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ARCTIC SOVEREIGNTY: MELTING THE UNCERTAINTY

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Exercise Solo Flight

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ARCTIC SOVEREIGNTY: MELTING THE UNCERTAINTY

“Canada has a choice when it comes to defending our sovereignty over the Arctic: Either we use it or we lose it.”

-Prime Minister Stephen Harper¹

INTRODUCTION

On 10 September 2014 at 01:30, two Russian bomber aircraft (referred to as Bears) entered Canada’s Arctic Air Defence Identification Zone (ADIZ).² In line with Canada’s agreed contribution to North American Aerospace Defence (NORAD), two Canadian Fighter Jets (CF-18s) immediately depart an airbase in Southern Canada to intercept the Russian Bears. The Russian bombers came to within 75 kilometers of Canadian territory, but did not enter into Canadian airspace.³ The intended purpose of the Russian aircraft was unknown; however, Canada was able to project its military power out to the furthest territorial boundaries to exercise its sovereignty. What exactly does exercising sovereignty mean and how is it defined for the Canadian Arctic? What has the Government of Canada (GoC) done to project Sovereignty in the Arctic? And what does it need to do? These are some of the questions that will be explored in this paper.

Emblazoned in the Canadian National Anthem, millions of Canadians often stand and harmoniously sing the lyrics, “The true north strong and free!” Inherent in this phrase is Canada’s stature as a northern nation and its perceived ability to govern over its vast arctic

¹ Steven Chase, “Myth Versus Reality in Stephen Harper’s Northern Strategy,” in *CBC News*, last modified 12 January 2015, <http://www.theglobeandmail.com/news/national/the-north/myth-versus-reality-in-stephen-harpers-northern-strategy/article16397458/?page=all>.

² An ADIZ is a publicly defined area extending beyond national territory in which unidentified aircraft are liable to be interrogated and, if necessary, intercepted for identification before they cross into sovereign airspace. David A. Welsh, “What’s an ADIZ?” in *Foreign Affairs Magazine*, last modified 9 December 2013, <https://www.foreignaffairs.com/articles/east-asia/2013-12-09/whats-adiz>.

³ Canadian Broadcasting Corporation News, “Canadian fighter jets intercept Russian bombers in Arctic,” last modified 20 September 2014, <http://www.cbc.ca/news/canada/canadian-fighter-jets-intercept-russian-bombers-in-arctic-1.2772440>.

territory. Another example of Canada's northern heritage was displayed as its 2010 Vancouver Winter Olympics icon, the inuksuk. "These sculptural forms are among the oldest and most important objects placed by humans upon the vast Arctic landscape and have become a familiar symbol of the Inuit and of their homeland."⁴ The use of these two symbols – one that unites the country and the other that united the world – portray the deep connection that Canada has to its northern heritage. Moving beyond symbols, the GoC also realizes the importance of its northern territory and the people that reside there. *Canada's Arctic Foreign Policy* states that "exercising sovereignty over Canada's North, as over the rest of Canada, is our number one Arctic foreign policy priority."⁵ And the first of four priorities in *Canada's Northern Strategy* is "exercising Arctic Sovereignty."⁶ That said, stating that one needs to exert sovereignty over a territory is much easier than explaining and carrying out the actions required to do so.

There has been increased attention given to the Arctic due to climate changes that have led to increased annual melting of polar ice. The decrease in ice coverage comes with opportunities for resource development and transport routes, but it also presents challenges as it allows easier access into the area by other states. In anticipation of these predictions, the GoC needs to clearly outline how it will protect its Arctic interests. Coming from an international relations (IR) perspective, this paper will show that the GoC subscribes to traditional notions of sovereignty in its view towards the Arctic. Implicit in its Arctic sovereignty policy is a desire to have a clearly defined territory and the means to control it. It will also be shown that although the GoC has assertively publicized the idea of a sovereign Arctic through strategies, policies, and

⁴ Inuksuk Gallery, "What is an Inuksuk?" Last accessed 12 April 2016, <http://www.inukshukgallery.com/inukshuk.html>.

⁵ Global Affairs Canada, "Canada's Arctic Foreign Policy," last modified 3 June 2013, http://www.international.gc.ca/arctic-arctique/arctic_policy-canada-politique_arctique.aspx?lang=eng.

⁶ Government of Canada, "Canada's Northern Strategy: Our North, Our Heritage, Our Future," Ottawa, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, 2009, 4.

speeches, its concrete contributions fall short of the rhetoric. In order to prove this thesis, this paper will concentrate on three international challenges faced by the GoC: the definition of the Northwest Passage (NWP) as internal waters, the boundary dispute between Alaska and the Yukon in the Beaufort Sea, and the extension of Canada's Continental Shelf (CS) beyond the 200 nautical miles Economic Exclusion Zone (EEZ) in the Arctic Ocean.

The topic of sovereignty has been written about extensively in the literature across many different disciplines. "Sovereignty is a central concept in international relations, international law, political theory, political philosophy, and modern history."⁷ Despite this vast amount of literature, sovereignty's exact definition remains clouded. There also seems to be a disconnect between international and national definitions of sovereignty.

For example, a conventional definition of sovereignty or Westphalian sovereignty uses two principles – defined territory and nonintervention – in its application.⁸ However, concepts of globalization and humanitarian intervention contradict those principles by allowing international institutions, multinational corporations, hegemonic governments, and international nongovernmental organizations to interfere and regulate the domestic structure.⁹ Much like the definition of sovereignty itself, defining Canadian Arctic sovereignty is not an easy task. The changing environment, the priorities set by the GoC, the interests of neighbouring states, the interpretations of international law, and the desires of international organizations all have a part to play in this definition.

⁷ Melea Lewis, Charles Sampford, and Ramesh Thakur, "Introduction," in *Re-envisioning Sovereignty – the End of Westphalia?* ed. Trudy Jacobsen, Charles Sampford and Ramesh Thakur (Burlington: Ashgate, 2008), 1.

⁸ Stephen D. Krasner, "Sharing Sovereignty: New Institutions for Collapsed and Failing States." Chap. 36 in *Leashing the Dogs of War: Conflict Management in a Divided World*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, 653-678, (Washington, DC: United States Institute of Peace Press, 2007), 653.

⁹ David Atkinson "Globalization". In *Oxford Bibliographies in International Relations*, last accessed 4 April 2016, <http://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0009.xml>.

In order to fully conceptualize the challenges faced in Canada's North, the first section of this paper will define the territory in terms of land, the inhabitants, the opportunities, the challenges, and its relation with other Arctic states. The next section will endeavor to explain sovereignty and how it correlates to the Canadian Arctic from an IR perspective. To do this, sovereignty will be analyzed from a legal, political, and pragmatic perspective using Canada's three challenges mentioned above. The final section will examine the political rhetoric, policy, and tangible contributions made by the GoC towards the three international challenges, and compare that with what they need to do.

DEFINING CANADA'S ARCTIC

Literature written on the Arctic uses the terms "North" and "Arctic" interchangeably, and depending on the source their definitions and geographic dimensions differ. Throughout this paper both will represent the land above the line of latitude 60 degrees north – this includes all three territories and the northern portion of Quebec and Newfoundland. This area makes up about 40 percent of the total Canadian land mass, but comprises less than one percent of the country's population.¹⁰ The Canadians in the Arctic live in dispersed and isolated centers without the networks of transportation that southerners enjoy. Ships and aircraft are the primary means of delivering supplies and food; which if postponed or delayed can have detrimental effects on the communities.

The high Arctic experiences 24 hours of darkness in the winter months and 24 hours of daylight during the summer. The temperature can dip as low as minus 50 degrees Celsius which is exacerbated by the extreme winds. A past Canadian Armed Forces (CAF) Chief of Defence Staff, General Walter Natynczyk, alluded to the harshness of the Arctic with his response to a

¹⁰ Government of Canada, "The Canadian Arctic," last modified 18 March 2013, http://www.canadainternational.gc.ca/united_kingdom-royaume_uni/bilateral_relations_bilaterales/arctic-arctique.aspx?lang=eng.

question about a northern invasion: “If somebody were to invade the Canadian High North, my first problem would be to rescue them.”¹¹ These conditions make it difficult and very expensive for the GoC to operate and have presence in the North. As it will be discussed later, exerting control over territory is necessary to exercise sovereignty.

Since satellite monitoring began in 1979, it has been reported that the Arctic sea-ice extent has been on a decline with the lowest reported amount having occurred the spring of 2016.¹² A report written by the Intergovernmental Panel on Climate Change in 2013 projects that in this century the Arctic will be virtually ice-free during the summer months.¹³ The reduction in ice will grant easier access to areas that were otherwise very difficult to reach. This will create many opportunities for resource exploration and the opening of transport routes, but has a detrimental effect on the eco systems that rely on annual freezing. Also, the increased access for Canadians means increased access for other states as well.

With regards to transport, additional open water means that the Northwest Passage will become a more viable transport route. It will cut down the distance between the Atlantic Sea Board and East Asia by 7,000 kilometers compared to using other routes like the Panama Canal.¹⁴ Once the multi-year ice (thick ice that doesn't melt in summer) completely disappears,

¹¹ Michael Byers and Stewart Webb, “Titanic Blunder, Arctic/Offshore Patrol Ships on Course for Disaster,” last modified April 2013, http://www.policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2013/04/Titanic_Blunder.pdf.

¹² NASA, “Current State of Sea Ice Cover,” last modified 10 April 2016, <http://neptune.gsfc.nasa.gov/csb/index.php?section=234>.

¹³ Larsen, J.N., O.A. Anisimov, A. Constable, A.B. Hollowed, N. Maynard, P. Prestrud, T.D. Prowse, and J.M.R. Stone, “Climate Change 2014: Impacts, Adaptation, and Vulnerability,” in *Part B: Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, edited by Barros, V.R., C.B. Field, D.J. Dokken, M.D. Mastrandrea, K.J. Mach, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White, (Cambridge: Cambridge University Press, 2014), 1587. http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap28_FINAL.pdf.

¹⁴ Jessica Nasrallah, “A Youth Perspective on the Challenge Facing the North,” in *Centre for International Governance Innovation*, last updated 21 January 2016, <https://www.cigionline.org/publications/youth-perspective-challenges-facing-north>.

transport ships that are built to navigate the seasonal ice will theoretically be able to transit the Arctic all-year-round. Monitoring the flow of traffic and controlling the safety regulations of transiting ships is in the best interests of Canada. However, this is difficult as the NWP is transnationally recognized as international waters, despite Canada's best efforts to claim them as internal. The importance of this recognition will be discussed in further sections.

Greater access to the North also creates opportunities for resource exploration. The United States (US) Geological Survey conducted in 2008 suggests that 22 percent of the World's undiscovered resources can be found in the North.¹⁵ Important for Canada are the estimates of up to one third of its natural gas, as well as large deposits of diamonds, gold and other minerals located within its Arctic territory.¹⁶ Based on the data, Canada has a lot to gain by exploiting these resources, but this is easier said than done. In a Centre for Strategic and International Studies report in 2013, it states that "new oil production in the Arctic, particularly from offshore discoveries, could potentially take decades to bring to market at great expense."¹⁷ Not included in those calculations are those expenses associated with controlling and surveilling its territory, as well as supporting the Canadians that live there. The financial (and political) cost required to define boundaries between states in contested areas must also be considered.

The boundary dispute between Canada and the US in the Beaufort Sea and Canada's claim to extend its CS into the Arctic Ocean are two critical areas in this domain. The Beaufort Sea disagreement, which comprises an area of 6,250 square nautical miles of potential oil and

¹⁵ United States Geological Survey News Room, "90 Billion Barrels of Oil and 1,670 Trillion Cubic Feet of Natural Gas Assessed in the Arctic," last modified 6 January 2014, <http://www.usgs.gov/newsroom/article.asp?ID=1980#.Vlyz38vbLIV>

¹⁶ Tony Balasevicius, "Towards a Canadian Forces Arctic Operating Concept," *Canadian Military Journal* Vol. 11, No. 2, Spring 2011, 23.

¹⁷ Heather A. Conley, *Arctic Economics in the 21st Century*, (New York: Centre for Strategic and International Studies, 2015), 2.

gas reserves¹⁸ and extending into the Arctic Ocean (also rich in resources), has the potential to challenge other Arctic states' claims. The regulations governing these challenges are outlined in the United Nations Convention on the Law of the Sea (UNCLOS) and will be discussed further. But it is important to note that Canada's relations with the US are complicated by the fact that the US has not yet signed or ratified the UNCLOS.¹⁹

Focusing primarily on the international arena, the changing climate in the Arctic has presented Canada with many opportunities and challenges. Having characterized Canada's Northern territory, this paper will extract what the GoC's implicit definition of Arctic sovereignty should be from traditional academia written on sovereignty as a whole.

ARCTIC SOVEREIGNTY

The definition of sovereignty is elusive. Theorists make incongruous comparisons between the political and legal spheres on "relative and absolute sovereignty as well as between positive and negative sovereignty, and again between de jure and de facto independence."²⁰ New developments of the concept of sovereignty are being made in order to grasp the evolving relationships between and within states by the addition of adjectives to describe sovereignty as "relational, constitutional, earned, shared, suspended, transitional, divisible, or post-statist."²¹ From a legal perspective, an examination of fundamental rules, based on international law, will be made. From a pragmatic and political perspective, the concepts of domestic sovereignty, interdependence sovereignty, and Westphalian sovereignty from Stephen Krasner's book,

¹⁸ Rob Huebert, "Canada Arctic Sovereignty and Security in a Transforming Circumpolar World," in *Canada and the Changing Arctic*, (Waterloo: Wilfred Laurier University Press, 2011), 45.

¹⁹ *Ibid.*, 46.

²⁰ Joseph Camilleri, "Sovereignty Discourse and Practice – Past and Future," in *Re-envisioning Sovereignty – the End of Westphalia?* ed. Trudy Jacobsen, Charles Sampford and Ramesh Thakur, (Burlington: Ashgate, 2008), 33.

²¹ *Ibid.*, 34.

Sovereignty Organized Hypocrisy will be examined.²² Finally, two differing points of views will be considered to help further refine what sovereignty in the North should signify. Rob Huebert, a realist in his northern outlook, advocates sovereignty through security, whereas P. Whitney Lackenbauer takes a more liberalist stance stating that although defence is important, an integrated solution with other states is key to a sustainable Arctic strategy.

Legally, there is no argument that Canada is a sovereign state.²³ What is important from a legal standpoint are the ongoing challenges of defining Canada's arctic territory – where does Canada have the right to make claims for territory, to deny access of other states, and exert control in contested areas? Historically, one of the five ways to acquire land was occupation. A state could claim a sovereign title over a discovered territory with a symbolic gesture that represented its entitlement.²⁴ Typically this would occur in the form of planting a flag. Unfortunately for Russia, who planted a flag at the bottom of the Arctic Ocean at the North Pole,²⁵ this action is not recognized in today's international system.

Today, titles over territory are completed in one of three ways: renunciation, joint decision, or adjudication. Given Canada's current Arctic challenges, adjudication is most relevant where disputes are examined by legal authorities and decisions are made by “a mutually acceptable tribunal.”²⁶ The key words are “mutually acceptable”, as adjudication (internationally in this case) only works if legitimacy is given by both states involved. Although the US subscribes to UNCLOS, as mentioned above, they have not yet signed or ratified this convention.

²² Stephen D. Krasner, *Sovereignty Organized Hypocrisy* (New Jersey: Princeton University Press, 1999), 20. Krasner also incorporates a fourth concept (International Legal Sovereignty), but is taken into account in the legal perspective portion.

²³ William R. Slomanson, *Fundamental Perspectives on International Law*, 4th ed. (Belmont: Clark Baxter, 2003), 56.

²⁴ *Ibid.*, 248.

²⁵ Heather A. Conley and Caroline Rohloff, *The New Ice Curtain: Russia's Strategic Reach to the Arctic*, (New York: Centre for Strategic and International Studies, 2015), 31.

²⁶ William R. Slomanson, *Fundamental Perspectives on International Law*, 4th ed. (Belmont: Clark Baxter, 2003), 256.

From an international law's perspective - with the exception of Hans Island²⁷ – Canada's land territory is indisputable. The international issues that Canada shares with its neighbouring states fall within the boundaries of UNCLOS. Firstly, Canada's title over internal waters (most notably the NWP), secondly, its title claim over controlling ocean soil and subsurface (defined by its CS) that goes beyond the 200 nautical mile EEZ into the Arctic Ocean, and thirdly, defining an agreeable boundary between Alaska and the Yukon that extends into the Beaufort Sea.

In line with international law, a State has complete control over its internal waters just as it would over its territorial land.²⁸ According to UNCLOS Article 8.1, internal waters are the “waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.”²⁹ Given this definition, Canada believes that the NWP is considered internal waters. The country went so far as to change the name of the NWP to the Canadian NWP in 2009.³⁰ Canada has tried to validate its claim through historic titles, the baseline as indicated in UNCLOS Article 8.1, and its occupation by the Inuit when covered in ice.³¹ Unfortunately, Canada's internal water claim has not been recognized by the international community and most notably, the US.

²⁷ Chapter two of Michael Byers, *Who Owns the Arctic?* (Toronto: Douglas and McIntyre Publishers, 2009), gives a great outline of this dispute and claims made by Canada and Denmark.

²⁸ *Ibid.*, 258.

²⁹ United Nations Division for Ocean Affairs and the Law of the Sea, “United Nations Convention on the Law of the Sea” - Article 8.1, last accessed 14 April 2016, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

³⁰ Craig H. Allen, “An Obama-Trudeau Agreement Conceding Canada's Claim to the Waters of the Northwest Passage?” last modified 16 March 2016, <http://opiniojuris.org/2016/03/16/an-obama-trudeau-agreement-conceding-canadas-claim-to-the-waters-of-the-northwest-passage/>.

³¹ *Ibid.*

Michael Byers suggests that giving Canada control of the NWP is important for two reasons.³² Firstly, it would mitigate a “shared vulnerability to naval vessels from Russia and other unfriendly nations,” and secondly, it would allow Canada to regulate all vessels coming through the NWP.³³ He fears that this international route may allow the “entry of drugs, guns, illegal immigrants and perhaps even terrorists into this country, as well as providing an alternative route for illicit shipments of weapons of mass destruction or missile components by rogue states.”³⁴ It will also allow ships with differing safety and environmental regulations into Canadian waters. Canada wants the NWP to be considered internal waters and the US is adamant that their freedom of the seas is a top national priority. Whether the reasons are for security or for environment, it is in Canada’s best interests to define the NWP as internal waters as it will grant the most control over transiting vessels.

The second and third UNCLOS challenges include delineating Canada’s boundaries in the Arctic Ocean (extending the EEZ) and in the Beaufort Sea (boundary with the US). Article 76 allows states to extend their EEZ up to 350 nautical miles as long as the CS extends that far from the coastal baseline and it can be proven with scientific data.³⁵ Although Russia was the first Arctic nation to provide a claim for territory in excess of 1.2 million square kilometers,³⁶ the Committee on the Limits of the Continental Shelf (CLCS) did not support their request.³⁷

³² Michael Byers is a Canada Research Chair in Global Politics and International Law at the Liu Institute for Global Issues at the University of British Columbia.

³³ Michael Byers, “The Need to Defend Our New Northwest Passage,” last modified 30 January 2006, <http://theyee.ca/Views/2006/01/30/DefendNorthwestPassage/>.

³⁴ *Ibid.*

³⁵ United Nations Division for Ocean Affairs and the Law of the Sea, “United Nations Convention on the Law of the Sea” - Article 76, last accessed 14 April 2016, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

³⁶ Alexandr Golts, “The Arctic: A Clash of Interests of Clash of Ambitions,” in *Russia in the Arctic*, ed. Stephen J. Blank, (US Army War College: Strategic Studies Institute, 2011), 47.

³⁷ Marta Carlsson and Niklas Granholm, *Russia and the Arctic: Analysis and Discussion of Russian Strategies*, Report No – FOI-R3596-SE (Ministry of Defence: March 2013), 17.

Canada has put considerable work into substantiating its claim to extend its EEZ into the Arctic Ocean, but has only submitted a partial claim in 2013.³⁸

With regards to the Beaufort Sea, according to Article 74 of the UNCLOS, “the delimitation of the [EEZ] between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law...in order to achieve an equitable solution.”³⁹ Like the land border between Alaska and the Yukon, Canada believes the water boundary should run along the 141 line of longitude; however, the United States argues that the boundary should be drawn based on a line equidistant to land (90 degrees off the coast).⁴⁰ Given that the area is considered to be rich in resources, both states are trying to settle the dispute with their own interests in mind. This dispute is currently not resolved, and there seems to be no resolution in the near future as evidenced by the US’s recent proposal for new oil and gas drilling leases in the contested area.⁴¹

From a legal perspective, defining Canada’s Arctic territory is not a simple task. Without resolution to granting Canada internationally recognized territory in the North, it is difficult for Canada to exert sovereignty there. Stepping outside international law, the three challenges will now be examined through a political and pragmatic lens to further refine the GoC’s implicit definition of Arctic sovereignty. To expand on this, three of Stephen Krasner’s “commonly used terms” for sovereignty will be explored.

³⁸ Government of Canada, “Canada's Extended Continental Shelf Program,” last updated 26 February 2016, <http://www.science.gc.ca/default.asp?lang=En&n=98773CA7-1>.

³⁹ United Nations Division for Ocean Affairs and the Law of the Sea, “United Nations Convention on the Law of the Sea” - Article 74, last accessed 14 April 2016, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

⁴⁰ Government of Canada, “The Arctic: Canada’s Legal Claims,” last modified 24 October 2008, <http://www.loppar.gc.ca/content/lop/researchpublications/prb0805-e.htm#beaufortsea>.

⁴¹ Chris Windeyer, “Proposed U.S. Beaufort Sea drilling leases infringe on Canada's sovereignty, says Yukon,” in *CBC News*, last modified 16 March 2016, <http://www.cbc.ca/news/canada/north/proposed-beaufort-licences-infringe-arctic-sovereignty-1.3498469>.

The first term is Westphalian Sovereignty. Krasner defines Westphalian Sovereignty as being comprised of two principles – territoriality and nonintervention.⁴² A government can be severely constrained by external influences, but their sovereignty still holds true if they retain the freedom to operate their national and domestic structures. When these structures are influenced or changed by external actors, then it can be said that Westphalian Sovereignty is violated. The GoC's actions toward bringing resolve to the Beaufort Sea dispute and the CS extension indicate that Westphalian Sovereignty in the Arctic is sufficiently intact. Where Westphalian Sovereignty is violated for Canada is in the international definition of the NWP. If considered international waters, Canada will have much less say in who transits the strait and under what regulations.

Krasner's second term is Interdependence Sovereignty. This deals with a nation's ability to control the movement across territorial borders.⁴³ This would indicate that any inability to regulate ships and anything aboard those ships entering or exiting Canada's territory would be a loss of sovereignty. Like Westphalian Sovereignty, the current international definition of the NWP challenges Interdependence Sovereignty.

Krasner's third term is Domestic Sovereignty. Taking into account how a nation's governing body should be structured, this concept relates to the level of which the government can effectively exercise control over its territory.⁴⁴ Raj Kumar takes this concept further by introducing the term "Internal Sovereignty."⁴⁵ He describes it as the responsibility of the state to govern using its resources for the benefit of its people.⁴⁶ Although this paper is concentrating on international challenges to Canadian sovereignty, it can be proven that this final term transcends

⁴² Stephen D. Krasner, *Sovereignty Organized Hypocrisy* (New Jersey: Princeton University Press, 1999), 20.

⁴³ *Ibid.*, 12.

⁴⁴ Stephen D. Krasner, *Sovereignty Organized Hypocrisy* ... 11.

⁴⁵ Kumar is an Associate Professor in the School of Law at the City University on Hong Kong.

⁴⁶ C. Raj Kumar, "Corruption and Transparency in Governance and Development: Reinventing Sovereignty for Promoting Good Governance," in *Re-envisioning Sovereignty – the End of Westphalia?* ed. Trudy Jacobsen, Charles Sampford and Ramesh Thakur, (Burlington: Ashgate, 2008), 253.

the domestic realm in that seemingly domestic issues can have an impact at the international level.

There are many issues in Canada's North that challenge the government at the domestic level: internal land claims, the health and education of the population, and the impact of the deteriorating environment on the indigenous way of life, to name a few.⁴⁷ But the indigenous peoples of the circumpolar states (Canada, US, Russia, Denmark (through Greenland)) have come together over these common issues to form the Inuit Circumpolar Council. They produced *A Circumpolar Inuit Declaration on Sovereignty in the Arctic* in April 2009 claiming legitimacy through many UN declarations and policies.⁴⁸ The Council's Declaration foreshadows the complexities of Arctic Sovereignty stating that "issues of sovereignty and sovereign rights in the Arctic have become inextricably linked to issues of self-determination in the Arctic. Inuit and Arctic states must, therefore, work together closely and constructively to chart the future of the Arctic."⁴⁹ Important for the GoC is the recognition of this Council and its integration into how it defines and enforces Arctic sovereignty. A full analysis of the Inuit Circumpolar Council is outside the scope of this paper, but its existence shows how collective domestic issues have a role to play in IR.

Next, the points-of-view of two well-known Canadian Arctic Sovereignty analysts will be examined. First is Rob Huebert, an Associate Professor in the Department of Political Science at the University of Calgary.⁵⁰ Huebert's take is that the accessibility provided by the melting ice in the Arctic should be a major concern for Canada and preparations for international challenges

⁴⁷ Government of Canada, "Canada's Northern Strategy," last modified 2009, <http://www.northernstrategy.gc.ca/cns/cns.pdf>.

⁴⁸ "A Circumpolar Inuit Declaration on Sovereignty in the Arctic," last modified April 2009, <https://www.itk.ca/publication/circumpolar-declaration-sovereignty-arctic>.

⁴⁹ "A Circumpolar Inuit Declaration on Sovereignty in the Arctic," last modified April 2009, <https://www.itk.ca/publication/circumpolar-declaration-sovereignty-arctic>.

⁵⁰ Rob Huebert is also an associate director of the Centre for Military and Strategic Studies and a fellow with the Canadian Defence and Foreign Affairs Institute.

must be made.⁵¹ More specifically, Huebert assesses that the greatest challenges to Canada in the North is that of determining its borders with its Arctic partners and exerting control over the defined territory.⁵² As Canada makes its claims to extend the land defined by the EEZ, push the contested border in the Beaufort Sea, and claim the NWP as internal waters, resources will be needed to control these larger areas. Huebert also thinks that other non-Arctic countries will be seen in the area (India, China and Japan).⁵³ Based on Huebert's analysis, Canada - that shares the Arctic region with militarily more powerful states of Russia and the US - needs to build the capacity to not only control the area, but defend itself against aggression as well.

On the other side of the spectrum rests P. Whitney Lackenbauer, an Associate Professor and Chair of the Department of History at St. Jerome's University.⁵⁴ Like Huebert, Lackenbauer advocates action in the North to solidify Canada's claim to sovereignty, but his suggested methods differ. Instead of a defensive buildup, Lackenbauer argues that more military capability in the North is unnecessary for two reasons: one, there is no conventional threat in the Arctic region, and two, resolving boundary disputes will not be helped with the buildup of forces.⁵⁵ Because every Arctic state has similar interests in the North, Lackenbauer suggests that Canada needs to take the lead in circumpolar organizations (like the Arctic Council) to foster international cooperation and coordination. Domestically, the GoC must create a "policy framework that practically and directly engages Northerners in development and that invests in

⁵¹ Rob Huebert, "Canada Arctic Sovereignty and Security in a Transforming Circumpolar World," in *Canada and the Changing Arctic*, (Waterloo: Wilfred Laurier University Press, 2011), 13.

⁵² *Ibid.*, 16.

⁵³ The Globe and Mail, "Is Climate Change a Northern Catastrophe or an Arctic Opening?" last modified 24 January 2014, <http://www.theglobeandmail.com/news/national/the-north/is-climate-change-a-northern-catastrophe-or-an-arctic-opening/article16480890/?page=all>.

⁵⁴ P. Whitney Lackenbauer is also a fellow with the Canadian Defence and Foreign Affairs Institute, the Arctic Institute of North America, and the Laurier Centre for Military Strategic and Disarmament Studies.

⁵⁵ P. Whitney Lackenbauer, "From Polar Race to Polar Saga," in *Canada and the Changing Arctic*, (Waterloo: Wilfred Laurier University Press, 2011), 94.

local capacity-building initiatives.”⁵⁶ Similar to Huebert, Lackenbauer suggests a strengthened presence in the North, but that the CAF should not be the primary agency. Rather, it should be done by leveraging the Canadian Rangers, improving the Canadian Coast Guard (CCG), investing in infrastructure, developing an intelligence, surveillance, and reconnaissance (ISR) network, and bolstering coordination across all federal agencies with a stake in the North.⁵⁷ Lackenbauer’s perspective includes cooperation at the international, national, and domestic levels, whereby investments in sustainable development and presence (through a whole-of-government approach) will secure Canada’s northern sovereignty.

Focusing purely on the international arena from a legal, political, and pragmatic perspective, the GoC has several battles to win in order to truly reign sovereign over its northern territory. Legally, resolving the Beaufort Sea and NWP disputes in favour of the US would satisfy Krasner’s Interdependence Sovereignty, but practically and politically sovereignty would be lost as Canada would “lose” territory to another country and leave the NWP open to international use. The GoC needs to continue to battle on the international stage towards securing the NWP as internal waters, come to an agreement on the Beaufort Sea, and increase efforts towards its claim to extend the CS. Suggested by Krasner and Lackenbauer, cooperation at many levels of national and international governments must be sought and investments made in sustainable development. Agreed by all sources of this section, once the territory is defined, presence in the Arctic is critical to exercising Canada’s sovereignty. In line with this analysis, the GoC has acknowledged the requirement of increased presence in the Arctic. The next section will take a glance into the recent GoC’s rhetoric and follow-on actions with regards to exercising its Arctic sovereignty.

⁵⁶ *Ibid.*, 71.

⁵⁷ *Ibid.*, 101-107.

GOVERNMENT

This section will take a look at the major GoC strategies currently in place that concern the Arctic. Left over from the previous Conservative government are: Canada's Northern Strategy from 2009, Canada's Arctic Foreign Policy from 2013, and from the CAF's perspective, the Canada First Defence Strategy from 2008. As the Liberals are currently in government, a closer look at Prime Minister (PM) Trudeau's current platform will be made. Finally, a brief overview of the actions taken by these governments will be discussed to show their "Arctic sovereignty deficit." This analysis will only include aspects that pertain to the challenges already discussed: the NWP, the Beaufort Sea, and the CS extension.

First to be analyzed is the Northern Strategy. In its four priorities, the government desires to exercise its Arctic Sovereignty, promote social and economic development, protect its environmental heritage, and improve and devolve northern governance.⁵⁸ With regards to the scope of this paper, the majority of the analysis will focus on the first priority, but as sovereignty is complex, there are aspects of the other priorities that are relevant as well. This strategy states that "Canada's Arctic sovereignty is longstanding, well established and based on historic title, founded in part on the presence of Inuit and other Aboriginal peoples since time immemorial."⁵⁹ Agreeing with the analysis of this paper on what sovereignty should mean, it suggests that Canada needs to maintain a strong presence, resolve boundary challenges, and boost its stewardship of the North.⁶⁰

According to this strategy, maintaining a strong presence in the Arctic means that it requires the capability to control the land, sea, and air over its defined area. In order to do this,

⁵⁸ Government of Canada, *Canada's Northern Strategy: Our North, Our Heritage, Our Future*, (Ottawa: Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, 2009), 2.

⁵⁹ *Ibid.*, 9.

⁶⁰ *Ibid.*

there are promises of significant investments in infrastructure, the Canadian Rangers, satellite monitoring, and CAF and CCG capability and activity (ships, patrols, northern operations).⁶¹ Drawing attention to the three IR challenges outlined in this paper, it suggests that “all of these disagreements are well-managed and pose no sovereignty or defence challenges for Canada.”⁶² As outlined above, the ambiguous definition of the NWP has a huge impact on the defence of Canada. With regards to being a good steward of the North, it talks about updating and enforcing shipping regulations and reporting as they transit Canada’s waters.⁶³ Concentrating on the NWP again, it will be difficult to enforce all regulations if not considered internal waters. Canada has outlined how it will support this strategy using Canada’s Arctic Foreign Policy.

Canada’s Arctic Foreign Policy echoes much of what was stated within the Northern Strategy. This policy’s vision sees a stable and clearly defined Arctic operating within established rules and regulations.⁶⁴ Based in diplomacy and international law, it focuses on issues of extending the CS, resolving boundary disputes, protecting the environment, and promoting regulation that will ensure sustainable development.⁶⁵ Although the NWP is discussed as a potential viable shipping route that requires further regulation, this policy is silent on any details relating to the dispute with the US over defining it as internal waters. Recognizing that increased accessibility may lead to more emergencies, crime, and illegal trafficking, a call for more safety protocols and law enforcement is required – examples of which include CAF, Canadian Rangers, and CCG presence as well as investments in infrastructure to support this effort.⁶⁶

⁶¹ *Ibid.*, 10-11.

⁶² *Ibid.*, 13.

⁶³ Government of Canada, *Canada’s Northern Strategy*... 11-12.

⁶⁴ Global Affairs Canada, “Canada’s Arctic Foreign Policy,” last modified 3 June 2013, http://www.international.gc.ca/arctic-arctique/arctic_policy-canada-politique_arctique.aspx?lang=eng.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

Concentrating purely on defence, the 2008 *Canada First Defence Strategy* has dedicated a few small sections to the North. And although this document incorporates all CAF operations, it highlights priorities to follow in line with GoC policy. Of note, this strategy realizes the importance of the CAF to have the capability to “exercise control over and defend Canada’s sovereignty in the Arctic.”⁶⁷ The CAF will play an important role in demonstrating presence either as a deterrence to other states or to be available to respond to any incident or threat. It highlights the significant relationship Canada has with the US and acknowledges the importance of fostering good relations, not only in the North, but also in the total defence of North America. This strategy states that “one thing is clear, however: Canada cannot lead with words alone.”⁶⁸ Although this statement is referring to all CAF operations abroad, it does strike a chord with the North, especially as the GoC has given such a high priority to exerting sovereignty there. The next question is whether Canada is following up with the rhetoric.

The above documents, implemented by the Conservative government, have three things in common: firstly, they recognize the growing importance and accessibility of the North and how other states may find its access and resources attractive; secondly, there is a call for efforts devoted to controlling the territory and demonstrating presence; and finally, at the international level, it is important to work collaboratively towards resolving boundary disputes and territory claims, as well as supporting each other with protecting each state’s sovereignty. International cooperation is important, but the glaring issue of the NWP definition seems to have been downplayed in these documents.

The Conservative government can be credited with increasing renewed interest in the wellbeing of Canada’s North. However, some feel that “its early promises...are mostly

⁶⁷ Department of National Defence, *Canada First Defence Strategy*, (Ottawa: Government of Canada, 2008), 8, <http://www.forces.gc.ca/en/about/canada-first-defence-strategy.page>.

⁶⁸ *Ibid.*, 9.

unfulfilled, and the focus is often blurred, often by lofty but empty rhetoric about sovereignty.”⁶⁹ An article written by Robert Smol highlights many ways ex-PM Stephen Harper has fallen short on promises to exerting a strong presence in the North. Notably, he points out the small military contingent of personnel that are permanently posted in the North. Replacements for Arctic army vehicles and RCAF mobile radars have been cancelled, and projects like the Arctic Offshore Patrol Ships and the deep-water navy refuelling facility were scaled back and delayed.⁷⁰

On top of the three commonalities stated above, a fourth can be made that they are all outdated and not of the current government. As the Liberal government has only been recently elected to power, a look at PM Trudeau’s current platform on the North will show invigorated interest. The platform does make mention of prioritizing surveillance and control of Canada’s Arctic and there are promises to “strengthen Canada’s Armed Forces.” Also, there is mention that a cheaper alternative to the F-35 project will divert funds to the Royal Canadian Navy to build icebreakers and Arctic and Offshore Patrol Ships. On the heels of these promises, the Liberal government has stated that it wants a leaner, more agile military,⁷¹ has called for a full defence review to replace the Canada Defence First Strategy,⁷² and has “re-profiled \$3.7 billion of defence spending into the future.”⁷³ Like the Conservative government, the Liberals have made a great start with stimulating interest in the Arctic, but the follow-on promises listed above are ominous. A leaner, more agile military and cutting defence spending do not necessarily mean more assets, which are critical to ensuring presence, and therefore exercising sovereignty.

⁶⁹ The Globe and Mail, “Is Climate Change a Northern Catastrophe or an Arctic Opening?” last modified 24 January 2014, <http://www.theglobeandmail.com/news/national/the-north/is-climate-change-a-northern-catastrophe-or-an-arctic-opening/article16480890/?page=all>.

⁷⁰ Robert Smol, “Canada’s Arctic Sovereignty in on Thin Ice,” in *NOW Toronto Magazine*, last modified 20 January 2016, <https://nowtoronto.com/news/northern-exposure-canadas-arctic-sovereignty>.

⁷¹ Government of Canada, “Making Real Change Happen,” last modified 1 May 2016, <http://speech.gc.ca/en/content/making-real-change-happen>.

⁷² *Ibid.*

⁷³ Terry Milewski, “Canada’s Defence Budget Heads Back to the Future,” in *CBC News*, last modified 27 March 2016, <http://www.cbc.ca/news/politics/federal-budget-defence-milewski-1.3506670>.

In the IR arena, however, PM Trudeau recently sat with US President Barack Obama to discuss their continued cooperative relationship in the North. Issues of environmental impacts and over-fishing were discussed, and bilateral agreements to preserve the Arctic were made.⁷⁴ Although specific discussions on internal versus international waters of the NWP were not conferred, many believe that this is a step in the right direction towards resolving this challenge. That said, further relations on this issue may change depending on the next elected US President.

CONCLUSION

Based upon the three discussed challenges faced by Canada in the Arctic, it can best exert its sovereignty through traditional notions of the definition by resolving disputed territory and by developing a stronger presence to control this territory. The Conservatives, followed by the Liberals, have invigorated the idea of a stronger Arctic sovereignty, but have fallen short on tangible contributions.

Canada's Arctic is a vast area dominated by a harsh environment that contains a very small percent of the Canadian population. Climate change has had a profound effect on the northern landscape, which has presented opportunities for resource exploration and transportation; however, these are shadowed by the challenges of regulating access of other states through Canadian territory and resolving boundary disputes.

Analyzing what sovereignty means in the Canadian Arctic from a legal, political, and pragmatic perspective has brought forth interesting conclusions when viewed through the IR lens. First of all, it is a complex concept. Even though international law may outline what sovereignty is and how it should be defined, it is obvious how interpretations cloud resolution by the fact Canada's boundary disputes exist. Pragmatically and politically, it is clear that Canada

⁷⁴ Bob Weber, "Trudeau, Obama Missed Important Arctic Goals, Experts Say," in *Huff Post Politics Canada*, last modified 11 March 2016, http://www.huffingtonpost.ca/2016/03/10/obama-trudeau-further-some-arctic-goals-but-miss-others-experts_n_9430072.html.

needs to resolve its dispute with the US in the Beaufort Sea, increase efforts towards its claim to extend its CS into the Arctic Ocean, and most importantly, have the NWP internationally recognized as internal waters. Only then can Canada fully regulate the strait fully in line with its own interests. Second, it is assessed that a capability to exert sovereignty is required. Presence provides deterrence and an ability to react to violations of sovereignty.

A quick look at government policies, strategies, platforms, and promises has shown that both the Conservatives and the current Liberals understand the importance of the Arctic and have energized a desire to exert its sovereignty over the territory. Whether motivated by resources, votes, or security, each government has made vows to work collaboratively with other states to resolve disputes and to invest in national capability to control its northern territory. As shown, although small strides have been made in the actual contribution to Arctic sovereignty, the rhetoric leaves much to be desired. The Liberals are still in their first year of government and have time to follow through on their promises. Perhaps the impending defence review will signal more defence spending to aid in controlling the North.

The one fact that is undeniable is that the North is changing and states that are affected need to prepare for change. Either military presence, international cooperation, or a combination of the two is required to secure one's sovereignty. Canada's government just needs to follow through on its assurances to reign sovereign over its Arctic territory.

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