

IMAGINING THE ARCTIC: INTERNATIONAL LAW, GOVERNANCE, AND RELATIONS IN THE HIGH NORTH

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INTRODUCTION

The Arctic is defined by change. Many understand this through the region’s biannual shift between a frozen desert of snow and ice, and a warmer and highly productive environment. Others know this through the great effect that climate change is having on the circumpolar north. Nonetheless, beyond physical transitions, dynamism is also the name of the game when it comes to how we conceive of and approach the Arctic through international law, politics, and policy. The “melting Arctic ice transforms the region from one of primarily scientific interest into a maelstrom of competing commercial, national security and environmental concerns,”¹ not to mention those of governance and development. Is the Arctic an expanse of unclaimed territory and resources to be scrambled for; a chance at indigenous self-determination; a rare enclave of untouched nature needing protection; or another contentious arena along the deepening rift between Russia and the West?

As it stands, each of these conceptions finds purchase in modern Arctic discourse. However, the extents to which the High North is presented and thought of in such manners are constantly shifting,

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1. Charles K. Ebinger & Evie Zambetakis, *The Geopolitics of Arctic Melt*, 85 INT’L AFF. 1215, 1215 (2009).

depending on the fluctuating influence of different interests, geopolitics, and the region's changing physical landscape. In turn, how we conceive the Arctic has an enormous impact on international relations and legal and policy approaches. The course of the epic struggle for the representation of the Arctic is therefore of great importance to both regional actors and the global community, and has "profound implications for the international legal and political system[s]."²

Using the analytical framework developed by Philip Steinberg, Jeremy Tasch, and Hannes Gerhardt in their book, *Contesting the Arctic: Politics and Imaginaries in the Circumpolar North*,³ this Article aims to parse out the current status and future of the aforementioned process. Steinberg et al., present the ongoing contest to frame and approach the Arctic as between competing "imaginaries—ideas about what the Arctic is and about what it can, or should, be."⁴ This Article will assess and build on the imaginaries established by Steinberg et al., with sections focusing on the conceptions of the Arctic as a place of competition for territory and resources, a chance for native sovereignty, a region in desperate need of stronger environmental protection, and an arena for strategic confrontation. The accuracy of these narratives in describing the current state of Arctic affairs will be examined, as will their self-fulfilling capabilities. That is, even if a given imaginary actually poorly captures the current state of Arctic affairs, its strong and widespread reinforcement can lead countries to approach the region in such a manner.

Through the assessment of the main Arctic imaginaries, this Article also seeks to counteract the sensationalism that has come to infect mainstream Arctic discourse. Both scholars and pundits often focus far too heavily on strict environmentalism, territory, riches, and conflict rather than delving into the history of the region, its people, and how states are actually interacting in the High North.

A key example of the influence that Arctic imaginaries and uninformed discourse can have, for better or worse, is the 2008 Ilulissat

2. *Id.*

3. PHILIP E. STEINBERG, JEREMY TASCH & HANNES GERHARDT, *CONTESTING THE ARCTIC: POLITICS AND IMAGINARIES IN THE CIRCUMPOLAR NORTH* (2015) (providing the analytical framework employed by this Article).

4. *Id.* at 9.

Declaration.⁵ This document, signed by the five Arctic littoral states, is “notable in that it broke absolutely no new diplomatic or political ground.”⁶ The declaration simply puts forth that the five states formally agree that the international governing structure of the United Nations Convention on the Law of the Sea (UNCLOS) applies to the Arctic Ocean, as it has since it was created, and as it does to all oceans.⁷

Why would the existing regime need to be formally asserted and signed onto in such a manner? “Presumably, the only reason to produce a declaration asserting that the Arctic is ‘normal’ would be if someone else were suggesting otherwise.”⁸ To be sure, there are many “someones” suggesting that the Arctic is not normal. Enter the battle of Arctic imaginaries.

I. TERRITORY AND RICHES: RACING TO THE ARCTIC

The Arctic is predominantly an ocean, which means that the majority of it is subject to UNCLOS—to which all Arctic countries but the United States are party to,⁹ and which the United States recognizes as customary international law.¹⁰ The Convention contains specific provisions

5. The Ilulissat Declaration: Arctic Ocean Conference, May 27–29, 2008, available at http://www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf.

6. STEINBERG ET AL., *supra* note 3, at 1.

7. The Ilulissat Declaration: Arctic Ocean Conference, *supra* note 5, at 1 (“[W]e recall that an extensive international legal framework applies to the Arctic Ocean. . . . Notably, the law of the sea provides for important rights and obligations concerning the delineation of the outer limits of the continental shelf, the protection of the marine environment, including ice-covered areas, freedom of navigation, marine scientific research, and other uses of the sea. We remain committed to this legal framework and to the orderly settlement of any possible overlapping claims.”).

8. STEINBERG ET AL., *supra* note 3, at 2.

9. Div. for Ocean Aff. & the Law of the Sea, UNITED NATIONS, *Chronological Lists of Ratifications of, Accessions and Successions to the Convention and the Related Agreements*,

http://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm (last updated Jan. 7, 2015).

10. *E.g.*, *United States Oceans Policy*, Statement by the President (Mar. 10, 1983), available at <http://www.state.gov/documents/organization/143224.pdf> (stating that UNCLOS “contains provisions with respect to traditional uses of the oceans which generally confirm existing maritime law and practice and fairly balance the interests of all states”); Off. of Gen. Couns., NOAA, *Submarine Cables*, http://www.gc.noaa.gov/gcil_submarine_cables.html (last visited Sept. 2, 2015).

allocating sovereignty, jurisdiction, and rights depending on a given marine area's distance from a state's coast or its status as a continuation of a country's continental shelf.¹¹

In turn, and unlike Antarctica—which has essentially been “internationalized”¹²—all land in the High North falls very clearly under the sovereignty of Arctic states.

Still, despite the demarcated and rules-based nature of Arctic international law and governance, the misconception continues that somehow areas of this region and its resources are up for grabs. Mainstream media outlets constantly portray northern activity as being carried out within the context of a mad dash to control the Arctic.¹³ Even scholars engage in such presentations.¹⁴

(“Although the United States is not a party to [UNCLOS], it considers much of the Convention—including its provisions pertaining to the rights of coastal States within their continental shelves and exclusive economic zones—as reflective of customary international law.”); Andrew J. Norris, *The “Other” Law of the Sea*, 64 NAVAL WAR C. REV. 78, 78 (2011) (“Even the United States, which has not ratified UNCLOS, considers most of its provisions to reflect, or to have achieved the status of, customary international law and thus to be binding on nations that do not specifically decline to adhere to them.”).

11. See United Nations Convention on the Law of the Sea, parts II–VIII, XI, Dec. 10, 1982, 1833 U.N.T.S. 397 [hereinafter UNCLOS].

12. Erika Lennon, *A Tale of Two Poles: A Comparative Look at the Legal Regimes in the Arctic and the Antarctic*, 8 SUSTAINABLE DEV. L. & POL’Y 32, 35 (2008) (“[T]he Antarctic Treaty prevents countries from making sovereign claims over the region.”). See also *The Antarctic Treaty*, pmbl., Dec. 1, 1959, 12 U.S.T. 794.

13. E.g., Chris Arsenault, *A Scramble for the Arctic*, AL JAZEERA (Dec. 8, 2010, 12:42 PM),

<http://www.aljazeera.com/indepth/features/2010/11/20101130181427770987.html>

(“Global warming, partially caused by burning fossil fuels, is largely responsible for the new scramble for the northern region, as once impenetrable ice blocks melt at an alarming rate.”); Bob Reiss, *In the Race to Control the Arctic, the U.S. Lags Behind*, NEWSWEEK (July 6, 2015, 6:27 AM), <http://www.newsweek.com/2015/07/17/united-states-not-winning-race-control-arctic-349973.html> (“The Arctic, which covers 8 percent of the Earth’s surface, is warming twice as fast as the rest of the planet. With all that ice melting, the region is in danger of becoming a 21st-century Wild West—a free-for-all for power and riches opening up at the top of the planet.”).

14. E.g., RICHARD SALE & EUGENE POTAPOV, *THE SCRAMBLE FOR THE ARCTIC: OWNERSHIP, EXPLOITATION AND CONFLICT IN THE FAR NORTH* 9 (Francis Lincoln, 2010) (“[T]he scramble for the Arctic’s minerals may lead to conflicts that threaten not only iconic animals, but world peace itself.”); Scott G. Borgerson, *Arctic Meltdown: The Economic and Security Implications of Global Warming*, 87 FOREIGN AFF. 63, 64 (2008) (asserting that “[a]rctic powers are racing to carve up the region”).

A flag planting in the summer of 2007 was a large catalyst to the modern idea of the Arctic as a place of vigorous competition over territory and resources.¹⁵ The flag was a one meter-high, titanium Russian flag, placed on the Arctic seabed at the North Pole.¹⁶ Conducted by the Russian explorer and parliamentary deputy Artur Chilingarov using a mini-submarine, the undertaking was celebrated by the Russian government as a great national accomplishment.¹⁷ Russian President Vladimir Putin even personally called the members of the expedition to congratulate them on “the outstanding scientific project.”¹⁸ Nevertheless, there were no official governmental assertions that the act represented territorial acquisition. In fact, President Putin and Foreign Minister Sergei Lavrov explicitly stated the opposite.¹⁹

Yet not all Russians were so reserved on the issue. With regard to the expedition, Chilingarov himself said things like, “Russia must win. Russia has what it takes to win. The Arctic has always been Russian,”²⁰ and, “[t]he Arctic is ours and we should manifest our presence.”²¹ The

15. *Russia Plants Flag Under N Pole*, BBC (Aug. 2, 2007, 5:22 PM), <http://news.bbc.co.uk/2/hi/europe/6927395.stm>.

16. *Id.*

17. *Id.* (quoting a spokesman for the Russian Arctic and Antarctic Institute as saying, “It’s a very important move for Russia to demonstrate its potential in the Arctic . . . It’s like putting a flag on the moon.”).

18. *Russia Plants Flag on Arctic Floor*, CNN (Aug. 4, 2007, 6:43 AM), <http://www.cnn.com/2007/WORLD/europe/08/02/arctic.sub.reut/index.html?eref=yahoo>.

19. *E.g.*, Nicholas Breyfogle & Jeffrey Dunifon, *Russia and the Race for the Arctic*, ORIGINS (Aug. 2012), <http://origins.osu.edu/article/russia-and-race-arctic#origins-article> (quoting Russian President Vladimir Putin as saying, “[d]on’t worry. Everything will be all right. I was surprised by a somewhat nervous reaction from our Canadian colleagues. Americans, at one time, planted a flag on the moon. So what? Why didn’t you worry so much? The moon did not pass into the United States’ ownership”); *Russia Plants Flag on Arctic Floor*, *supra* note 18 (quoting Russian Foreign Minister Sergei Lavrov as saying, “[t]he aim of this expedition is not to stake Russia’s claim but to show that our shelf reaches to the North Pole”).

20. Alex Shoumatoff, *The Arctic Oil Rush*, VANITY FAIR (Apr. 14, 2008, 12:00 AM), http://www.vanityfair.com/news/2008/05/arctic_oil200805.

21. *Scramble for the Arctic*, FIN. TIMES (Aug. 19, 2007, 5:26 PM), <http://www.ft.com/intl/cms/s/0/65b9692c-4e6f-11dc-85e7-0000779fd2ac.html#axzz3kPx5ew8r>. *See also* Tom Parfitt, *Russia Plants Flag on North Pole Seabed*, THE GUARDIAN (Aug. 2, 2007, 1:01 PM), <http://www.theguardian.com/world/2007/aug/02/russia.arctic> (“Shortly before the dive, Mr. Chilingarov . . . told reporters his mission was to prove ‘the Arctic is Russian.’”).

voyage also “played to huge audiences in the Russian media and on state-run television, where the tone of the coverage resembled that given to Soviet cosmonauts.”²² These aggressive and boisterous domestic responses overrode calmer presentations of the mission to the wider world. In addition, the location of the flag planting and the action itself signaled conquest rather than exploration and accomplishment. The flag was placed on the Lomonosov Ridge, a disputed underwater ridge of continental crust claimed by Russia, Canada, and Denmark.²³ The plunging of a flag into a desired territory conjured images from the past when European countries liberally conquered lands deemed *terra nullius*—i.e. ‘no man’s land’ for the taking.²⁴

As a result, alarmed and combative reactions from Arctic neighbors commenced almost immediately. The response of then-Canadian Defense Minister Peter McKay is the most widely noted:

22. Adam Wolfe, *Russian Claims to Pole Foreshadow More Arctic Disputes to Come*, WORLD POL. REV. (Aug. 13, 2007), <http://www.worldpoliticsreview.com/articles/1019/russian-claims-to-pole-foreshadow-more-arctic-disputes-to-come>.

23. Timothy J. Lindsay, *(Un)Frozen Frontiers: A Multilateral Dispute Settlement Treaty for Resolving Boundary Disputes in the Arctic*, 10 OIL GAS & ENERGY L.J. 4, 12 (2012) (“Russia, Canada and Denmark (via Greenland) all lay claim to the Lomonosov Ridge, an unusual underwater ridge of continental crust in the Arctic Ocean spanning 1800 km across the North Pole from the New Siberian Islands in Russia over the Arctic Ocean to Ellesmere Island of the Canadian Arctic Archipelago. Not only is the Lomonosov Ridge rich in oil, gas and raw metals, it runs across the Arctic Ocean passing under the North Pole and would hugely extend the territorial waters of any country that can lay claim to it.”).

24. E.g., Elle Stuart, *The Polar Bear in the Room: The Role of Institutions in the Changing Arctic* 19 (May 2014) (unpublished honors thesis, Stanford University) (on file with Stanford University Libraries), available at <http://searchworks.stanford.edu/view/jr611wq3617> (“Despite the fact that Russia was well within their rights to explore the seabed under the North Pole and use that data to help their Arctic territorial claim under the Law of the Seas Treaty, the placement of the flag signaled more than just exploration to observers: it signaled possession.”); *id.* at 22 (“The symbolic placement of the flag by the Russians in 2007 was nothing new in Arctic history; explorers have been planting flags and claiming territory for their respective countries in the Arctic since the late 19th century. However, unlike the Russian planting, the exploration and conquest of Arctic lands were accepted ways to claim territory in the 19th and early 20th centuries.”).

This is the true north strong and free, and they're fooling themselves if they think dropping a flag on the ocean floor is going to change anything. There is no question over Canadian sovereignty in the Arctic. We've made that very clear. . . . You can't go around the world these days dropping a flag somewhere. This isn't the 14th or 15th century.²⁵

In turn, the then-Danish Science Minister and a legal adviser to the U.S. Secretary of State called the act a “provocation”²⁶ and “provocative,”²⁷ respectively. Arctic littoral state officials did, however, temper their reactions with acknowledgements that Russia's exploit had no real legal or territorial significance.²⁸ Yet the global media still took the dispute and ran, further fanning the flame “of competition, conflict, and crisis” through “headlines such as ‘Arctic Meltdown,’ ‘A New Cold War,’ and ‘Arctic Land Grab.’”²⁹

The incident, and ensuing rhetoric, thus turned mainstream international discourse on the Arctic into confrontational exchanges over seemingly unclaimed territory, and increased the public outcry for national missions bent on claiming Arctic territory and asserting northern sovereignty. It also, as a counterbalance, produced heated calls for an Arctic Treaty similar to that covering Antarctica—something Arctic littoral states are not keen to entertain given the consequent losses of

25. Breyfogle & Dunifon, *supra* note 19.

26. Thomas Buch-Andersen, *Denmark Eyes North Pole Riches*, BBC (Aug. 21, 2007, 6:41 AM), <http://news.bbc.co.uk/2/hi/europe/6950517.stm>.

27. Breyfogle & Dunifon, *supra* note 19.

28. *E.g.*, Parfitt, *supra* note 21 (quoting then Canadian Defense Minister Peter McKay as saying, “we’re not at all concerned about this mission. Basically it’s just a show by Russia”); *Russia Plants Flag on Arctic Floor*, *supra* note 18 (quoting a U.S. State Department spokesman as saying, “[Russia’s flag planting] doesn’t have any legal standing or effect on this claim”).

29. Caitlyn L. Antrim, *The Next Geographical Pivot: The Russian Arctic in the Twenty-First Century*, 63 NAVAL WAR C. REV. 15, 15 (2010). Examples of such overblown coverage come from generally reputable sources, including: Foreign Affairs, The Telegraph, TIME, and the BBC. See Borgerson, *supra* note 14; *Russia’s Arctic Energy Plans Herald a New Cold War*, THE TELEGRAPH (Sept. 18, 2008, 12:01 AM), <http://www.telegraph.co.uk/comment/telegraph-view/3562236/Russias-Arctic-energy-plans-herald-a-new-Cold-War.html>; James Graff, *Arctic: Fight for the Top of the World*, TIME (Oct. 1, 2007), <http://content.time.com/time/magazine/article/0,9171,1663848,00.html>; Paul Reynolds, *Russia Ahead in Arctic ‘Gold Rush’*, BBC (Aug. 1, 2007, 1:56 PM), <http://news.bbc.co.uk/2/hi/6925853.stm>.

sovereignty that would go along with such action.³⁰ Altogether, these factors projected an anxious and unstable urgency over Arctic projects, operations, and relations. The situation escalated to the point that the five Arctic littoral states felt the need to officially address it.³¹ The Ilulissat Declaration, and its reassertion of regional cooperation and normality, was therefore born in response to a highly disruptive Arctic narrative that states—including the world’s superpower—feared might co-opt Arctic relations.³²

However, the idea that the Arctic is still somehow open for the taking shows tremendous resilience and continues to color a great deal of discussion concerning the region.³³ Studies predicting the presence of substantial untapped Arctic natural resources—such as fossil fuels, fisheries, and minerals—and the co-developing imaginary of the region as a resource frontier have only served to reinforce this conception.³⁴ As a result, the misguided perception persists that there exists not only territory in the High North to be claimed or lost, but also territory laden with valuable natural resources. Even world leaders have succumbed to this mistaken impression, with Canadian Prime Minister Stephen Harper announcing, “Canada has a choice when it comes to defending our sovereignty over the Arctic. We either use it or lose it.”³⁵

30. See STEINBERG ET AL., *supra* note 3, at 5, 146–50.

31. See *id.* at 2–5.

32. See *id.*

33. See generally Arsenault, *supra* note 13; Reiss, *supra* note 13; SALE & POTAPOV, *supra* note 14; Borgerson, *supra* note 14.

34. See generally U.S. Dep’t of Interior, *Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle*, U.S. GEOLOGICAL SURV. 4 (2008), available at <http://pubs.usgs.gov/fs/2008/3049/fs2008-3049.pdf> (“The total mean undiscovered conventional oil and gas resources of the Arctic are estimated to be approximately 90 billion barrels of oil, 1,669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids.”). See also Basia Rosenbaum, *The Battle for Arctic Oil*, HARV. INT’L REV. (Mar. 9, 2015), <http://hir.harvard.edu/the-battle-for-arctic-oil/> (“[T]he Arctic is now a battleground over one of the most controversial resources of today—oil.”); Kristin Noelle Casper, *Oil and Gas Development in the Arctic: Softening of Ice Demands Hardening of International Law*, 49 NAT. RESOURCES J. 825, 826 (2009) (“[T]he [Arctic] meltdown presents lucrative opportunities for expanded access to new shipping routes, fisheries, and oil and gas resources.”).

35. *Prime Minister Stephen Harper Announces New Arctic Offshore Patrol Ships*, CAN. NEWS CENTRE (July 9, 2007), <http://news.gc.ca/web/article-en.do?crtr.sj1D=&mthd=advSrhc&crtr.mnthndVl=&nid=335789&crtr.dpt1D=&crtr.tp1D>

Addressing this situation, Steinberg et al. illuminate the “*terra nullius*” and “resource frontier” imaginaries, but they do so separately.³⁶ In actuality, these narratives have bled together to form a larger overarching imaginary: the “Arctic race.” There exists a popular understanding that there is a race to claim the Arctic, not just between Arctic states, but also among countries generally. This is exacerbated by overblown political and media reactions to Arctic state activities³⁷ and the interest and actions of non-Arctic states and actors in the High North, particularly China and the European Union.³⁸

Yet the *terra nullius*, resource frontier, and Arctic race imaginaries are just that: imaginary. They were crafted and amplified as a result of factors largely superfluous to international law and governance regimes relevant to the Arctic, such as overblown declarations by politicians and media exaggeration. These compelling, but misinformed, influences have led to broad misunderstandings of Arctic affairs.

Perhaps also perpetuating this confusion are territorial disagreements between Arctic littoral states. These disputes may make Arctic areas appear unclaimed and subject to a race when in fact they are governed by well-established and adhered-to diplomatic and legal frameworks—e.g. equitable bilateral and multilateral negotiations and UNCLOS.

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36. STEINBERG ET AL., *supra* note 3, at 19, 91.

37. See, e.g., Rick Noack, *Denmark Stakes its Claim in the War for the North Pole*, WASH. POST (Dec. 17, 2014),

<https://www.washingtonpost.com/news/worldviews/wp/2014/12/17/denmark-stakes-its-claim-in-the-war-for-the-north-pole/>; Katie Drummond, *Cold Wars: Why Canada Wants to Claim the North Pole*, VERGE (Dec. 9, 2013, 10:57 AM), <http://www.theverge.com/2013/12/9/5191740/canada-russia-fight-over-north-pole-arctic>; Lucas Laursen, *Russian Claim Heats up Battle to Control Arctic Sea Floor*, SCI. MAG., (Aug. 14, 2015, 7:27 AM), <http://science.sciencemag.org/content/349/6249/678.full>.

38. E.g., Didi Kirtsten Tatlow, *China and the Northern Rivalry*, N.Y. TIMES (Oct. 5, 2012, 2:07 AM), http://rendezvous.blogs.nytimes.com/2012/10/05/china-and-the-northern-great-game/?_r=1; Jeff Stein, *China Goes Polar*, NEWSWEEK (Jan. 19, 2015, 2:41 PM), <http://www.newsweek.com/china-goes-polar-300554>; Andreas Østhagen, *The European Union – An Arctic Actor?*, 15 J. MIL. & STRATEGIC STUD. 71, 72–75 (2013), available at <https://www.ciaonet.org/attachments/24450/uploads>; Duncan Depledge, *The European Union in the Arctic*, WORLD POL’Y (June 24, 2015, 9:01 AM), <http://www.worldpolicy.org/blog/2015/06/24/european-union-arctic>.

For example, overlapping continental shelf claims are thus far being resolved through the agreed-upon adherence to UNCLOS delimitation provisions.³⁹ This has involved the submission of national survey data to the Commission on the Limits of the Continental Shelf (CLCS) established under UNCLOS, which will analyze the information and make scientific—and neutral—recommendations.⁴⁰ It is, however, true that the CLCS “is not an arbitration body” and its findings do not definitively determine boundaries.⁴¹ Furthermore, Russia, Canada, and Denmark—the three Arctic states with overlapping continental shelf claims in the central Arctic Ocean—have opted out of dispute resolution mechanisms within UNCLOS.⁴² This means that, ultimately, their disagreement will have to be negotiated amongst themselves.

Nevertheless, it is telling that these countries have tendered their survey materials to the CLCS and adhered to its submissions timeframe—that they must be made “within 10 years of the entry into force of [UNCLOS] for that State.”⁴³ Given that Russia made the first submission in 2001, this means that Arctic littoral states have been engaging in the amicable resolution of their continental shelf claims for over a decade.⁴⁴ Even though it may take “at least 10 years to verify all [of] the scientific data submitted by the coastal Arctic States,”⁴⁵ such behavior bodes well for the continued, and ultimate peaceful and collective, resolution of this issue. And despite this process perhaps appearing chaotic and disagreeable to the uninitiated—and the media has not helped things by dramatizing the process⁴⁶—the states involved have

39. See The Ilulissat Declaration: Arctic Ocean Conference, *supra* note 5.

40. UNCLOS, *supra* note 11, at annex II, art. 3.

41. Anna Stepanowa, *Frozen but Desirable: Examining the Legal Regime of the Arctic*, CAMBRIDGE J. INT'L & COMP. L. (Jan. 19, 2015), <http://cjlcl.org.uk/2015/01/19/frozen-desirable-examining-legal-regime-arctic/>. See also UNCLOS, *supra* note 11, at annex II, art. 9.

42. United Nations Division for Ocean Affairs and the Law of the Sea, Declarations and Statements, http://www.un.org/depts/los/convention_agreements/convention_declarations.htm (last updated Sept. 2, 2015) (listing the reservations to UNCLOS made by party states).

43. UNCLOS, *supra* note 11, at annex II, art. 4.

44. Alf Håkon Hoel, *The Legal-Political Regime in the Arctic*, in *GEOPOLITICS AND SECURITY IN THE ARCTIC: REGIONAL DYNAMICS IN A GLOBAL WORLD* 49, 58 (Rolf Tamnes & Kristine Offerdal eds., 2014).

45. Stepanowa, *supra* note 41.

46. See *e.g.*, *supra* note 34.

acted cooperatively throughout, apart from the occasional heated remark.⁴⁷

There are, however, aspects of Arctic activity that are race-like: states have limited windows within which to submit continental shelf claims to the CLCS;⁴⁸ they must prepare and extend infrastructure and governance to the Arctic on pace with climate change and increasing activity;⁴⁹ resource dependent states like Russia must advance Arctic resource procurement to maintain government income in the face of declining southern reserves;⁵⁰ and energy companies must act within the timeframes of their exploration and extraction licenses and when dynamic Arctic weather patterns allow.⁵¹ Nevertheless, there is no global race to claim territory or resources.

In fact, Steinberg et al. make it clear that cooperation is far more rampant in the Arctic than competition.⁵² Even in the face of territorial disputes, Arctic littoral states actually help one another carry out the surveying missions necessary to complete their submissions to the CLCS.⁵³

47. See Hoel, *supra* note 44, at 59.

48. See UNCLOS, *supra* note 11, at annex II, art. 4.

49. See Mary Beth West, *Arctic Warming: Environmental, Human, and Security Implications*, 42 VAND. J. TRANSNAT'L L. 1081, 1081 (2009); Michael T. Geiselhart, *The Course Forward for Arctic Governance*, 13 WASH. U. GLOBAL STUD. L. REV. 155, 163 (2014).

50. Dag Harald Claes & Arild Moe, *Arctic Petroleum Resources in a Regional and Global Perspective*, in *GEOPOLITICS AND SECURITY IN THE ARCTIC: REGIONAL DYNAMICS IN A GLOBAL WORLD* 97, 108–12 (Rolf Tamnes & Kristine Offerdal eds., 2014).

51. THE WILSON CENTER, OPPORTUNITIES AND CHALLENGES FOR ARCTIC OIL AND GAS DEVELOPMENT, 14 (2014), available at https://www.wilsoncenter.org/sites/default/files/Arctic%20Report_F2.pdf.

52. STEINBERG ET AL., *supra* note 3, at 32–33 (“Individuals involved in activities ranging from hazard planning and response to defense and security, from wildlife management to the promotion of scientific research, and from navigational assistance to environmental monitoring, all stressed that not only was the Arctic not a zone of exceptional conflict: it was a zone of exceptional cooperation, both in data-sharing and in joint operations.”).

53. E.g., *U.S.-Canada Arctic Ocean Survey Partnership Saved Costs, Increased Data*, NOAA (Dec. 15, 2011), http://www.noaanews.noaa.gov/stories2011/20111215_arctic.html (highlighting surveying cooperation between the United States and Canada); Fisheries and Oceans Can., *Defining Canada's Continental Shelf*, CANADA.CA,

Yet despite the non-existence of an Arctic race, and the prevalence of Arctic cooperation, this imaginary and its constituents continue to exert a great deal of influence on regional relations by muddying the waters, eliciting reactions from officials, and increasing tensions.⁵⁴ This makes levelheaded and shrewd analyses of the actual situation all the more important as a counterbalance.

II. EVOLVING INDIGENOUS GOVERNANCE

Notwithstanding the absence of an open Arctic resource frontier to be raced for, natural resources in the High North and their distribution are important factors in Arctic relations, development, and policy. Perhaps most prominently, resource reserves hold the key to the possible creation of a new state: Greenland.

Greenland was ceded to Denmark by Norway in 1814 and, since the mid-twentieth century, has steadily been granted ever-greater autonomy.⁵⁵ In 2009, Greenland gained self-rule, governing itself in all areas but foreign affairs and defense.⁵⁶ Greenlanders were also

eng.html (last visited Sept. 1, 2015) (highlighting surveying cooperation between Canada, the United States, and Denmark); *see also* Trude Pettersen, *Norway, Russia Continue Coast Guard Cooperation*, INDEP. BARENTS OBSERVER (Jan. 26, 2016), <http://thebarentsobserver.com/security/2016/01/norway-russia-continue-coast-guard-cooperation> (reporting that Norway and Russia continue to engage in Arctic coast guard cooperation despite sharp disagreements on other issues).

54. STEINBERG ET AL., *supra* note 3, at 24 (“[T]he idea of claiming broad swathes of Arctic territory regardless of whether it is land or water, has continued to hold sway over the popular (and, occasionally, governmental) imaginations in several Arctic countries.”).

55. Axel Kjær Sørensen, *Greenland: From Colony to Home Rule*, in ETHNICITY AND NATION BUILDING IN THE NORDIC WORLD 85, 85–105 (Sven Tägil ed., 1995).

56. Act on Greenland Self-Government, Act no. 473 of June 12, 2009 (Den.), available at http://www.stm.dk/multimedia/GR_Self-Government_UK.doc [hereinafter Act on Greenland]; *see also* Sarah Lyall, *Fondly, Greenland Loosens Danish Rule*, N.Y. TIMES (June 21, 2009), <http://www.nytimes.com/2009/06/22/world/europe/22greenland.html> (“[Greenlandic autonomy], which allows Greenland to gradually take responsibility over areas like criminal justice and oil exploration, follows a referendum last year in which 76 percent of voters said they wanted self-rule. Many of the changes are deeply symbolic. Kalaallisut, a traditional Inuit dialect, is now the country’s official language, and Greenlanders are now recognized under international law as a separate people from Danes.”).

recognized as a separate people under international law and Greenlandic became the island's sole official language.⁵⁷

Greenland, however, is still unviable as an independent state in large part because of its lack of a significant gross domestic product and government income. It is highly dependent on an annual block grant from Denmark to function.⁵⁸ But, in 2009, Greenland also gained control over its natural resources and the income they may produce.⁵⁹ Since Denmark has promised to honor the will of Greenland's population,⁶⁰ revenue is integral to being able to responsibly vote for full independence and statehood, and the extraction of natural resources is the only realistic avenue through which to generate the requisite level of income.⁶¹ Steinberg et al. refer to the possibility of Greenlandic statehood and the movement behind it as the "indigenous statehood" imaginary.⁶²

57. Act on Greenland, *supra* note 56, at ch. 7.

58. FRANK SEJERSEN, *RETHINKING GREENLAND AND THE ARCTIC IN THE ERA OF CLIMATE CHANGE: NEW NORTHERN HORIZONS* 26–27 (2015) ("Today, the block grant . . . is one of the main pillars in the Greenlandic economy."); Mininguaq Kleist, *Greenland's Self-Government*, in *POLAR LAW TEXTBOOK* 186 (Natalia Loukacheva ed., 2010) ("In 2009 the Danish block grant was around 55-60% of Greenland's Finance Act's incomes."); *see also* THE COMMITTEE FOR GREENLANDIC MINERAL RESOURCES TO THE BENEFIT OF SOCIETY, *TO THE BENEFIT OF GREENLAND* 24 (2014), available at http://nyheder.ku.dk/groenlands-naturressourcer/rapportogbaggrundspapir/To_the_benefit_of_Greenland.pdf ("Denmark is Greenland's main trading partner, with about 2/3 of both imports and exports.").

59. Act on Greenland, *supra* note 56, at ch. 3; *see also* SEJERSEN, *supra* note 58, at 84 ("[T]he act stipulates that all income from resources is to go to Greenland, with the one requirement that some part of this income is supposed to reduce the block grant from Denmark.").

60. Act on Greenland, *supra* note 56, at ch. 8 ("Decision regarding Greenland's independence shall be taken by the people of Greenland.").

61. *See* Jeppe Strandbjerg, *Making Sense of Contemporary Greenland: Indigeneity, Resources and Sovereignty*, in *POLAR GEOPOLITICS? KNOWLEDGES, RESOURCES AND LEGAL REGIMES* 267–68 (Richard C. Powell & Klaus Dodds eds., 2014) ("[I]ncreased autonomy . . . requires increased revenue and this means that the development of a new pillar of the economy based on natural resources is the official policy to lessen the dependence on Denmark.").

62. STEINBERG ET AL., *supra* note 3, at 67. It must be noted, however, that financial self-reliance and political independence based on natural resources are likely distant possibilities given the current pace of and impediments to Greenland's development of such projects. *E.g.*, The Committee for Greenlandic Mineral Resources to the Benefit of Society, *supra* note 58, at 23 ("In a scenario involving independence, it may be necessary to take another approach rather than following scenarios based solely

Greenland's full independence would be a significant Arctic and global event. With almost 90% of its population being Inuit,⁶³ Greenland would be the first majority Inuit state and the only majority indigenous state in the Arctic.⁶⁴ Its statehood, however, could actually negatively impact indigenous interests and the voices of indigenous groups in Arctic affairs, perhaps considerably.

Currently, within the Arctic Council—the predominant regional forum for conducting Arctic affairs—indigenous peoples are largely directly represented by six indigenous groups, which hold the status of Permanent Participants with full consultation rights in negotiations and decisions.⁶⁵ One of the most prominent is the Inuit Circumpolar Council (ICC).⁶⁶

Since Inuit populations span four Arctic countries—the United States, Canada, Denmark (Greenland), and Russia—the ICC pushes an international voice and understanding of Arctic and indigenous issues,⁶⁷ a

on the extraction of natural resources in order to generate sufficient economic but also demographic resources to achieve this.”); TIM BOERSMA & KEVIN FOLEY, *THE GREENLAND GOLD RUSH: PROMISE AND PITFALLS OF GREENLAND'S ENERGY AND MINERAL RESOURCES VI* (2014), available at <http://www.brookings.edu/~media/research/files/reports/2014/09/24-greenland-energy-mineral-resources-boersma-foley/24-greenland-energy-mineral-resources-boersma-foley-pdf-2.pdf> (observing that it could be decades before natural resource projects are completed and actually begin generating output and revenue).

63. *Greenland, People and Society*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/gl.html> (last updated Feb. 11, 2016) (stating that Greenland's population is 88% Inuit).

64. Mauro Mazza, *The Prospects of Independence for Greenland, Between Energy Resources and the Rights of Indigenous Peoples*, 6 BEIJING L. REV. 320, 321 (2015) (remarking on how an independent Greenland would be “the first ‘Inuit State’ in human history”). See also Cécile Pelaudeix, *Inuit Governance and Contemporary Challenges: New Questions for Arctic Governance*, 4 Y.B. POLAR L. 155, 167 (2012) (“The Act on Greenland self-government signed in June 2009 granted unprecedented rights to an Inuit government.”).

65. *Permanent Participants*, ARCTIC COUNCIL, <http://www.arctic-council.org/index.php/en/about-us/permanent-participants/123-resources/about/permanent-participants> (last visited Sept. 11, 2015).

66. Timo Koivurova, *Limits and Possibilities of the Arctic Council in a Rapidly Changing Scene of Arctic Governance*, 46 POLAR REC. 146, 151 (2009) (noting that the ICC is “one of the strongest of Arctic Council permanent participants”).

67. *Inuit Circumpolar Council Charter & Bylaws*, INUIT CIRCUMPOLAR COUNCIL CAN., <http://www.inuitcircumpolar.com/charter--bylaws.html> (last visited May 7, 2016)

conception Steinberg et al. term the “transcendent nationhood” imaginary.⁶⁸ But this conflicts with a state-centered understanding of Arctic affairs and core state interests in sovereignty and autonomy, and therein lies the difficulty.⁶⁹

Being a majority Inuit polity, Greenland is very important to the ICC and its agenda, and Arctic indigenous concerns generally.⁷⁰ Moreover, not being a state and being subject to a distant western power has historically served to make Greenland’s interests align with those of the ICC.⁷¹ But as Greenland edges closer to statehood, its priorities and positions have shifted to reflect a more state-centered approach to its own affairs and broader Arctic issues, and it has moved away from the ICC.⁷² Illustrative of this process is the fact that Greenland has significantly lowered its funding contributions to the Council.⁷³

(asserting “[t]hat the worlds [sic] arctic and sub-arctic areas which we use and occupy transcend political boundaries”).

68. STEINBERG ET AL., *supra* note 3, at 113.

69. *Id.* at 72–76.

70. See Jessica Shadian, *Not Seeing Like a State: Inuit Diplomacies Meet State Sovereignty*, in *DIPLOMATIC CULTURES AND INTERNATIONAL POLITICS: TRANSLATIONS, SPACES AND ALTERNATIVES* 154, 160–66 (Jason Dittmer & Fiona McConnell eds., 2016) (presenting the history of the ICC, which was partially created through a desire for greater autonomy for Greenland and has consistently championed the allocation to Greenland of greater powers of self-determination from Denmark). See also Andrew D. Emhardt, *Climate Change and the Inuit: Bringing an Effective Human Rights Claim to the United Nations*, 24 *IND. INT’L & COMP. L. REV.* 515, 538 (2014) (highlighting “the important cooperative relationship that the Greenland branch of the ICC has with the government of Greenland”).

71. See Peter Jull, *Greenland’s Home Rule and Arctic Sovereignty: A Case Study*, in *SOVEREIGNTY, SECURITY AND THE ARCTIC* 1, 4 (1986), available at <http://espace.library.uq.edu.au/view/UQ:10989/jullgreen03.pdf> (explaining how Greenland has relied on its leaders’ involvement with the ICC to participate in international relations, thus circumventing the country’s lack of control over its foreign affairs—a power retained by Denmark).

72. See Hannes Gerhardt, *The Inuit and Sovereignty: The Case of the Inuit Circumpolar Conference and Greenland*, 14 *POLITIK* 1, 12 (2011) (“[A]n [independent Greenland] and the transformation needed to bring it about would in all likelihood lead very far away from the cultural integrity that is largely at the root of the aims of the ICC and its conception of the Inuit’s position with regard to sovereignty.”). See also Pelaudeix, *supra* note 64, at 167–68 (noting “the growing gulf” between the interests of the ICC and government of Greenland); Jeppe Strandsbjerg, *Cartography and Geopolitics in the Arctic Region*, 19 (DIIS Working Paper 2010), available at <http://www.econstor.eu/bitstream/10419/44619/1/637349717.pdf> (questioning whether

Beyond simply drifting apart, the degree to which Greenland and the ICC might actually come into opposition as the former's progression to statehood continues, or when it culminates, is potentially significant. Statehood would provide Greenland with a much more powerful voice within the current state-centered regime of Arctic and international relations and make it a sovereign peer within this system. The nation would therefore be heavily incentivized to promote state-centered Arctic governance to preserve its newfound dominant position and sovereignty. The ICC could potentially become a major liability and challenger to this in that it actively seeks to marshal a vast majority of Greenland's population around an international, non-state-centered political movement and regime.⁷⁴ Thus, a majority Inuit state may come into sharp conflict with the predominant international Inuit organization.

This dichotomy between the course of Greenland's quest for statehood and its evolving interests on the one hand, and the ICC's goals of an international system of Arctic governance on the other, will have profound effects on Arctic indigenous affairs. These effects will likely be myriad, but the progression and realization of the indigenous statehood imaginary may actually hamper the idea of transcendent nationhood and Arctic indigenous considerations overall by materially shifting the political position and priorities of Greenland's important Inuit population.

III. PRESERVING THE ARCTIC ENVIRONMENT

Greenland's statehood and development, as noted above, are highly contingent on natural resource procurement and income derived

the interests of an Inuit state based in the Westphalian system of state-centered sovereignty would be compatible with the non-Westphalian positions put forth by the ICC).

73. *ICC Greenland Shocked at Proposed Funding Cuts*, ARCTIC J. (Nov. 5, 2013, 8:00 AM), <http://arcticjournal.com/politics/230/icc-greenland-shocked-proposed-funding-cuts> ("Greenland's proposed budget for 2014 cuts annual funding for the Greenlandic branch of the Inuit Circumpolar Council (ICC) from 5.4 million Danish kroner (\$1 million) to 1.4 million Danish kroner.").

74. *See* Strandsbjerg, *supra* note 61, at 262 ("Not only [does the ICC] stress that the Arctic is their home, they also claim there is a need to reconsider categories governing international relations, and move away from a traditional Westphalian conception of state, sovereignty, and law.").

therefrom.⁷⁵ This brings one of the most contentious and publicized disputes concerning the Arctic to the fore: resource extraction versus environmental protection.⁷⁶

Steinberg et al. refer to the view of the Arctic as a vulnerable environment that must be staunchly protected from human encroachment as the “nature reserve” imaginary.⁷⁷ Quite astutely, however, they note that this view is rarely espoused in its absolute form: that humans and human activity have no place in the High North.⁷⁸ But the vision of the Arctic as an unspoiled natural space attracts a large amount of support—particularly from environmental groups and activists—and leads many to passionately oppose northern commercial and industrial ventures.⁷⁹

It is quite right that the Arctic has historically remained relatively removed from human impact,⁸⁰ and its ecosystems have been shown to

75. *See id.* at 267–68.

76. *E.g.*, GAIL OSHERENKO & ORAN R. YOUNG, *THE AGE OF THE ARCTIC: HOT CONFLICTS AND COLD REALITIES* 5 (1989) (“[I]n this Age of the Arctic, the land of permafrost has become the scene of pitched battles between environmentalists or preservationists and consumptive users of natural resources, be they hunters or oil drillers.”).

77. STEINBERG ET AL., *supra* note 3, at 141–42.

78. *Id.* at 142.

79. *See The Arctic*, OCEAN CONSERVANCY, <http://www.oceanconservancy.org/places/arctic/?referrer=https://www.google.com/> (last visited Oct. 1, 2015) (“The Arctic is one of Earth’s last pristine ecosystems.”); *Saving the Arctic*, GREENPEACE, <http://www.greenpeace.org/usa/arctic/> (last visited Oct. 1, 2015) (asserting that the best way to protect the Arctic Ocean, its wildlife, and its people is to set it aside as a protected sanctuary); Dan Joling, *After Shell Decision, Environmental Groups Seek Arctic Ban, but Offshore Drilling Isn’t Dead*, U.S. NEWS & WORLD REP. (Sept. 29, 2015, 6:41 PM), <http://www.usnews.com/news/business/articles/2015/09/29/alaska-braces-for-fallout-of-shell-arctic-drilling-decision> (“Royal Dutch Shell’s decision to end its quest for oil in the Arctic waters off Alaska sparked jubilation among environmental activists, who said Tuesday that they will seize the opportunity to seek an end to all drilling to [sic] in the region.”); John Vidal, *Mining Threatens to Eat up Northern Europe’s Last Wilderness*, GUARDIAN (Sept. 3, 2014, 1:00 AM), <http://www.theguardian.com/environment/2014/sep/03/mining-threat-northern-europe-wilderness-finland-sweden-norway> (“[C]onservationists say the rush [to mine in the European Arctic] could bring permanent damage to the vast network of rivers, lakes and mountains which are home to . . . Europe’s largest mammals.”).

80. *E.g.*, David R. Klein, *Arctic Grazing Systems and Industrial Development: Can we Minimize Conflicts?*, 19 POLAR RES. 91, 91 (2000) (“Historically, the lands of the Arctic and adjacent northern forests experienced few effects of the rapidly developing and expanding industrialized world to the south.”).

be very vulnerable to negative outcomes as climate change makes northern projects more viable and reaps its own effects.⁸¹ Yet the Arctic has experienced human habitation for thousands of years,⁸² as well as varying intensities of commercial and industrial activity.⁸³

81. E.g., John C. Fyfe et al., *One Hundred Years of Arctic Surface Temperature Variation Due to Anthropogenic Influence*, 3 SCI. REP. 1, 5–6 (2013) (finding that the Arctic is warming due to human-induced climate change through a comparison of models both containing and lacking anthropogenic factors); Kathy A. Burek et al., *Effects of Climate Change on Arctic Marine Mammal Health*, 18 ECOLOG. APP. 126, 127–31 (2008) (assessing the possible and likely negative impacts that climate change will have on Arctic marine mammals); Ragnhildur Gunnarsdóttir et al., *A Review of Wastewater Handling in the Arctic with Special Reference to Pharmaceuticals and Personal Care Products (PPCPs) and Microbial Pollution*, 50 ECOLOG. ENG'G 76, 83 (2013) (establishing that wastewater treatment “is often inadequate or completely lacking in Arctic regions” and that this can lead to environmental damage); Galina Kashulina et al., *Sulphur in the Arctic Environment: Environmental Impact*, 124 ENVTL. POLLUTION 151, 151 (2003) (“Long term, high level airborne emissions of pollutants from nickel industries on the Kola Peninsula (NW Russia) have resulted in widespread ecosystem injury up to almost complete vegetation eradication within nearest surroundings of the smelters.”).

82. E.g., Pavel Pavlov, John Inge Svendsen & Svein Indrelid, *Human Presence in the European Arctic Nearly 40,000 Years Ago*, 413 NATURE 64 (2001) (presenting research into the oldest documented evidence of human presence in the Arctic); Janusz Kozłowski & H.G. Bandi, *The Paleohistory of Circumpolar Arctic Colonization*, 37 ARCTIC 359 (1984) (detailing the colonization of the Arctic by humans over the course of thousands of years).

83. E.g., Gérard Duhaime & Andrée Caron, *The Economy of the Circumpolar Arctic*, in THE ECONOMY OF THE NORTH 17, 22 (Solveig Glomsrød & Iulie Aslaksen eds., 2006) (“The circumpolar Arctic is exploited as a vast reservoir of natural resources that are destined for the southern, non-Arctic, parts of the countries that also include Arctic regions, and more broadly to global markets. The Arctic is a major producer of hydrocarbons, minerals and marine resources, whose importance is confirmed by the very value of the resources produced. The economy of the Arctic is also characterized by large service industries, particularly through the role of the State. . . . [But] circumpolar economic activity is unequally distributed among the different Arctic regions.”); Herbert C. Hanson, *Importance and Development of the Reindeer Industry in Alaska*, 5 J. RANGE MGMT. 243 (1952) (analyzing the development and importance of the reindeer industry in an area of the Arctic); John Bockstoce, *From Davis Strait to Bering Strait: The Arrival of the Commercial Whaling Fleet in North America’s Western Arctic*, 37 ARCTIC 528 (1984) (presenting the history of the whaling industry in an area of the Arctic); C.J. Webster, *The Economic Development of the Soviet Arctic and Sub-Arctic*, 29 SLAVONIC & EAST EUR. REV. 177, 177 (1950) (“The economic development of the Russian Arctic and sub-Arctic has a long history.”).

Moreover, inaccurate and paternalistic assumptions often accompany environmental arguments: that northern inhabitants somehow lack the desire for and/or are better off without material development and modern opportunities.⁸⁴ It is one thing to advocate inaction and steadfast environmental protection when someone does not live in the area at issue. But it is quite another when one not only resides there, but also faces drastically lower educational, health, and economic outcomes when compared to more southern populations,⁸⁵ particularly when those Arctic areas where resource operations are taking place have the highest economic indicators.⁸⁶

84. There have historically been severe problems when outside actors try to control the development potential and economic engagement of Arctic populations. See Chris Southcott & Valoree Walker, *A Portrait of the Social Economy in Northern Canada*, 30 N. REV. 13, 15 (2009) (examining the detrimental social and physical impacts when the Canadian government and industry attempted to keep Arctic indigenous populations isolated from northern development in the early and mid-twentieth century).

85. E.g., Serena Ableson, *Bringing Legal Education to the Canadian Arctic: The Development of the Akitsiraq Law School and the Challenges for Providing Library Services to a Non-traditional Law School*, 34 INT'L J. LEGAL INFO. 1, 5 (2006) ("Statistics show that there is a need to provide education opportunities for residents in Nunavut. The territory has one of the fastest growing youth populations in all of Canada. However, approximately 42% of population over the age of 15 have no schooling past Grade 9. Furthermore, only 12% of the adult population have a university degree."); Chris Southcott, *Socio-Economic Trends in the Canadian North: Comparing Provincial and Territorial Norths*, 38 N. REV. 155, 165, 169 (2014) (presenting survey data and research showing that the education levels across northern Canada are below those of southern population centers and that unemployment rates are almost universally higher); Yereth Rosen, *Research Commission Examines Mental Health Issues in the Arctic*, ALASKA DISPATCH NEWS (Aug. 25, 2015), <http://www.adn.com/article/20150824/research-commission-examines-mental-health-issues-arctic> ("[M]ental-health and behavioral issues pose dire risks to Arctic residents, who suffer from high rates of violence and depression."); Peter Bjerregaard, et al., *Indigenous Health in the Arctic: An Overview of the Circumpolar Inuit Population*, 32 SCANDINAVIAN J. PUB. HEALTH 390, 391 (2004) (finding that incidences of infectious and chronic disease, accidents, suicides, violence, and substance abuse among Arctic indigenous populations are high compared to other regions); ORAN R. YOUNG, ARCTIC POLITICS: CONFLICT AND COOPERATION IN THE CIRCUMPOLAR NORTH 216–17 (1992) ("Like many developing countries, Arctic communities are often heavily dependent for their cash income on a single industry or product. This accounts for the dramatic economic swings or boom/bust cycles that commentators on Arctic affairs have often described.").

86. E.g., Duhaime & Caron, *supra* note 83, at 22 ("Those [Arctic regions] with plentiful natural resources, particularly non-renewable resources, have a level of

As with Greenland, natural resource projects are the sole realistic means of substantial revenue generation and development for many northern areas.⁸⁷ Research shows that environmental groups have had trouble gaining traction for their conservationist stances and the nature reserve imaginary because of a skewed focus on the environment to the detriment of considerations of human wellbeing and opportunity.⁸⁸ While it is true that commercial actors largely concentrate on profit maximization, and such a singular approach should be offset by environmental and other concerns, Arctic residents maintain more diverse positions, which include interests in simultaneously protecting the area they call home and improving their wellbeing by capitalizing on local resources.⁸⁹

Nothing written here should be construed as discounting the exceptional vulnerability of Arctic environments to direct human activity and climate change generally. However, movements for northern environmental protection must meaningfully address the concerns of local inhabitants. Ultimately, the balance between the interests of environmentalists, industry, and locals will be key to the sensible stewardship of the region for future generations.

IV. GUNS AND ICE

Amid the many interests orbiting and intersecting with the Arctic, there are also those focusing on national and international security. A

economic activity well above the Arctic average.”). However, the substantial pitfalls of an economy dependent on resource extraction must be kept in mind, and such industries should ideally be used as a means to generate revenue for reinvestment in economic diversification and services. *See* YOUNG, *supra* note 85, at 216–17.

87. *E.g.*, Duhaime & Caron, *supra* note 83, at 18 (explaining that the “primary sector” of the circumpolar economy is “[b]ased essentially on the exploitation of natural resources.”).

88. STEINBERG ET AL., *supra* note 3, at 143.

89. *See, e.g.*, Craig Welch, *Why Alaska’s Inupiat Are Warming to Offshore Oil Drilling*, NATIONAL GEOGRAPHIC (May 22, 2015), <http://news.nationalgeographic.com/2015/05/150522-Inupiat-Shell-offshore-oil-Arctic-Alaska-ocean-whale-sea/#.VcmOJ-vWGL8.email>; Heather Exner-Pirot, *Whose Arctic is it? The Ethics of Arctic Campaigning*, WORLD POLICY BLOG (Oct. 28, 2015, 1:00 PM), <http://www.worldpolicy.org/blog/2015/10/28/whose-arctic-it-ethics-arctic-campaigning>.

significant conceptualization of the High North is as an increasingly important military and strategic theater.

During World War II, fighting raged across the Arctic, as it did across the globe. Vicious sea battles occurred as Nazi Germany attempted to halt Allied Arctic supply convoys headed from the United Kingdom and United States to the Soviet Union over Scandinavia.⁹⁰ In addition, land combat took place in Northern Norway between the Allies and Germany, and in the Arctic areas of Finland and the Soviet Union as the two countries battled each other in the Winter and Continuation wars.⁹¹

Following World War II, the High North became a metaphor for the widely divided political positions and frozen relations of the United States and Soviet Union. But, more than that, the area was also an angle of vulnerability that needed to be both guarded and taken advantage of.⁹² Hence the Arctic became a region of perpetual military readiness and vigilance, particularly for submarine, long-range bomber, ballistic missile, and missile detection and defense capabilities.⁹³

90. *E.g.*, MICHAEL G. WALLING, *FORGOTTEN SACRIFICE: THE ARCTIC CONVOYS OF WORLD WAR II* (2012) (detailing the Allied maritime supply route through the Arctic and the German effort to stop it).

91. For presentations of these operations, see, for example, CHRIS MANN & CHRISTER JØRGENSEN, *HITLER'S ARCTIC WAR: THE GERMAN CAMPAIGNS IN NORWAY, FINLAND AND THE USSR 1940-1945* (2002); BOB CARRUTHERS, *HITLER'S FORGOTTEN ARMIES: COMBAT IN NORWAY AND FINLAND* (2013); VINCENT HUNT, *FIRE AND ICE: THE NAZIS' SCORCHED EARTH CAMPAIGN IN NORWAY* (2014); PHILIP S. JOWETT & BRENT SNODGRASS, *FINLAND AT WAR 1939-45* (2006); HENRIK O. LUNDE, *FINLAND'S WAR OF CHOICE: THE TROUBLED GERMAN-FINNISH COALITION IN WWII* (2013).

92. Rolf Tamnes & Sven G. Holtsmark, *The Geopolitics of the Arctic in Historical Perspective*, in *GEOPOLITICS AND SECURITY IN THE ARCTIC: REGIONAL DYNAMICS IN A GLOBAL WORLD* 12, 21–22 (Rolf Tamnes & Kristine Offerdal eds., 2014).

93. *E.g.*, Rob Huebert, *Canadian Arctic Security Issues: Transformation in the Post-Cold War Era*, 54 *INT'L J.* 203, 205–06 (1999) (asserting that “[t]he Arctic became one of the most militarized regions during the cold war” as the United States and Soviet Union placed strategic strike and detection platforms farther and farther north in bids to gain strategic advantage); ORAN R. YOUNG, *Foreword—Arctic Futures: The Politics of Transformation*, in *ARCTIC SECURITY IN AN AGE OF CLIMATE CHANGE* xxi, xxii (James Kraska ed., 2011) (“During the Cold War, the Arctic was divided into two armed camps with the Soviet Union on one side and the United States and four of its NATO allies—Canada, Denmark, Iceland, and Norway—on the other. The region loomed large in strategic calculations, not because of its intrinsic value but because it provided an attractive theater of operations for strategic weapons systems and especially nuclear-powered submarines equipped with submarine-launched ballistic missiles.”).

Yet when the Soviet Union dissolved, taking the Cold War with it, the Arctic's strategic significance dropped off precipitously.⁹⁴ Even prior to these events, in 1987, then-Soviet General Secretary Mikhail Gorbachev advocated for the Arctic to be made a "zone of peace."⁹⁵ In the following years, Russia reduced its Arctic forces considerably and the region was no longer viewed as an icy battleground.⁹⁶ In fact, it was hardly viewed strategically at all except for outer space operations, early warning missile defense systems, and Russia's northern shipyards.⁹⁷

But Russian-western relations are now at their lowest point since the fall of the Iron Curtain.⁹⁸ Russia's destabilization of Ukraine—beginning in early 2014—invited western countermeasures in the form of a broad sanctions regime.⁹⁹ These actions have had a hand in severely harming the Russian economy.¹⁰⁰ In addition, Russia's military intervention in the

94. Wei-en Tan & Yu-tai Tsai, *After the Ice Melts: Conflict Resolution and the International Scramble for Natural Resources in the Arctic Circle*, 3 J. POL. & L. 91, 92 (2010) ("[T]he strategic importance of the Arctic has faded as a result of the collapse of the Soviet Union.").

95. Philip Taubman, *Soviet Proposes Arctic Peace Zone*, N.Y. TIMES (Oct. 2, 1987), <http://www.nytimes.com/1987/10/02/world/soviet-proposes-arctic-peace-zone.html>.

96. The Russian military drawdown in the Arctic was part of the broader reduction and neglect of the considerably bloated and unsustainable Soviet armed forces. See, e.g., Pavel K. Baev, *The Trajectory of the Russian Military: Downsizing, Degeneration, and Defeat*, in THE RUSSIAN MILITARY: POWER AND POLICY 43 (2004) ("The demilitarization of the Russian state during the 1990s was as drastic as it was debilitating: the massive military machine inherited from the Soviet Union was reduced by a factor of three in terms of the numerical strength of the army and by at least a factor of ten in terms of share of gross domestic product (GDP) allocated to defense.").

97. E.g., YOUNG, *supra* note 93, at xxii ("In the aftermath of the Cold War, the Arctic emerged as a low-tension area of limited importance in global terms.").

98. E.g., Riccardo Alcaro, *Introduction in WEST-RUSSIA RELATIONS IN LIGHT OF THE UKRAINE CRISIS* 12 (Riccardo Alcaro ed., 2015) ("[A] succession of events, including the re-election of Putin as Russia's president in 2012 and culminating in Russia's forced takeover of Crimea and destabilisation of Ukraine, have plunged the West-Russia relationship to its lowest point in twenty-five years.").

99. E.g., William Maudlin & Laurence Norman, *U.S. Works with European Officials to Align Russia Sanctions*, WALL ST. J. (Sept. 1, 2014, 3:36 AM), <http://www.wsj.com/articles/u-s-works-with-european-officials-to-align-russia-sanctions-1409517661> (outlining the array of economic sanctions that the West instituted against Russia in response to its actions in Ukraine).

100. Among many effects, western sanctions have led to severe decreases in foreign direct investment in Russia, capital flight, bars on borrowing for Russian banks,

Syrian Civil War on the side of President Bashar Al-Assad—and against western-backed rebels—further hardened Russian-western differences.¹⁰¹ Prior to and throughout these maneuvers, Russia has broadly increased its regional and international assertiveness, maintained provocative military postures, and put a renewed focus on military readiness and investment.¹⁰²

The Arctic, as yet another converging point of western and Russian interests, has failed to remain isolated from the aforementioned elevation in international tensions.¹⁰³

Steinberg et al., however, limit their analysis of the Arctic as a strategic theater to the Cold War, and present this information only relatively briefly.¹⁰⁴ Therefore, in order to present a more complete contemporary picture of the most prominent competing Arctic narratives—and meaningfully expose readers to one of the most important—this Article presents an original conception: the “strategic Arctic” imaginary.

With the recent deterioration in Russian-western relations has come a renewed military focus on the Arctic by littoral states. Russia has

and the freezing of important business partnerships and technology transfers in such key areas as Arctic offshore oil and gas extraction and hydraulic fracturing. *E.g.*, Michael Birnbaum, *A Year Into a Conflict with Russia, are Sanctions Working?*, WASH. POST (Mar. 27, 2015), https://www.washingtonpost.com/world/europe/a-year-into-a-conflict-with-russia-are-sanctions-working/2015/03/26/45ec04b2-c73c-11e4-bea5-b893e7ac3fb3_story.html. But it is important to note that the parallel sharp decline in oil prices brought on by a glut in international supply is likely wreaking the majority of havoc on the Russian economy. *E.g.*, *id.* (“Although sanctions have hurt, much of Russia’s current economic weakness has to do with the 48 percent drop in the price of oil since June [2014].”).

101. *E.g.*, *Russia Joins War in Syria: Five Key Points*, BBC (Oct. 1, 2015), <http://www.bbc.com/news/world-middle-east-34416519> (reporting that Russian airstrikes “appeared to be aimed at rebels backed by Gulf Arab and Western states”).

102. *E.g.*, STEPHEN DE SPIEGELEIRE, FROM ASSERTIVENESS TO AGGRESSION: 2014 AS A WATERSHED YEAR FOR RUSSIAN FOREIGN AND SECURITY POLICY (Hague Center for Strategic Studies, 2015) (systematically assessing recent Russian international assertiveness and aggression).

103. *E.g.*, Michael E. Miller, *Arctic ‘Chill’ as Russia Reverts to Cold War Air and Sea Confrontations*, WASH. POST (Apr. 17, 2015), <http://www.washingtonpost.com/news/morning-mix/wp/2015/04/17/arctic-chill-as-russia-reverts-to-cold-war-air-and-sea-confrontations/> (“[A]n increasing number of aggressive Russian acts in the air and at sea have led some experts to fear a new Cold War in the [Arctic] region.”).

104. STEINBERG ET AL., *supra* note 3, at 161–63.

instituted the large-scale development and enlargement of its northern capabilities, including restoring previously abandoned Soviet bases, building new bases, increasing the number of troops deployed to the north, creating Arctic-specific units, and conducting more military exercises in the region.¹⁰⁵

Despite Russia's considerable national interests in the Arctic that legitimize expanding its northern strategic posture—e.g. resources, shipping lanes, and the largest Arctic population, coast line, and territory of any state¹⁰⁶—the country's continued belligerence on the international stage, and in the Arctic specifically, has caused its circumpolar neighbors to worry about its northern actions.¹⁰⁷ In particular, Norway has expressed alarm,¹⁰⁸ and it engaged in a massive reorientation of its defense capabilities northward, stepped up defense acquisitions intended for Arctic deployment,¹⁰⁹ and carried out its first extensive military

105. E.g., Matthew Bodner, *Russia's Polar Pivot*, DEF. NEWS (Mar. 11, 2015, 3:09 PM), <http://www.defensenews.com/story/defense/policy-budget/warfare/2015/03/11/russia-arctic-bases-soviet-northern-command-navy-fleet-siberian-island/24335619/> (“Moscow has created a new Northern Command structure under which ground, sea and air units are being deployed to reopened Soviet-era bases along Russia’s northern frontier.”); *Russia Launches Military Drills in Arctic*, DEF. NEWS (Aug. 24, 2015, 3:01 PM), <http://www.defensenews.com/story/defense/international/europe/2015/08/24/russia-launches-military-drills-arctic/32276347/> (reporting on the multiple large-scale Arctic military drills that Russia had conducted thus far in 2015).

106. Kristine Offerdal, *Interstate Relations: The Complexities of Arctic Politics*, in *GEOPOLITICS AND SECURITY IN THE ARCTIC: REGIONAL DYNAMICS IN A GLOBAL WORLD* 73, 84–85 (Rolf Tannes & Kristine Offerdal eds., 2014).

107. Alcaro, *supra* note 98, at 12; Miller, *supra* note 103.

108. E.g., Andrew Higgins, *Norway Reverts to Cold War Mode as Russian Air Patrols Spike*, N.Y. TIMES (Apr. 1, 2015), http://www.nytimes.com/2015/04/02/world/europe/a-newly-assertive-russia-jolts-norways-air-defenses-into-action.html?_r=0 (analyzing Norway’s defensive reorientation towards the Arctic in the face of renewed Russian international assertiveness); Gwladys Fouche, *Wary of Russia, Norway Urges NATO Vigilance in Arctic*, REUTERS (May 20, 2014), <http://www.reuters.com/article/2014/05/20/us-norway-defence-russia-idUSBREA4J0HE20140520> (reporting on Norway’s mounting security concerns with regard to Russia following the latter’s annexation of the Crimea region of Ukraine in 2014).

109. Gerard O’Dwyer, *Norway Prioritizes High North Equipment*, DEF. NEWS (Mar. 11, 2015), <http://www.defensenews.com/story/defense/policy-budget/warfare/2015/03/03/norway-russia-arctic-northern-high-north-archer-cv90/24272749/> (“As Russia strengthens its naval, air and ground forces in its northern territories, Norway has responded by scaling-up manpower, equipment and Arctic combat units as part of a broader reinforcement of its High North defenses.”).

maneuvers in its northern province bordering Russia since the end of the Cold War.¹¹⁰ Norway also advocates for NATO to step up its focus on the High North and has organized Arctic military exercises bringing together NATO members, Sweden, and Finland.¹¹¹ Russia's responses to the aforementioned Norwegian and multilateral trainings included placing its Arctic forces on full combat alert and conducting rival drills.¹¹²

Aside from Norway, however, the reactions of other Arctic states to Russian actions have been more moderate. They have broadly voiced their disapproval of Russian aggressiveness and taken part in northern exercises, but have not instituted any substantial changes to their northern defense postures.¹¹³ Nevertheless, each Arctic littoral state has

110. Thomas Nilsen, *Norway Launches High North Military Exercise*, BARENTS OBSERVER (Mar. 9, 2015), <http://barentsobserver.com/en/security/2015/03/norway-launches-high-north-military-exercise-09-03> (noting that the Joint Viking military exercise was the largest in Finnmark since 1967).

111. Fouche, *supra* note 108; *NATO Fighter Jets Join Nordic Countries in Arctic Military Exercise*, CBC NEWS (May 25, 2015, 8:25 AM), <http://www.cbc.ca/news/canada/north/nato-fighter-jets-join-nordic-countries-in-arctic-military-exercise-1.3086264>.

112. Elliott C. McLaughlin, *Amid NATO Exercises, Russia Puts Northern Fleet on 'Full Alert'*, CNN (Mar. 17, 2015, 5:39 PM), <http://www.cnn.com/2015/03/16/europe/russia-arctic-military-exercises/>; Gerard O'Dwyer, *Tensions High as Russia Responds to Exercise*, DEF. NEWS (May 31, 2015), <http://www.defensenews.com/story/defense/international/europe/2015/05/31/russia-nato-nordic-tensions-exercise/28076027/>.

113. *E.g.*, Elisabeth Braw, *Putin Makes his First Move in Race to Control the Arctic*, NEWSWEEK (Jan. 6, 2015), <http://www.newsweek.com/2015/01/16/putin-makes-his-first-move-race-control-arctic-296594.html> ("Russia's military actions on the European side of the Arctic worry Denmark as well as other Arctic nations."); Tom Roeder, *Canadian Defense Minister Talks Russia Threat During Colorado Springs Visit*, GAZETTE (Mar. 16, 2015), <http://gazette.com/canadian-defense-minister-talks-russia-threat-during-colorado-springs-visit/article/1548053> ("Canada Minister of Defense Jason Kenney . . . said his nation is keeping a wary eye on Russia and building stronger ties with the U.S. as Cold War tensions resume."); Jacqueline Klimas, *Freezing U.S. out of the Arctic*, WASH. EXAMINER (Sept. 28, 2015), <http://www.washingtonexaminer.com/freezing-u.s.-out-of-the-arctic/article/2572852> ("Russia is building up capability that may be intended to deny U.S. access into that domain and to extend their base of operations as an offensive force targeting the U.S. using the Arctic as a base to carry out those operations . . . I am concerned, just because of the complete lack of transparency.")

updated its official northern strategic outlook in recent years due to Russian, and climate change, developments.¹¹⁴

At least in the near term, relations between Russia and the West are likely to remain poor. As a result, the inclination to understand the Arctic mainly as a domain of strategic competition and conflict will remain strong. This makes the continuation and expansion of cooperation, dialogues, and information sharing all the more important so that international tensions infect the region as little as possible. While the risk of conflict in the High North is low in the immediate future due to the Arctic's remoteness, harsh environment, and established cooperative regime, it is more likely to remain so in the long-term through the active subjugation of the strategic Arctic imaginary to the understanding of the region as a place of collaboration and trust.

CONCLUSION

Climate change, northern natural resources, regional politics, and international relations have all combined to increase the Arctic's global significance. To this end, "preconceptions of what the Arctic is, and what it can be, matter profoundly."¹¹⁵ Determining whether the High North is viewed as a place of cooperation or conflict, transcendent nationhood or state-centered governance, untouchable wilderness or untapped potential, or some mixture of these representations is of the utmost importance in resolving its future.

By methodically engaging and assessing the most influential Arctic imaginaries, this Article will hopefully contribute to an informed discourse on international law, governance, and relations in the High North, and help to counteract the hyperbolic treatments of this region of the world that have become far too common.

114. See, e.g., INGRID MARGRETHE GJERDE, U.S. POLICY FOR THE ARCTIC AND THE NATION'S ABILITY TO SUSTAIN GLOBAL LEADERSHIP 1–11 (2013), available at www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA589320 (describing the recent Arctic strategic documents and postures of the Arctic littoral states); U.S. DEP'T OF DEF., ARCTIC STRATEGY 7–11 (2013), available at http://www.defense.gov/Portals/1/Documents/pubs/2013_Arctic_Strategy.pdf (presenting the United States' strategic outlook of the Arctic region).

115. STEINBERG ET AL., *supra* note 3, at 5.