the land (Alfred 2002, 474). This solidifies Alfred's argument that the concept of Westphalian sovereignty is not Indigenous. While there are many different conceptions of sovereignty, this is just one perspective that has been echoed by several Indigenous scholars in their emphasis on the ontological differences between Indigenous philosophies and Western ways of thinking (Simpson 2017; Coulthard 2014; Kuokkanen 2019; Stewart-Harawira 2009). Sovereignty in this sense is a mechanism by which colonial impositions are reified through the imperial binary. The colonial system itself has become so deeply embedded within Indigenous societies that it has been able "to keep Indigenous people focused on a quest for power within a paradigm bounded by the vocabulary, logic, and institutions of 'sovereignty'" (Alfred 2002, 466). This has enabled a general blindness to the maintenance of colonial oppression. Because territoriality and the sovereignty to which it is bound are not relevant to Indigenous epistemes it creates another binary in which Indigenous peoples are viewed as somehow less civilized compared to Western cultures. This relates to the previous point of the inaccuracy of the 'use it or lose it' security perspective on which conceptions of territorial sovereignty rely.

Bruyneel's view is that Indigenous refusal to be subject to the imposed limits of the settler state "demonstrates that Indigenous political identity, agency, and autonomy reside in the postcolonial time and space, already across temporal and spatial boundaries marked out by the

settler-state and the colonialist political culture” (Bruyneel 2007, 221). This effort, however, is impeded by the deep intellectual embeddedness of state sovereignty and the reification of forms of structural dispossession through the deceptive goal of sovereignty, which is made clear in both Alfred’s and Coulthard’s arguments. ITK has expressed that it is not interested in obtaining conventional ‘sovereignty’ of the Northwest Passage or the Arctic (Inuit Tapiriit Kanatami 2019, 1). However, they reasonably expect to be consulted and included as respected partners in any efforts to develop the Northwest Passage, which has been clearly stated by both Simon (2009, 259) and ITK (2019, 1). This stance differs from the Aboriginal rights relationship rejected by Alfred because in a partnership, Inuit would have an equal say in Arctic development and security.

Applied to the case of the Inuit and the Northwest Passage, statist interpretations of sovereignty obscured relations of dominance and non-dominance in discussions of Arctic security, essentially erasing the Inuit from the equation (W. Greaves 2012, 8). Moreover, the ‘use it or lose it’ perspective that is a product of spatio-temporal configurations of the state system informs the perceived necessity to secure the Northwest Passage without consideration of Inuit residents. Considering this, it is ever more apparent that sovereignty is a social construct that serves to restate forms of colonial oppression and thus it is not an appropriate goal for Inuit. As previously stated, Inuit do not view themselves as ‘sovereign’ actors; instead, they expect to be included as indispensable partners in efforts to defend sovereignty of the North. However, the overarching hierarchical, colonial relationship minimizes the perceived importance of Inuit in such a partnership when Inuit contributions are in fact much greater.

What is clear is that with respect to the Arctic in general, and the Northwest Passage in particular, there is a very strong symbiotic sovereignty relationship between the federal government and Inuit, where Canada legitimizes Westphalian sovereignty and the internal waters

claim by providing funding and services to Inuit. In return, Inuit continue to occupy and use the region, which further legitimizes Canada's sovereignty, and created a legal foundation for Canada's sovereignty claim through the surrender of Inuit rights, claims and interests in Nunavut to Canada via the NLCA. 'Use it or lose it' arguments are spurious and are founded upon a misguided understanding of 'use' in an Arctic context but have led to exploitative actions that have neither benefitted Inuit nor resolved Canada's sovereignty claim. Inuit only seek to be a fully self-determined people, partnered with the federal government to maintain Canadian sovereignty of the Arctic, including the Northwest Passage.

Analysis of Inuit agency in the Northwest Passage

The Premier of Nunavut, Joe Savikataaq, expressed the Government of Nunavut's concern over Canada's initiatives to create new protected lands and waters in Nunavut, including in the Northwest Passage, stating that "the creation of any new conservation and protected areas in Nunavut would have a significant impact on our ability to manage our lands and resources, and carry out negotiations for decision-making, leading to potentially very serious consequences" (Bell 2020). The Premier also suggested that the federal government was exploiting Nunavut's powerlessness over lands and resources to meet their future protected area targets for this decade (Bell 2020). Without a devolution agreement, Nunavut is unable to develop its own protected area strategy, unlike every other territory and province (Bell 2020). Such a strategy would "provide context and direction for resource exploration and development" according to the Premier and allow Nunavut to collect royalties from resource development after devolution is complete, but further protected areas could limit what Nunavut gains from the devolution agreement (Bell 2020). This led the Premier to state that the Government of Nunavut will not support any new marine

protected areas or any other federal conservation areas in the territory until a devolution deal with the federal government has been completed (Bell 2020). Both the introduction of more protected lands and marine areas in Nunavut and the weak HFO ban show that Canada still does not prioritize Inuit concerns or respect their knowledge and experience, because of the colonial relationship. This relationship leads to a dismissive view of Inuit, even though Inuit clearly have the capacity to impact the state's sovereignty claim.

Inuit have gained agency internationally primarily through growing global awareness of environmental concerns, particularly global warming. They have formed national and international organizations in ITK and the ICC, and through these bodies they engage formally in domestic politics, and in international politics through the Arctic Council and the United Nations. They also engage informally through national and international media and social activism. Even though Inuit were involved in the creation of the NLCA and were consulted in the drafting of Bill C-15, Canada has shown that it does not prioritize Inuit, or respect their concerns. It took Canada fourteen years, four federal elections and two prime ministers, with both Conservative and Liberal governments in office, from the date UNDRIP was signed to its adoption into Canadian law. As mentioned, Canada did not consider Inuit in the HFO ban or in introducing additional protected lands and waters in Nunavut. So, while Inuit clearly have agency internationally, they are still fighting for basic engagement with Canada in some key respects.

The formation of the Government of Nunavut, the NLCA and completion of the associated devolution process are all important steps on the path to Inuit self-governance. The creation of an Inuit-run bureaucracy to effectively govern the territory exposed a significant capacity gap, which led Canada to slow the devolution process until the capacity is developed. However, apart from delaying devolution, Canada has not demonstrated any willingness to take cooperative steps to

alleviate the hindrances the Government of Nunavut is experiencing in developing the capacity needed to sustain the western bureaucracy created when Nunavut became a territory. As the residents of the Arctic, Inuit are and will continue to be relied upon to support the future of the Arctic and the Northwest Passage. Yet in Nunavut they are struggling to build capacity with no support from Canada, at a time when the Northwest Passage and Arctic resources are attracting attention globally, which puts Canada's sovereignty claim in a questionable position.

Inuit greatly strengthened Canada's 'internal waters' claim of sovereignty in the Northwest Passage through the NLCA directly by ceding Westphalian sovereignty to the state. Publicly and in international fora, Inuit further strengthen the claim by vocally defending Canada's sovereignty, emphasizing the partnership in sovereignty between Canada and Inuit and leveraging the agency they have gained. Inuit are being courted by other states, such as China – they can choose who they want to work with internationally as an expression of their agency. Indeed, China has already engaged Inuit as part of its Arctic policy (The State Council Information Office of the People's Republic of China 2018). Should Inuit in Canada choose to withdraw their support of Canadian sovereignty, it appears that there would be other states willing to work with them.

At the surface, Canada portrays itself, and is generally perceived as, a progressive state and is credited for having championed environmental protection and human rights in the Arctic through the AEPS and the 'Arctic Exception' (Art. 234 of UNCLOS). However, this image quickly fades with the greater audibility of Inuit voices. What is left then is the stark contradiction of Canada's claim and its evident (in)action. It also becomes apparent that security of the Northwest Passage, and of the Arctic as a whole, cannot be viewed in the limited traditional sense, because the claim of sovereignty is clearly legitimized (or de-legitimized) by additional factors such as human and

environmental security, the surrender of Inuit rights, claims and interests in Nunavut and its adjacent waters to Canada, and Canada's compliance with the NLCA.

In exchange for ceding their claims etc., to Canada via the NLCA, Nunavummiut receive funding for self-government and services, and increased self-determination as a people, except Canada has never held up its end of the bargain. In the application of the NLCA the relationship is asymmetrical: the state benefits more by legitimizing its sovereignty claim and taxation of industries on federal Crown lands than Inuit gain through stalled devolution and fixed transfer payments from the federal government.

However, the true nature of the sovereignty relationship between Inuit and Canada is symbiotic, even though the colonial, hierarchical relationship dominates. This is entirely because Inuit have significant agency outside of Canada in international political fora. They vocally support Canadian Arctic sovereignty internationally, and the international perception of Canada's treatment of this vocal, internationally engaged Indigenous people can strengthen or weaken the state's position. Through their influence abroad, Inuit have gained power in this relationship with Canada that makes them stronger than the state acknowledges. As an extreme option, if Inuit felt they had no other recourse, they could fatally undermine Canada's sovereignty claim internationally, even though such a course of action would lead to harmful consequences to their society, and likely to their homelands and waters. Inuit leaders have made it clear that they may consider withdrawing their support of Canadian Arctic sovereignty (Byers 2009, 119-120). Other interested actors, like China, have recognized Canada's dismissive attitude of Inuit, and appealed to Inuit through their 2018 Arctic policy (The State Council Information Office of the People's Republic of China 2018). More realistically, Inuit can use their agency to bring international pressure to bear, if they felt they were making no headway with Canada. The fact that Canada does

not take greater care in its relations with Inuit reveals that the colonial relationship sustained by the state imposes a hierarchy that influences Canada's actions and obscures the symbiotic nature of the sovereignty relationship, and the power Inuit have as partners in this one arena.

Inuit are powerful actors internationally who domestically still suffer from massive gaps in basic metrics of wellbeing. Canada continues to treat Inuit as per the colonial relationship by delaying devolution and further oppressing Inuit. By doing so, Canada has not held up its end of the bargain, alienating Inuit and risking their support for its sovereignty claim in the Arctic regarding the Northwest Passage. This is because the agency Inuit have accrued internationally positions them so they could choose to critically undermine Canada's position in the Arctic by engaging with other interested actors to build capacity.

Chapter 7: Conclusion

As argued, Inuit in Canada have gradually increased their agency internationally through the formal work of the ICC and the process of environmental institutionalism, their informal engagement through social activism and protest movements, and finally through their manipulation of the sovereignty relationship with Canada. These efforts are all forms of resurgence that is transforming international politics to a post-colonial system. However, Inuit are still challenged by the persistence of colonialism in Canada as it impedes their progress to become a fully self-determined people. Sovereignty of the Canadian Arctic is one field where Inuit and Canada are engaged in a symbiotic relationship, even though the hierarchical colonial structure pervades every interaction and makes this relationship unequal, in that Canada benefits more from Inuit support of Arctic sovereignty, than Nunavummiut have gained through stalled devolution. This relationship is a direct result of the Nunavut Land Claims Agreement, the agency Inuit have gained internationally, and the informal efforts of Inuit to resist colonial assertions of power through protest and social advocacy domestically.

There are three key findings concerning this relationship. First, Inuit have agency in their affairs, internationally through their engagement with states via the ICC, and through the sovereignty relationship with Canada, that they can then use to diplomatically respond to Canada's colonial treatment of them. Second, this agency and international networking allows Inuit the ability to choose which actors to engage with in their efforts to protect their rights and raise their standard of living. Third, Inuit in Canada have the ability to undermine Canada's Arctic sovereignty claim by publicly retracting their support in international fora, should they determine it is in their best interest. This is because Inuit and Canada are engaged in a sovereignty partnership whether Canada realizes it or not. Canadian Arctic sovereignty can best be preserved by a true

partnership between Canada and Inuit, where the symbiotic sovereignty relationship is equalized. This involves addressing the gaps in social determinants collaboratively and supporting rapid devolution in Nunavut.

Current Prime Minister Justin Trudeau has publicly stated that the relationship between Indigenous peoples and the Canadian government is its top priority. The findings of this thesis show that despite this rhetoric, Canada does not prioritize Inuit self-determination and well-being. The policy implications of these findings emphasize the relationship between Inuit self-determination, functional and well supported Indigenous governments in the Arctic, and Inuit well-being. Disregarding Inuit self-determination, priorities and interests undermines Canada's sovereignty claim, a consequence that is particularly problematic for Canada given its contentious claim to the NWP and its other geopolitical realities. Moreover, partnering with Inuit communities represents Canada's most effective means to confront the existential crisis of climate change. Internationally, tension between Inuit and Canadian policy preferences potentially challenges Canada's diplomatic efforts. Lastly, Canada's treatment of Indigenous peoples more generally delegitimizes Canada's stated support for the international human rights regime.

Theoretically, this thesis interrogates statist conceptions of sovereignty and the oppression of the state's system on Indigenous peoples. Further, this work challenges those who conventional IR presume to be key actors in global politics. In addition, this thesis supports constructivist innovations to reimagine normative effects on state behaviour. This work also recognizes the ability of Indigenous actors to affect change at domestic and international levels and the creative approaches Indigenous actors adopt to interface with the states system. Finally, it demonstrates the ongoing and pernicious effects of colonialism even as Inuit realize achievements related to their self-determination.

There are also broader findings related to Inuit agency. Through their engagement with states and other Indigenous peoples' organizations, and through the creation of the government of Nunavut, Inuit are contributing to the global Indigenous rights movement to foster a transformational shift in the practices and structure of politics to a new paradigm. Inuit efforts to increase their self-determination are examples of resurgence that are transforming politics and challenging the impositions of the colonial system. The process of environmental institutionalism is global due to the global transmission of pollutants in air and water and the evolution of globally interrelated laws, standards, policies, and treaties. Global warming and human development are interconnected issues. Inuit through the process of EI have advocated for a holistic approach which recognizes this relationship. Although this thesis focuses on the relationship between Inuit in Canada and the Canadian government, the approach and efforts made by Inuit have broader applicability to other Indigenous peoples pursuing greater self-determination as it shows alternative ways to engage in a state-centric system that does not compromise Indigenous identities and belief systems. The agency Inuit have developed has enabled them to engage with states while preserving their identity, language, and culture. In this way, Inuit are taking positive steps to secure their future in the face of a warming Arctic and are transforming the political system through their advocacy and engagement.

Ultimately, this work aims to honour the political accomplishments of Inuit thus far in the face of colonial oppression. In its critique of the states-system and the colonial states' disregard for Indigenous peoples this thesis offers a partial overview of some of the approaches Inuit employ to express their agency. At the heart of Canada's policy preferences in the Arctic are Inuit lives, communities, and identities, that are indivisible from the Arctic itself.

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