

# **Investing in the Canadian Arctic:**

A Policy Proposal to Protect Canada's *de facto* Sovereignty  
in the North



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## Abstract

This paper seeks to determine to what extent, if at all, Canada's sovereignty is threatened in the changing Arctic. Its goal is to define the scope and severity of the threat, and to determine if current policy responses and plans by the federal government are fit to adequately address that threat. As commercial opportunities proliferate and foreign actors express interest, can Canada truly claim to be sovereign in the Arctic? If so, is that sovereignty tenable? This paper will conclude that there does exist a threat to Canada's Arctic sovereignty: Canada risks abdicating its *de facto* sovereignty in the Arctic through its persistent inability to develop and govern its portion of the region. As commercial endeavors proliferate, governments will need to provide the infrastructure and governance necessary to support business. If Canada does not lead this effort, other actors will. This paper will also conclude that the government's policy responses to date do not appropriately address the real threats that Canada faces. We will therefore suggest new policy initiatives which we recommend the government implement.

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## **Introduction**

This paper seeks to determine to what extent, if at all, Canada's sovereignty is threatened in the Arctic. Its goal is to define the scope and severity of the threat, and to determine if current policy responses and plans by the federal government are fit to adequately address that threat. This paper will conclude that the government's policy responses are not, in fact, appropriate, to the real threats that Canada faces. We will therefore suggest new policy initiatives which we recommend the government implement.

The Canadian Arctic represents roughly 40% of Canadian territory.<sup>1</sup> By the authority afforded it through the United Nations Convention on Laws of the Sea (UNCLOS), Canada also claims sovereignty over a significant portion of the Arctic Ocean.<sup>2</sup> For the past 40 years, this region has been undergoing massive geographic transformations due to climate change.<sup>3</sup> With these transformations are coming a host of commercial opportunities, including newly-viable natural resource extraction, tourism, and fishing. Nevertheless, economic growth and investments in infrastructure in the

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<sup>1</sup> "Land and Freshwater area, by province and territory," Summary Tables, Statistics Canada, last modified Feb 1, 2005. Archived May 24, 2011 and accessed August 23, 2018

<https://web.archive.org/web/20110524063547/http://www40.statcan.gc.ca/101/cst01/phys01-eng.htm>

<sup>2</sup> François Côté and Robert Dufresne, "The Arctic: Canada's Legal Claims," Library of Parliament InfoSeries, October 24, 2008: 2-4

<sup>3</sup> Nadja Popovich, "We Charted Sea Ice for Nearly Every Day Since 1979. You'll See a Trend" *New York Times*, September 22, 2017 <https://www.nytimes.com/interactive/2017/09/22/climate/arctic-sea-ice-shrinking-trend-watch.html>

Canadian North remain slow and stagnant compared to the rest of the country; the region continues to be of secondary importance (at best) in federal political discourse.<sup>4</sup>

The confluence of climate change, investment opportunities, and lack of commercial development have prompted much public debate. One of the focuses of this debate is the future of Canadian sovereignty in the Arctic. Can Canada truly claim to be sovereign in the Arctic? If so, is that sovereignty tenable? There exist two main schools of thought:

1. The Arctic is a region ruled by law. Every nation present in the north, including non-Arctic nations, have long respected this legal regime. The region is one of remarkable international cooperation. There is therefore no reason to believe Canada faces a threat to its sovereignty. This view is generally championed by academics and has become more popular since the signing of the Ilulissat Declaration in 2008 (the Declaration is discussed in detail on page 19).
2. While international law is widely respected in the Arctic, the asymmetric capabilities that exist in the region should be a cause for concern. The most powerful nation in the Arctic is Russia, which is a geopolitical adversary of Canada. China – another rival, though with a more complicated relationship – is looking to pull the Arctic into its political orbit through its One Belt One Road

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<sup>4</sup> “A New Shared Arctic Leadership Model,” Mary Simon, Minister’s Special Representative, March 2017, Indigenous and Northern Affairs Canada  
Mathieu Landriault, “Public Opinion on Canadian Arctic Sovereignty and Security,” *Arctic* 69 no. 2, June 2016, p.160-168

initiative.<sup>5</sup> Moreover, relations with Canada's closest and most powerful ally – The United States – are often strained in the Arctic. There is therefore no reason to believe that the current legal structure in the Arctic will provide an indefinite guarantee of Canada's security and, consequently, its sovereignty. This view is most often championed by journalists and pundits. Though it was more popular before the signing of the Ilulissat Declaration, its proponents remain numerous.

A third school of thought, meanwhile, sheds light on relevant issues in the Arctic while remaining agnostic as to the consequences for Canadian sovereignty:

3. The Arctic is a region plagued by incoherence in public policy. It is also undergoing major physical changes which are increasing the region's importance; policy coherence will become critical to effective management of the changing region in the years to come. A hindrance to establishing that policy coherence is a lack of consistent interest among the Canadian public.

There is merit to all three schools of thought. However, the first two schools subscribe to an overly simplistic, binary paradigm of analysis. This paradigm implicitly states that either the system of laws in the Arctic will ensure Canada's sovereignty or it will not. This fails to capture a subtler nuance at play in the Arctic. This paper will conclude that there does exist a threat to Canada's Arctic sovereignty. This threat does

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<sup>5</sup> People's Republic of China, The State Council Information Office of the People's Republic of China, *China's Arctic Policy* [Beijing], 2018.  
[http://english.gov.cn/archive/white\\_paper/2018/01/26/content\\_281476026660336.htm](http://english.gov.cn/archive/white_paper/2018/01/26/content_281476026660336.htm)

not and will not take the form of a conventional military annexation by a political rival. Nor will it take the form of an unexpected upending of legal norms to strip Canada of its claim to its northern archipelago. Rather, Canada risks abdicating its *de facto* sovereignty in the Arctic through its persistent inability to develop and govern its portion of the region. As commercial endeavors proliferate, governments will need to provide the infrastructure and governance necessary to support business. If Canada does not lead this effort, other actors will. Canada will find itself taking a backseat within its own borders. The threat that Canada faces, therefore, is a slow erosion its *de facto* Arctic sovereignty even as today's system of laws persists.

## **Method**

The primary focus of the research presented in this paper is government plans and actions. The publicly-released Arctic strategies of all relevant actors (Canada, the US, Denmark, Russia, Norway, Finland, Sweden, Iceland, and China) will be analyzed, in the knowledge that they are public documents meant to convey a political message. Announcements, initiatives, and public discussion on the part of decision-makers will be similarly presented. The resulting public record will be contrasted against actual governmental actions. This comparison will shed light on governmental rhetoric versus action for each relevant actor. It will allow for a more accurate predictor of both state intentions and states' ability to deliver on promises.

Secondary sources will also be consulted and reviewed. The current state of academia and punditry regarding the Arctic will be established using the following sources: academic articles, news and opinion pieces from the mainstream press, and think tank publications. As outlined in the Literature Review (beginning on page 20), these pieces will focus on international politics, law, and events regarding the Arctic. The aforementioned primary analysis will be placed into the context of this discussion.

Finally, scientific publications regarding climate change in the Arctic will be consulted. These secondary sources will provide the necessary regional context for our analysis.

## **Context**

### **The International Context**

The “Arctic” is the geographical region north of the 66<sup>th</sup> parallel, which is known as the Arctic Circle.<sup>6</sup> It is comprised of an ocean surrounded by various land masses. There are eight countries – known as the Arctic Eight – with land and sea claims north of the Circle: Canada, the United States, Denmark (through its possession of Greenland and the Faroe Islands), Iceland, Norway, Sweden, Finland, and Russia. Among these Arctic nations, only five – known as the Arctic Five – possess a coastline along the Arctic

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<sup>6</sup> There exist multiple definitions of the Arctic, including a 10°C isotherm line. The 60<sup>th</sup> parallel definition is both common and simple, so we will take that as the definition. For a map of the Arctic according to various definitions, see Item 1 in the Appendix.

Ocean: Canada, the US, Denmark, Norway, and Russia. The region, being so far north, is defined by harsh landscapes and frigid temperatures. It is sparsely populated and economically underdeveloped relative to the southern regions of the Arctic Eight. There are approximately four million Arctic inhabitants. Half of these are in Russia. The United States – Alaska, more specifically – boasts the second largest population at 790,000. Populations decrease from there, with Canada at the bottom of the list, having only 105,000 Arctic inhabitants.<sup>7</sup>



Figure 1: The Arctic Circle  
Source: Athropolis Arctic Maps

The climate of the Arctic is changing more rapidly today than at any other time in recorded history. Due to climate change, the region is witnessing an unprecedented increase in average temperatures: Since the 1970s, the average temperature of the Arctic has increased 2.3°C.<sup>8</sup> This has led to the rapid recession of sea ice: over the same period, Arctic sea ice has receded an average 9.4-13.6% per decade.<sup>9</sup> By mid-century, it is

<sup>7</sup> All population figured pulled from: “Countries,” The Arctic Institute, Accessed July 10, 2018 <https://www.thearcticinstitute.org/countries/>

<sup>8</sup> Rajmund Przybylak, “Recent Air-Temperature Changes in the Arctic” *Annals of Glaciology* 46, 2007 p. 316

<sup>9</sup> “Climate Change 2013: The Physical Science Basis – Summary for Policy Makers” Intergovernmental Panel on Climate Change (IPCC), 2013 Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. p.9

expected that Arctic waters will be completely ice-free during the summer.<sup>10</sup> Consequently, the region is seeing significant changes in its geography. Where it was once prohibitively cold and harsh, it is becoming more inhabitable. Where sea transportation was once all but impossible due to an abundance of ice, certain transit routes are becoming more viable. In 2017, a Russian tanker became the first merchant ship to transit the Northern Sea Route along the Russian coast without the assistance of an ice-breaker.<sup>11</sup> Conversely, where sea ice once was – serving as a reliable medium of ground transportation for local inhabitants – there is now only frigid water. Just a few decades ago the vast stores of natural resources in the region were prohibitively expensive to exploit. Today, they are increasingly accessible, and it is possible that their exploitation will soon be broadly commercially viable.<sup>12</sup>

These changes, while having adverse effects on the people already living in the Arctic, are also attracting international attention from public and private actors. A warming Arctic is an economic opportunity. According to the United States Geological Survey, there are an estimated 90 billion barrels of undiscovered technically recoverable oil, 1,670 trillion cubic feet of technically recoverable natural gas, and 44 billion barrels of technically recoverable natural gas liquids in the Arctic.<sup>13</sup> This represents approximately 13%, 30%, and 20% of each resource's undiscovered reserves,

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<sup>10</sup> Ibid. p.25

<sup>11</sup> Daniel Shane, "Maersk to send first container ship through Arctic," *CNN* August 21, 2018 <https://money.cnn.com/2018/08/21/news/companies/maersk-line-arctic-container/index.html>

<sup>12</sup> Eric Roston, "The World Has Discovered a \$1 Trillion Ocean," *Bloomberg* January 21, 2016 <https://www.bloomberg.com/news/articles/2016-01-21/the-world-has-discovered-a-1-trillion-ocean>

<sup>13</sup> Brenda Pierce, United States Geological Survey, July 22, 2008. Transcript retrieved June 1, 2018 at <https://www.usgs.gov/media/audio/90-billion-barrels-oil-and-1670-trillion-cubic-feet-natural-gas-assessed-arctic>

respectively. In total, they account for 22% of the world's undiscovered technically recoverable resources.<sup>14</sup> Furthermore, the region is flush with minerals. Arctic mining is already a \$79.5 billion industry,<sup>15</sup> and many actors – most notably China – are eager to invest more yet.<sup>16</sup> Climate change may also result in a rapid and dramatic increase in Arctic fish stocks. If it does, it will create an abundant and sustainable food source for generations.<sup>17</sup> Of particular concern to Arctic and non-Arctic nations alike is the newfound viability of northern sea transit routes. As leading Arctic pundit Lindsay Rodman put it: “The writing is on the wall with respect to the Arctic: The ice is melting and sea routes are opening up.”<sup>18</sup>

The increasing navigability of the Arctic is of particular importance to the region's future. As shown in Figure 2, there are several potential routes by which seafaring vessels may transit the Arctic Ocean. These collections of routes fall into three categories, which, for simplicity, are themselves referred to as “routes”. First is the Northern Sea Route (NSR), which tracks the northern coast of Russia from East Asia to the Barents Sea. This is the most developed and most often-transited route in the Arctic, with 71 trips completed in the particularly warm year of 2013.<sup>19</sup> Second is the Transpolar Route (TPR), which traverses the Arctic Ocean directly, passing through international waters. This is the least transited and most dangerous route, as it passes through heavy,

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<sup>14</sup> Ibid.

<sup>15</sup> Roston, “The World Has Discovered a \$1 Trillion Ocean”

<sup>16</sup> Lindsay L. Rodman, “China's Ambitions in the North American Arctic,” *Diplomat & International Canada*, Summer 2018 p.62-66

<sup>17</sup> Eric Roston, “The Economic Arctic,” *Bloomberg* December 29, 2017  
<https://www.bloomberg.com/graphics/2017-arctic/the-economic-arctic/>

<sup>18</sup> Rodman, “China's Ambitions in the North American Arctic,” p.64

<sup>19</sup> “Transit Statistics,” Center for High North Logistics Information Office, accessed June 16, 2018  
[http://www.arctic-lho.com/nsr\\_transits](http://www.arctic-lho.com/nsr_transits)

permanent ice and strays far from the safety of Arctic coastal nations. The final route is the Northwest Passage (NWP), which passes through the Canadian Archipelago to ultimately connect the Labrador and Beaufort Seas.<sup>20</sup> This is the route over which Canada claims full sovereignty, arguing that the passage constitutes internal waters.<sup>21</sup> While none

of these routes are expected to garner nearly as much traffic as traditional routes (such as the Suez or Panama Canal), some analysts expect them to one day be major naval highways.<sup>22</sup>

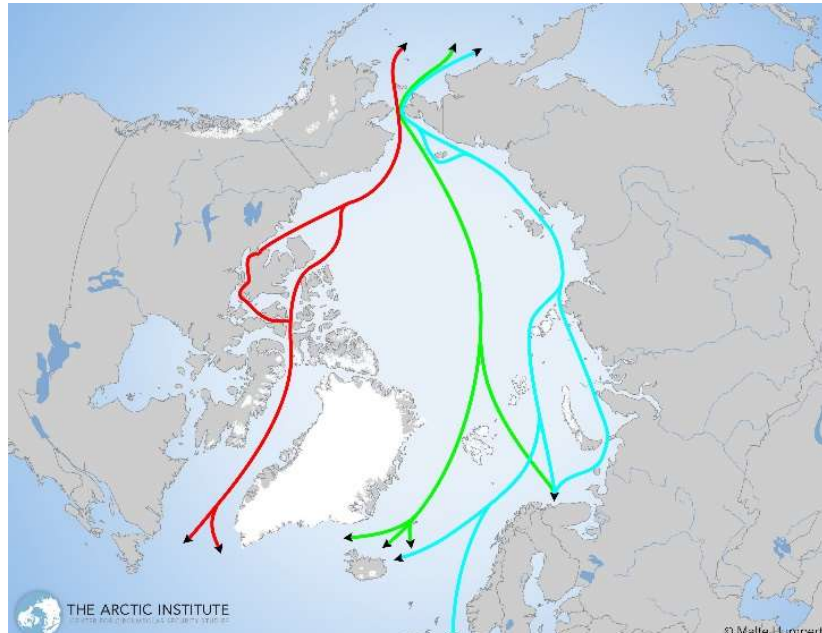


Figure 2: The Arctic Shipping Routes  
Source: The Arctic Institute

With the increase in commercial interest and the opening of transportation routes has come a definite increase in political attention. In 1996, the Arctic Council was formed, replacing the Arctic Environmental Protection Strategy as the main forum for cooperation between Arctic nations (and northern indigenous peoples). The Council has since expanded to include many non-Arctic nations as permanent observers. Though not

<sup>20</sup> Willy Østreng et al., “The Transportation Passages of the Arctic Ocean and Connecting Corridors in Southern Waters,” in *Shipping in Arctic Waters* (Springer-Verlag Berlin Heidelberg, 2013), p.11-45

<sup>21</sup> Côté and Dufresne, “The Arctic: Canada’s Legal Claims,” p.3

<sup>22</sup> Østreng et al., *Shipping in Arctic Waters*, Chapter 3 p.83-145

a formal treaty organization, it has emerged as the voice of authority and the default forum for Arctic affairs.<sup>23</sup>

At the individual state level, every Arctic country has released a formal Arctic Strategy since 2009. Even China, the United Kingdom, and the EU have released strategies, despite not controlling any Arctic territory on land or at sea. There are several common threads running through all these strategies: respect for and promotion of indigenous cultures, protection of the environment, and respect for – and submission to – a robust system of rules and laws. Beyond that, individual states have established goals specific to their own national contexts.

The Nordic state strategies – those of Norway, Sweden, and Finland – all highlight their economic investments and specialized expertise in Arctic-relevant industries such as icebreaker building and austere-environment resource extraction.<sup>24</sup> They also share a generally positive view of Russia’s participation in the region, emphasizing their record of mutually beneficial cooperation through the Barents Regional Council.<sup>25</sup>

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<sup>23</sup> Oran R. Young, “The Arctic Council at Twenty: How to Remain Effective in a Rapidly Changing Environment,” *UC Irvine Law Review* 6 no. 2 (June 2016): 99-120

<sup>24</sup> Kingdom of Norway, Norwegian Ministries, *Norway’s Arctic Strategy* [Oslo], 2017  
Kingdom of Sweden, Ministry for Foreign Affairs, *Sweden’s Strategy for the Arctic Region* [Stockholm], 2011

Republic of Finland, Prime Minister’s Office, *Finland’s Strategy for the Arctic Region* [Helsinki], 2013

<sup>25</sup> The BSRC is a sub-regional multilateral forum for cooperative indigenous representation between Finland, Sweden, Norway, and Russia. It is part of the wider, 14-member Barents Euro-Arctic Council.

Russia's stated policy prioritizes the assertion of sovereignty over its territorial and maritime possessions through the building up of the Russian economy and military. However, they maintain their commitment to international cooperation – a stated commitment that has been backed up by their actions.<sup>26</sup>

Denmark's policy is similar to that of the Nordic countries' in its message of development and cooperation, but it is unique in that its most important Arctic possession (Greenland) is moving steadily towards full independence. After years of gradual devolution, a 2016 poll showed a majority of Greenlanders are in favour of full independence.<sup>27</sup> While there are significant economic obstacles in the way, it remains a realistic goal. Denmark's policy therefore features devolution goals with respect to Greenland and Barents-style cooperation with respect to its other Arctic possession (Faroe Islands).<sup>28</sup>

Iceland's main goal is to be recognized as a coastal Arctic nation. Beyond this, it also advocates for multilateral cooperation and environmental protection.

The United States' policy – which is largely a product of Alaskan lobbying at the federal level – is the most overtly commercial of the Arctic Eight, emphasizing responsible resource extraction and other economic developments.

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<sup>26</sup> Michael Byers, *Who Owns the Arctic?* (Toronto: Douglas & McIntyre, 2009) p.4

<sup>27</sup> Henrik Skydsbjerg and Walter Turnowsky, "Massive Majority for Independence," *Sermitsiaq AG*, December 1, 2016 <http://sermitsiaq.ag/massivt-flertal-selvstaendighed>

<sup>28</sup> Kingdom of Denmark, Ministry of Foreign Affairs, *Strategy for the Arctic 2011-2020* [Copenhagen], 2011

China, while recognizing it is not one of the Arctic Eight, has announced that the Arctic is to form part of its One Belt One Road initiative; it refers to the Arctic region as the “Polar Silk Road.”<sup>29</sup> Its desire to exert influence in the north is explicitly clear. Nevertheless, China stipulates that respect for the rule of law is paramount in the Arctic, and it will do its part to respect and uphold those laws.<sup>30</sup>

Finally, Canada has prioritized military infrastructure investments and human security. While the military investments have mostly failed to materialize, the imminent release of the Arctic Policy Framework is expected to deliver concrete commitments to Canada’s northern population in the area of human security.<sup>31</sup>

The interest shown on the part of states has prompted much discussion among journalists, pundits, and academics. Will the Arctic be the setting for the next international “scramble”, akin to the Scramble for Africa of the 19<sup>th</sup> century? Will the politics at play in other regions of the world affect Arctic cooperation, or is the region insulated from such pressures? Do any relevant actors have nefarious intentions? Will all actors respect the rule of law and appropriate regulations? Will disputes be peacefully resolved? Opinions and predictions are varied and polarized, and we will return to them later.

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<sup>29</sup> *China’s Arctic Policy*, 2018

<sup>30</sup> *China’s Arctic Policy*, 2018

<sup>31</sup> Canada’s Arctic policies will be discussed later in this paper. See page 37.

## The Canadian Context

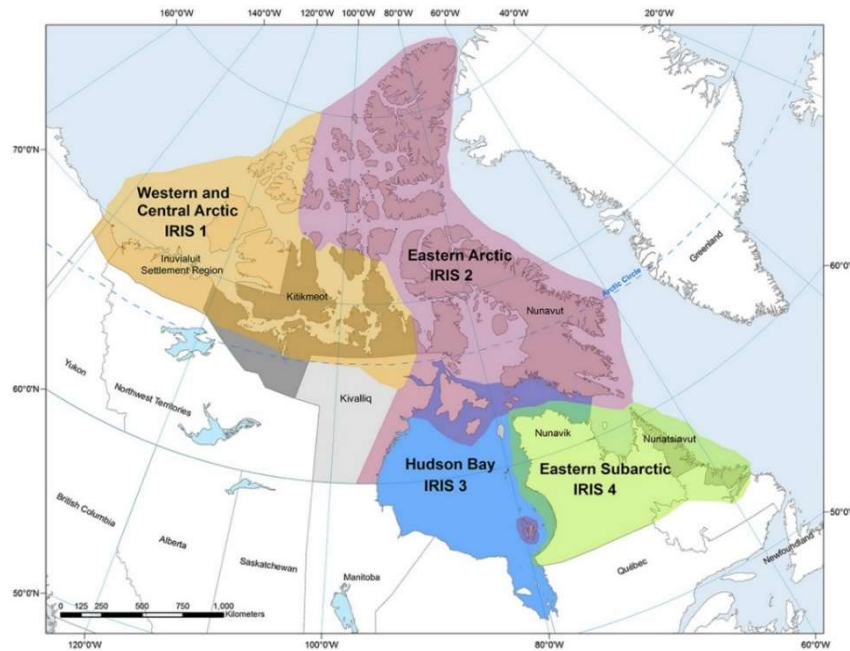


Figure 3: *The Canadian Arctic, divided by geographic subregions*  
Source: *Canadian Geographic*

In Canada, these developments have been the source of anxiety and debate. At the root of this anxiety is a deep-seated insecurity among Canadians regarding their sovereignty in the North. Between the years 1870 and 1880, the Dominion of Canada was granted sovereignty over the Arctic lands of the Hudson Bay Company and the British Government. That ceded land mostly became the present-day territories of Nunavut, the Northwest Territories (NWT), and Yukon.<sup>32</sup> Today, the Canadian government considers its Arctic territories to include Yukon, the NWT, and Nunavut, as well as northern Manitoba, Quebec, and Labrador.<sup>33</sup> Canada claims full territorial sovereignty over these

<sup>32</sup> Gordon W. Smith, "Transfer of Arctic Territories from Great Britain to Canada in 1880, and Some Related Matters, as Seen in Official Correspondence," *Arctic* 14 no. 1, March 1, 1961: 53-73

<sup>33</sup> "Toward a new Arctic Policy Framework," Indigenous and Northern Affairs Canada, last modified August 16, 2018, <https://www.aadnc-aandc.gc.ca/eng/1499951681722/1499951703370>

regions. However, Canada has the lowest northern population of any Arctic state. Its transportation and communications infrastructures are inferior to those of other Arctic nations and southern Canada. This is a perennial source of frustration and even danger for its residents. Crumbling basic infrastructure, inadequate housing, shoddy transportation, and unreliable telecommunications are serious hindrances to economic growth. Consequently, economic indicators show a less-developed and slower-growing economy in the Arctic than in other Canadian regions.<sup>34</sup>

The Canadian Arctic is also largely undefended. Despite claiming it as sovereign territory, Canada has historically shown little interest in investing the resources necessary to maintain permanent and adequate military capabilities in the North. While there are 60 Canadian Armed Forces (CFA) locations across the Arctic, troop presence is limited to approximately 120 year-round personnel.<sup>35</sup> This contingent is bolstered by approximately 5,000 rangers, made up of local, ill-equipped reservists.<sup>36</sup> In contrast, there are over 400,000 American troops in Alaska.<sup>37</sup> During the Cold War, military investments were made in Canada's North in cooperation with the United States. This was largely due to Canada's strategically important geographical position between the US and Soviet Russia. However, "the Canadian effort to maintain military control over its Arctic ended almost as soon as the Cold War ended. Any meaningful military exercises were stopped

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<sup>34</sup> This section is based on the finding's in: "A New Shared Arctic Leadership Model," Mary Simon

<sup>35</sup> Scott Gilmour, "The North and the Great Canadian Lie," *Maclean's* September 11, 2016 <https://www.macleans.ca/politics/the-north-and-the-great-canadian-lie/>

<sup>36</sup> David Pugliese, "Frostbite and Fuel Shortages: The Logistical challenges of a military operation in Canada's Arctic," *National Post*, March 21 2018 <https://nationalpost.com/news/canada/frostbite-fuel-shortages-and-atvs-frozen-in-the-mud-the-logistical-challenges-of-a-military-operation-in-canadas-arctic>

<sup>37</sup> Seth Robson, "Army Mulls Cutting Troops in Alaska, Officials Say," *Stars and Stripes*, February 22, 2015 <https://www.stripes.com/news/us/army-mulls-cutting-troops-in-alaska-officials-say-1.331058>

and even the sovereignty patrols of the navy and air force were either stopped or reduced to only symbolic levels.”<sup>38</sup>

Canada’s North spans across large areas of the Arctic ocean. Despite the need for ice-breaking capabilities in those waters, Canada has only six icebreakers.<sup>39</sup> Only one of those six – the Louis S. St-Laurent – is capable of breaking heavy ice and operating year-round. This vessel, however, is old and in need of replacement. This replacement – the *Diefenbaker* – was scheduled for delivery in 2017.<sup>40</sup> It has yet to be delivered, with a new expected delivery date of 2023 (the Government announced in the summer of 2018 a short-term solution to the current capability gap with the repurposing of three tug boats into makeshift icebreakers).<sup>41</sup> Russia, meanwhile, is the only other Arctic nation with territorial claims comparable to Canada – and it is also the region’s most capable actor. It has 41 icebreakers in current service, with five more currently being built, and another six planned.<sup>42</sup>

Canada’s sense of unease does not end with the above asymmetries in Arctic capabilities. It is exacerbated by ongoing territorial disputes. Canada’s claim that the NWP constitutes internal waters is challenged both by the United States and the

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<sup>38</sup> Rob Huebert, “Canadian Arctic Sovereignty and Security in a Transforming Circumpolar World,” *Foreign Policy for Canada’s Tomorrow* no.4, July 2009

<sup>39</sup> Roston, “The Economic Arctic”

<sup>40</sup> Government of Canada, *The Budget Plan 2008: Responsible Leadership* [Ottawa], 2008  
People’s Republic of China, The State Council Information Office of the People’s Republic of China, *China’s Arctic Policy* [Beijing], 2018.

<sup>41</sup> Government of Canada, *National Shipbuilding Strategy* [Ottawa] August 31, 2018 <https://www.tpsgc-pwgsc.gc.ca/app-acq/amd-dp/mer-sea/sncn-nss/projets-projects-eng.html>

“Canada Acts on Icebreaker Shortage,” *Maritime Executive*, July 6, 2018 <https://www.maritime-executive.com/article/canada-acts-on-icebreaker-shortage>

<sup>42</sup> Roston, “The Economic Arctic”

European Union.<sup>43</sup> Its claim to Hans Island (a small island, approximately one square kilometer in size, in the middle of the Nares Strait between Greenland and Nunavut) is challenged by Denmark. Today, these disputes have had very little impact on Canadian activities in the north. Nevertheless, they continue to irritate Canadians. Worse, and as will be discussed later, the NWP dispute could exacerbate other threats to Canadian sovereignty.

In an effort to reassert sovereignty and assuage Canadians' concerns, the Conservative government led by Prime Minister Stephen Harper implemented a Northern Strategy in 2007. It was soon followed up by an accompanying Arctic Foreign Policy. These strategies, taken together, were intended to firmly assert and exercise Canada's Arctic sovereignty.<sup>44</sup> Their secondary goals included protecting the Arctic environment, promoting social and economic development, and improving and devolving northern governance.<sup>45</sup> Today, a decade later, the Liberal government under Prime Minister Justin Trudeau is revamping this policy. The project is currently dubbed as a new "Arctic Policy Framework" (APF). While not yet released, the government has confirmed it will be largely comprised of three sources: a special report by Mary Simon, Special Representative to the Minister of Indigenous and Northern Affairs Canada (a cabinet position that has since been dissolved into Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada), a Joint Arctic Leaders Statement between the US and Canada, and the work of a newly-formed Inuit-Crown Partnership

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<sup>43</sup> Rodman, "China's Ambitions in the North American Arctic," p.63

<sup>44</sup> Government of Canada, *Canada's Northern Strategy* [Ottawa] 2007  
Government of Canada, *Canada's Arctic Foreign Policy* [Ottawa] 2010

<sup>45</sup> *Canada's Northern Strategy*, 2007

Committee. Canada's military investments in the north, meanwhile, were announced in the Department of National Defence's (DND) 2016 white paper entitled "Strong, Secure, Engaged". Between these four sources, we can clearly discern that, where Harper was the champion of Canada's Arctic territory, Trudeau intends to be the champion of Canada's Arctic peoples. A deeper analysis of these policy initiatives is provided in the Government of Canada Policy section of this paper, beginning on page 41.

Finally, in order to fully understand Canada's position in the current Arctic political environment, a brief history of the significant events in the region is necessary. Below is a timeline of events of particular importance to Canada:

**1969:** The US sent the SS Manhattan to transit the NWP without Canadian permission. This prompted a public outcry in Canada (due to the territorial dispute mentioned above), and the diplomatic response was swift. Canada expressed its objections to the American action, and the two countries signed the Arctic Waters Pollution Prevention Act soon after. The agreement, while ostensibly environmental in nature, was an assertion of Canadian control over its Arctic waters.<sup>46</sup>

**1973:** Negotiations began on what was to become the United Nations Convention on Laws of the Sea (UNCLOS). This convention was to codify states' rights regarding waters in and around their land territories.

**1982:** UNCLOS was signed by most of the world's nations, including Canada.

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<sup>46</sup> Government of Canada, *Arctic Waters Pollution Prevention Act*, [Ottawa], 1985

**1985:** The US again sent a vessel, this time the USS Polar Sea, to transit the NWP without Canadian permission. Prime Minister Mulroney addressed the issue in person with Ronald Reagan in Ottawa in 1987. Knowing that globes represent the geography of the Arctic more accurately (and more favorably for Canada) than flat maps, Mulroney pointed to the NWP on a globe in his office and convinced Reagan the issue had to be resolved to both parties' benefit.<sup>47</sup> Reagan reportedly directed his aides to “negotiate a solution.”<sup>48</sup>

**1988:** Subsequent to the meeting between Mulroney and Reagan, Canada and the US signed the Arctic Cooperation Agreement. The agreement stipulated that the US was to notify Canada – but not seek permission – when its vessels entered what Canada considered to be its internal waters (i.e. the NWP). The legal status of those waters was left unresolved; the treaty was “essentially an agreement to disagree.”<sup>49</sup>

**1994:** American President Bill Clinton signed UNCLOS (Congress has since failed to ratify the convention).

**1996:** The Arctic Council was formed following a summit in Ottawa. It was not a formal treaty organization, and therefore lacked permanent funding or legal authority. Nevertheless, it quickly became the principal forum for Arctic cooperation.

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<sup>47</sup> Brian Mulroney, “Leveraging Canada–US Relations ‘to Get Big Things Done,’” *Policy Options*, March 2011, p.12–18,

<http://policyoptions.irpp.org/magazines/canada-us-conversations-and-relations/leveraging-canada-us-relations-to-get-big-things-done-interview/>

<sup>48</sup> Michael Byers, *International Law and the Arctic* (Cambridge: Cambridge University Press, 2013) p.139

<sup>49</sup> *Ibid.* p.140

**2007:** Russia planted its flag on the ocean floor of the North Pole in what was largely a publicity stunt for a domestic audience.<sup>50</sup> Nevertheless, Canada's pundits and politicians began to stoke fears at home that Canada's sovereignty was at risk.

**2007:** The Canadian Government, under the Conservatives, released Canada's Northern Strategy.

**2008:** Largely in response to the Russian flag-planting stunt, the Arctic Five signed the Ilulissat Declaration, which divided the Arctic into areas for which individual states were responsible for maritime safety and environmental protection. It was a major milestone in Arctic cooperation and a turning point in much of the discourse concerning the region (as alluded to in the Introduction of this paper and discussed again in the Literature Review on beginning on page 20). Its underlying message was that the Arctic was a region ruled by law.

**2009:** Russia released their first Arctic policy since planting their flag at the North Pole. Over the next nine years, official Arctic policies would be released by every Arctic nation, the European Union and China. Other nations, including Germany and the United Kingdom, would also release statements and strategies claiming interests in the region.

**2010:** The Canadian Government, under the Conservatives, released Canada's Arctic Foreign Policy.

**2016:** The Canadian government, under the Liberals, released a national defence policy white paper which included Arctic investments. Later in the year, they announced the development of a new Arctic Policy Framework (this has yet to be released).

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<sup>50</sup> Adrian Blomfield, "US Rises to Kremlin Bait," *The Telegraph*, August 4 2007  
<https://www.telegraph.co.uk/news/worldnews/1559444/US-rises-to-Kremlin-bait.html>

**2017:** China's *Snow Dragon*, an Arctic research vessel, transited the Northwest Passage with Canadian permission and cooperation.<sup>51</sup>

Today, against this backdrop of multilateral cooperation and bouts of tension, the prospect of mass transportation and commercial exploitation in the north looms large. As Canada rewrites its Arctic strategy, the issue of sovereignty should be given its due consideration.

### **Literature Review**

There is no shortage of literature regarding Canada's place in the Arctic and Arctic politics more generally. Indeed, the topic has generated ever-greater attention since scientists began using satellites to monitor sea-ice in the 1970s. It is a subject that has been opined upon by academics, journalists, and pundits alike. Our analysis has determined that, among those who focus on Canada and North America specifically, there are three main schools of thought. We have labelled these schools the Pessimists, the Optimists, and the Agnostics. As argued below, the Pessimists see reason to worry about Canada's ability to exercise its sovereignty going forward, while the Optimists do not. The Agnostics, meanwhile, provide useful insight into other relevant matters without opining on how today's trends will play out politically. These schools of thought are

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<sup>51</sup> Robert Fife and Steven Chase, "Chinese Ship Making First Voyage Through Canada's Northwest Passage," *The Globe and Mail*, August 31, 2017 <https://www.theglobeandmail.com/news/politics/chinese-ship-making-first-voyage-through-canadas-northwest-passage/article36142513/>

summarized below. Their claims are evaluated and critiqued in our discussion of the potential threats to Canada’s Arctic sovereignty, beginning on page 33.

### The Pessimists

This school of thought argues that there is no reason to believe today’s high levels of cooperation in the Arctic will persist in perpetuity. States who are belligerent in other parts of the world will push their advantage in this region as well. How they do so – within the confines of international law or not – is less important than their intent to do so. Canada should therefore remain vigilant and avoid falling into complacency. Those who focus on North America contend that Canada stands to lose if its rivals accomplish their true objectives. This camp is mostly championed by journalists and pundits. It is the narrative that often takes hold in the popular media, forcing politicians to address it head on.<sup>52</sup> While this school of thought was especially prominent prior to the 2008 signing of the Ilulissat Declaration, it remains influential.

The most prominent Canadian pundit in this area is John Higginbotham. A senior fellow at Carleton University and the Centre for International Governance Innovation (CIGI) in Waterloo, Higginbotham advocates for greater development in all areas of the Arctic, but particularly in transportation infrastructure across North America.<sup>53</sup> Jennifer

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<sup>52</sup> Defence Minister Sajjan’s recent visit to the Arctic is a prime example of politicians looking to reassure Canadians. Coverage of the trip can be found at: Alex Brockman, “Northern Defence Upgrades Part of Plan to Protect Canada’s Arctic, Sajjan Says,” *CBC*, August 20, 2018

<https://www.cbc.ca/news/canada/north/defence-minister-arctic-policy-alert-visit-1.4790509>

<sup>53</sup> John Higginbotham and Jennifer Spence, “The North American Arctic: Energizing Regional Collaboration and Governance,” *Center for International Governance Innovation*, 2018

Spence, his CIGI colleague, advocates along similar lines. Their work notes the chasm that exists between development efforts in Russia and the Nordic countries and North America.<sup>54</sup> Indeed, according to Higginbotham, “Russia is working hard to establish its hegemony over the commercialization of the Arctic Ocean.”<sup>55</sup> This apprehension stemming from Russian dominance in the Arctic is common. Bloomberg journalists Eric Roston and Blacki Migliozi argue that we must be wary of the “duality” of Russian Arctic policy. They argue that Russia plays by the rules in the Arctic because it is not in their “economic interest” to “destabilize” the region. Meanwhile, it jockeyes for political dominance. To Roston and Migliozi, “Cold War rules still apply in the Arctic”.<sup>56</sup>

British academic Margaret Blunden also points to the dangers of the duality in Russian policy. According to her, Russia’s recent record of cooperation could well be a Trojan Horse. Her key argument – which we will come back to later in this paper – is that cooperative economic progress in and of itself is a laudable goal, but the West must remember that “the emergence of new sea lanes has historically impacted heavily on the international balance of power. Where the merchant fleets go, navies will shortly follow.”<sup>57</sup>

In popular media, columnist and pundit Scott Gilmour of Maclean’s Magazine wrote in 2016 that the Canadian Arctic is “undefended, undeveloped and socially

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<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Eric Roston and Blacki Migliozi, “The Political Arctic,” *Bloomberg* May 16, 2017 <https://www.bloomberg.com/graphics/2017-arctic/the-political-arctic/>

<sup>57</sup> Margaret Blunden, “Geopolitics and the Northern Sea Route,” *International Affairs* 88 no. 1, January 2012, p.115

fraught.”<sup>58</sup> While his critique is focused on domestic issues, he does hint at external threats: “As climate change opens up the Northwest Passage, Canada could develop shipping and perhaps a commercial fishing industry. If Canada doesn’t take advantage of that opportunity, other nations will”.<sup>59</sup>

The common thread to these lines of thinking is that the power asymmetry that exists in the Arctic, while not immediately and obviously dangerous, should be a cause for concern – even if we cannot directly link it to any tangible or imminent threat. This sentiment is most clearly articulated by Aurel Braun and Stephen Blank of the Macdonald-Laurier Institute:

*...Russian attempts to create an impression of normalcy in the Arctic while it is assertive or aggressive elsewhere, and to somehow persuade other Arctic states to delink policy in the Arctic from global concerns, is neither viable nor prudent. Indeed, falling prey to that policy is actively dangerous. It may create a false sense of regional security and may well further embolden Russia.*<sup>60</sup>

While this is the most direct reference to Russian aggression among prominent thinkers, what exactly Russia is emboldened to do remains unsaid. The reader is left to

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<sup>58</sup> Gilmour, “The North and the Great Canadian Lie”

<sup>59</sup> Ibid.

<sup>60</sup> Aurel Braun and Stephen Blank, “Looking North with Caution,” *Global Security Look Ahead*, February 2017, p.4

imagine an annexation of Canadian territory, a conventional invasion, a missile strike on North America, or any number of nefarious actions.

Other thinkers among the Pessimists take the above argument and apply it to China. Historically, the Chinese have been cooperative with Canadian authorities in Arctic waters, despite being somewhat underhanded in how they frame these activities domestically.<sup>61</sup> Their first official Arctic Strategy, published in January 2018, formally recognized Canada’s sovereign claims to the NWP. For this reason, most analysis of Chinese activity is found among the Optimists – see below. However, there is one notable dissention. Lindsay Rodman, based in Ottawa as the inaugural Foreign Fellow for the Council on Foreign Relations, wrote in the Summer 2018 edition of Diplomat Magazine that Canada should approach greater Chinese interest in the Arctic “with eyes wide open”, while also acknowledging there is an important role that Chinese money could play in developing the Canadian North.<sup>62</sup> This cautious advice is the most hawkish take on Chinese Arctic policy among authors and thinkers of note.

### The Optimists

In stark contrast to the Pessimists, the Optimists point to high levels of international cooperation, a robust system of laws, and the lack of incentive to disrupt the status quo as signs that Canadian sovereignty – or, indeed, any Arctic nation’s

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<sup>61</sup> Rodman, “China’s Ambitions in the North American Arctic,” 63. Rodman shows us that their cooperation in the Snow Dragon thing was largely theatre for the domestic audience

<sup>62</sup> Ibid., p.64

sovereignty – is not under threat. While some argue the point directly, others point to trends that only imply this conclusion. This line of thinking has generally gained traction since the signing of the Ilulissat Declaration in 2008, which brought Arctic nations together in a spirit of conscious cooperation. The Optimists’ fundamental disagreement with the Pessimists lies in their reading of today’s regular cooperation. Where Pessimists see the cooperation of otherwise belligerent actors as a Trojan Horse – or at the very least a potential Trojan Horse – Optimists see it as evidence that, under the right conditions, a collection of actors can be incentivized to cooperate amongst themselves even as they remain antagonistic elsewhere in the world.

Championing this view and articulating it quite clearly is Kari Roberts of the Canadian International Council and Calgary’s Mount Royal University. She argued in a 2015 paper that Russia will “play by the rules.”<sup>63</sup> She contends that there is little evidence Russia will not respect legal regimes in place in the north, that it is not in Russia’s interest to ignore these regimes, and that their militaristic rhetoric – not unlike Canada’s own – caters primarily to a domestic audience. Adam Lajeunesse, another Canadian academic, shares this view and focuses on China specifically. In a book released just before the Chinese released their national strategy, Lajeunesse and his co-authors argue that China’s strategy is liberal in nature and aimed at promoting stability and peace in the

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<sup>63</sup> Kari Roberts, “Why Russia Will Play by the Rules in the Arctic,” *Canadian Foreign Policy Journal* 21 no. 2, 2015, p.112

region.<sup>64</sup> Whether the tone of peaceful cooperation and enthusiastic multilateralism expressed in the strategy is genuine or not is irrelevant to Lajeunesse:

*...if you look at the intent and tone, it doesn't really matter whether this is legitimate, sincere Chinese policy, or whether this is something the Chinese are writing for our intent. The reason it doesn't matter is because the Chinese have made it very clear, both in this policy and in almost everything they have said over the last ten years, that they are here to work with the Arctic states.*<sup>65</sup>

This is a clear repudiation of any Trojan Horse theory with respect to China. Quebec-based academics Frederic Lasserre, Linyan Huang, and Olga V. Alexeeva all agree, arguing that criticism of China's Arctic approach is inappropriate, as indicated by China's consistently respectful and cooperative actions.<sup>66</sup>

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<sup>64</sup>P. Whitney Lackenbauer et al., *China's Arctic Ambitions and What they Mean for Canada* (Calgary: University of Calgary Press, 2018)

<sup>65</sup> Adam Lajeunesse, "China's Role In The Arctic", (Presentation, University of Ottawa, 2018) <http://www.rcinet.ca/en/2018/04/17/chinese-ambitions-in-the-arctic-not-a-threat-to-canada-experts/> Retrieved June 22, 2018

<sup>66</sup>Frederic Lasserre and Linyan Huang, "China's Strategy: Threatening or Opportunistic?" *Polar Record* 53 no. 268, 2017, p.31-42

## The Agnostics

There is also a body of work analyzing dynamics in the region that does not opine on the political issues surrounding sovereignty, yet which provides important insights into other aspects of the debate.

The first aspect is that of public opinion. Mathieu Landriault provides useful insight into the attitudes of Canadians regarding the Arctic. Using polling data from 2006 to 2015, he shows us that the majority of Canadians rate Arctic policy as a top priority only sporadically – and only when whipped into a frenzy by media, usually following some dramatic event.<sup>67</sup> Landriault’s work suggests that a lack of consistent interest is a major impediment to government action. With a lack of electoral pressure, federal governments lack the motive necessary to champion comprehensive, consistent, and meaningful Arctic policies. This is a narrative that has found traction in popular media.<sup>68</sup>

Second is the challenge of policy coherence. The Arctic is a region in which:

*...a lack of policy coherence arises...from the fact that the relevant publics and issues sort out across different policy components. Because the different components lack a common organizing idea, or policy glue, the broader policy area is little more than an artificial*

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<sup>67</sup> Landriault, “Public Opinion on Canadian Arctic Sovereignty and Security”

<sup>68</sup> Paul Wells, “The Cold Truth: Why Harper’s Tough Talk on Arctic Sovereignty is Empty,” *Maclean’s* August 28, 2009 <https://www.macleans.ca/news/canada/the-cold-truth/>

*agglomeration that has the label of a geographic region or demographic characteristics. The relevant issue and interest politics operate at the level of the policy components rather than at the broader policy level.*<sup>69</sup>

Put more simply, issues in the Arctic are in fact unrelated beyond the fact that they occur in the same geographic space. Worse, in the Canadian context, this geographic space happens to be massive. This leads to wildly different interpretations of what an Arctic policy is, could be, or even should be. In our discussion of Canadian Arctic policy, we will see how the focus of Canada's policy has shifted dramatically from the Harper era to the Trudeau era. The Arctic is a geographic region with an abundance of policy challenges. Any Arctic policy, therefore, can be comprised of any number of combinations of issues. Moreover, the Arctic is a sparsely populated. "There is limited shared basis for constructing definitions of problems, and in addition, a limited constituency for Arctic policy as a whole."<sup>70</sup> It will be important to keep this policy-making challenge in mind as we continue to explore the issue of Arctic sovereignty and potential policy responses to any challenges that exist.

Finally, it must be noted that scientists remain an important body of agnostic observers. Their publications continue to confirm that climate change in the Arctic is real, severe, and resulting in dramatic geographic changes. This is the necessary backdrop for

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<sup>69</sup> Peter J. May et al., "Policy Coherence and Component-Driven Policymaking: Arctic Policy in Canada and the United States," *The Policy Studies Journal* 33 no.1, 2005, p.3

<sup>70</sup> *Ibid.*, p.40

any policy discussion regarding the Arctic. Importantly, scientific analysis is remarkably consistent: the community is almost entirely of one mind.

## **Sovereignty**

Of central importance to this paper's research question is the concept of sovereignty. If we are to determine whether Canada faces a threat to its sovereignty, we must first define and discuss sovereignty itself. While a comprehensive discussion of the concept is beyond the scope of this paper, we will touch upon the elements most germane to the topic at hand.

The modern conception of state sovereignty emerged during the Reformation, with scholar Jean Bodin using the concept to bolster the power of the French King "over rebellious feudal lords".<sup>71</sup> The idea was seized upon by Thomas Hobbes, who proposed that within each state resided an absolute sovereign whose authority could not legitimately be challenged. This is the foundation of modern sovereignty.<sup>72</sup> Over time, what began as a way of conceiving of states' internal power structures became a normative cornerstone for the current world order: each state was entitled to run its internal affairs as it saw fit without external interference. Sovereignty is at the center of today's Westphalian state system. Thus, we have arrived at today's status quo: an

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<sup>71</sup> Encyclopedia Britannica Online, s.v. "Sovereignty," accessed July 3, 2018

<https://www.britannica.com/topic/sovereignty>

<sup>72</sup> Jens Bartelson, *A Genealogy of Sovereignty* (Cambridge: Cambridge University Press, 1995)

international community of sovereign nation-states bound by a system of international laws designed to respect that sovereignty.<sup>73</sup>

There is broad agreement among scholars as to what “attributes” contribute to state sovereignty in the modern context. Almost all political scientists would agree that there are four components to modern sovereignty: a defined territory, a permanent population within that defined territory, an existing governance system, and the state’s capacity to enter into relations with other states. These are the four tenants codified in the Montevideo Convention of 1933, which is still recognized today. However, we deem these prerequisites to be too vague for our analysis. An existing governance system is certainly necessary for sovereignty to exist, but what if that governance system is somehow beholden to or unable to manage outside forces? Would that system then be truly sovereign? For a deeper analysis, we turn to political scientist Stephen D. Krasner. According to Dr. Krasner:

*For most observers...sovereignty has been conceptualized as a set of attributes more or less immutably bound up with one another. These attributes include a territory, a population, an effective domestic hierarchy of control, de jure constitutional independence, the de facto absence of external authority, international recognition, and the ability to regulate transborder flows.*<sup>74</sup>

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<sup>73</sup> There are, of course, exceptions to modern states’ absolute sovereignty. For example, sovereignty can be violated under international law on humanitarian grounds. This is not relevant to our discussion, however.

<sup>74</sup> Stephen D Krasner, *Problematic Sovereignty: Contested Rules and Political Possibilities* (New York: Columbia University Press, 2001) p.6

Given Dr. Krasner's deeper dive into the concept, his prevalence among political scientists, and the modern context in which his works have been published, we will adopt his attributes as our definition of sovereignty. For clarity, we will enumerate and briefly describe each of these attributes:

1. **Territory:** In order for sovereignty to exist, it must exist within some physical space.
2. **A population:** Sovereignty is exercised not only over land and sea but – most importantly – over people. The existence and exercise of sovereignty must affect the lives of people if it is to be of any consequence.
3. **Effective domestic hierarchy of control:** For sovereignty to be effective, there must be a reasonably clear understanding and acceptance of who wields the power to exercise it.
4. **De jure constitutional independence:** The explicit, legal definition and recognition of a state's sovereignty is fundamental to that sovereignty's existence.
5. **De facto absence of external authority:** If a state claims sovereignty but fails to assert it in the event it is challenged, then that state cannot truly claim to be sovereign; another power will have shown their ability to usurp that state's authority.
6. **International recognition:** For sovereignty to be respected, it must be recognized. Indeed, this has been a critical issue in many independence movements throughout history.
7. **Ability to regulate transborder flows:** If a state cannot effectively regulate and safeguard its borders, it has no true control over what occurs within its own

territory. It is important to note that protection by military force is not the only method of border regulation, nor is a perfectly impermeable border a prerequisite for claiming the ability to adequately regulate said border. The 49<sup>th</sup> parallel between the US and Canada is an excellent example of a largely undefended yet well-regulated border.

Taken together, these seven conditions constitute what is meant by “sovereignty” in this paper. As we will see in the discussion to follow, if Canada’s sovereignty is threatened in the Arctic, it is from point 5: Canada faces a *de facto* presence of external authority.

The final aspect of sovereignty we must discuss is the concept of “divided” sovereignty.<sup>75</sup> Sovereignty need not be exclusive to a single state. In certain areas of international relations, sovereignty has been divided. The prime example of divided sovereignty is the European Union.<sup>76</sup> Within Europe, many sovereign states have willingly ceded authority in areas such as industrial regulation and monetary policy to the Union. Similar arrangements exist within other international organizations such as the North Atlantic Treaty Organization and the World Trade Organization. The key to divided sovereignty is consent; all parties must willingly abdicate their positions of highest authority within their own borders. Otherwise, sovereignty cannot be said to have been divided; rather, it has been usurped. As we shall see, the distinction between ceding

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<sup>75</sup> Encyclopedia Britannica, “Sovereignty.” This concept is also referred to as “pooled” sovereignty

<sup>76</sup> Ibid.

sovereignty voluntarily and doing so involuntarily will be critical in determining whether there is a threat to Canada's sovereignty in the north.

Having defined sovereignty and its components, we can now proceed with our discussion of Canada's Arctic sovereignty.

### **Canada's Arctic Sovereignty and the Threats it Faces**

#### Canada's Claims

As previously discussed, the newly-created Dominion of Canada received *de jure* sovereignty over what is now the NWT, Yukon, Nunavut, and northern Manitoba, Quebec, and Labrador through a process of cession from the British government between 1870-1880.<sup>77</sup> In an effort to assert the full extent of its northern sovereignty, today's Government of Canada claims "exclusive sovereignty rights, authority and privileges in relation to the land masses of the Arctic Archipelago. Accordingly, it can apply and enforce its laws, regulate the conduct of activities, and exclude aliens and foreign nationals who would enter its territory without permission."<sup>78</sup> Canada's claim to sovereignty in the North is based on the following pillars:<sup>79</sup>

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<sup>77</sup> For a detailed Map of Canada's Arctic Claims, see Item 2 in the Appendix

<sup>78</sup> Côté and Dufresne, "The Arctic: Canada's Legal Claims," p.1

<sup>79</sup> Ibid., p.1

- The cession of the Arctic territories from Britain to Canada from 1870-1880, which gave Canada *de jure* sovereignty over its northern territories and archipelago.
- The occupation of northern lands by Canadian citizens.
- The will of Canada's Arctic inhabitants to be governed by Canadian institutions.

### Non-Threats

Despite implications from some mainstream media sources – see the Pessimists section of the above Literature Review – no nation contests the *de jure* sovereignty claimed by the Canadian Government over its Arctic territories: “Canada’s Arctic disputes do not involve [Canada’s] status as a sovereign state.”<sup>80</sup> There is only one open territorial challenge to any land in Canada’s North: the Hans Island dispute (see the Canadian Context section on page 13). As a minor dispute of little consequence between NATO allies, it should not be considered a threat to Canadian sovereignty. This argument is consistent with the Optimist school of thought: the Arctic is a land of laws, and no nation deems it in their interest to brazenly challenge or violate those laws. Therefore, there is no and will be no lawless scramble for the Arctic.

There is also no reason to believe Canada faces an immediate military threat in the Arctic. Despite the power asymmetries that exist, it is not in any actors’ interest to conventionally attack Canada. Canada’s position as an American neighbour is enough to

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<sup>80</sup> Byers, *Who Owns the Arctic?* p.5

guarantee that. Moreover, so long as all actors are permitted to pursue their national objectives in the Arctic under the current system of laws, they have no incentive to violate those laws. Those in the Pessimist school of thought who contend that Russian Arctic hegemony is worrisome from a conventional military perspective overlook a key point: if Russia is winning in the Arctic economically and militarily, then the Russian government has no reason to rock the boat. It is also equally unlikely that any other actor in the north would pose a threat; most of them are Canadian allies, and those who are not lack both the incentive and capability to infringe meaningfully on Canadian sovereignty through conventional military means.

On the domestic front, over the last two decades, the federal government has engaged in the process of devolution of power to the territories. Through this process, The NWT, Yukon, and Nunavut have gained – and will continue to gain – increasing levels of autonomy in the governance of territorial affairs.<sup>81</sup> These powers, which include land and resource responsibilities, elevate the territories to a province-like status. This process is important for Canadian-Indigenous reconciliation efforts, but it does not constitute an abdication of sovereignty by the federal government: “...the federal government does not diminish the sovereignty of the Canadian state by transferring powers to its three northern territories.”<sup>82</sup> There are therefore no internal dynamics within Canada that threaten or weaken its claim to sovereignty.

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<sup>81</sup> “Northwest Territories Devolution,” Northern Affairs Canada, accessed August 30, 2018 <https://www.aadnc-aandc.gc.ca/eng/1352398433161/1352400493640>

<sup>82</sup> Huebert, “Canadian Arctic Sovereignty and Security in a Transforming Circumpolar World,” p.14

Finally, Canada does not face a threat to its sovereignty from its various agreements to divide its sovereignty through international cooperation. Similar to devolution, this voluntary abdication of some rights through submission to international law does not constitute an abdication of its sovereignty.

In all the above cases, therefore, the Optimists reasoning proves correct. However, there are possible and real threats which they overlook, as discussed below.

### Possible Threat: The NWP Dispute

As discussed in the Context section of this paper, the NWP is a collection of routes connecting the Labrador and Beaufort Seas (see Figure 4). Canada claims the NWP as internal waters under the conditions of

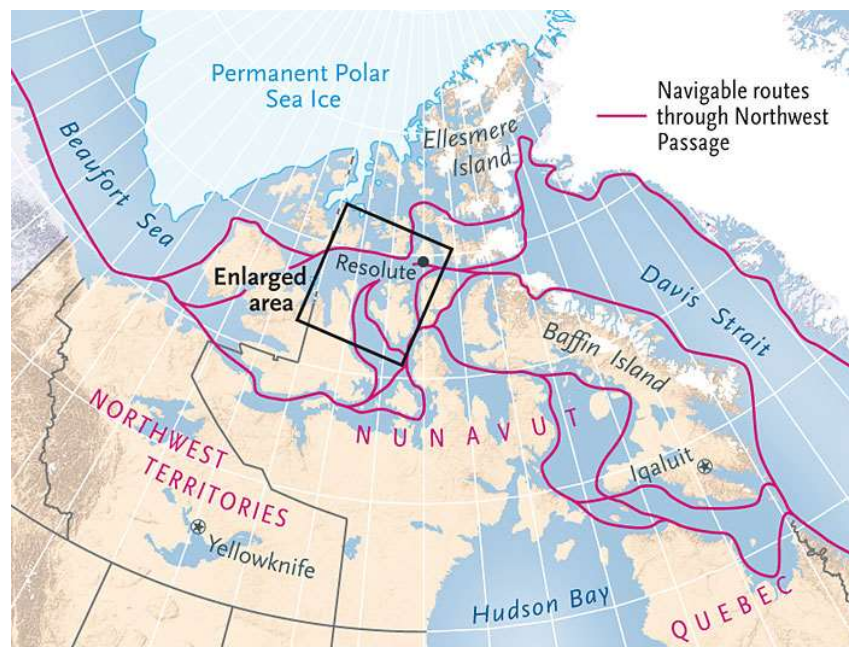


Figure 4: The Routes of the Northwest Passage  
Source: Canadian Geographic

UNCLOS. To make this claim, Canada relies upon the “application of the straight

baseline method” (see Figure 5).<sup>83</sup> Consequently, Canada considers all the NWP’s routes to be internal straits as opposed to international straits. Under UNCLOS, foreign ships passing through internal straits must seek permission of the nation to whom those waters belong. In turn, that

nation must grant permission, being able to deny it only under extreme circumstances.<sup>84</sup>

International straits, meanwhile, require no such request. The

United States



Figure 5: Canada’s Straight Baselines, as claimed under UNCLOS  
Source: Laurence Cros, Université de Paris

disputes that the NWP constitutes Canadian internal waters, claiming the straight baselines drawn by Canada are illegitimate under UNCLOS.<sup>85</sup> Nevertheless, cooperation between the two countries persists. Canada and the US are NATO allies and long-time partners in the international arena. It is unlikely Canada and the US will be at military odds any time soon, despite current political friction between the two countries on other files. We therefore contend that Canada does not face a sovereignty threat from this dispute or the United States in general. Here again, the Optimists prove correct. However,

<sup>83</sup> Côté and Dufresne, “The Arctic: Canada’s Legal Claims,” p.2

<sup>84</sup> United Nations Convention on the Law of the Sea, 1982. Section 3

<sup>85</sup> James Krapas, “The Law of the Sea Convention and the Northwest Passage,” *The International Journal of Marine and Coastal Law* 22 no. 2, 2007. The legal disagreement is semantic and beyond the scope of the paper

if Canada faces a challenge to its Arctic sovereignty in any way, an ongoing dispute regarding Canada's ownership of the NWP would surely prove to be an irritant. This scenario is not considered by the Optimists and is considered more fully among the Pessimists. Such a scenario is discussed below.

### Real Threat: China

Where Canada does face a threat in the Arctic is to its *de facto* sovereignty. The ability of the Canadian Government to operate in the North is limited. For an area larger than Europe, Canada's military presence is limited to 120 permanent troops. The infrastructure investments that are sorely needed remain largely ignored, as best exemplified by the steady deterioration of the conditions at Canada's only Arctic port, and as confirmed by Mary Simon's report in her capacity as Minister's Special Representative.<sup>86,87</sup> Instead of federal support, communities have grown increasingly open to alternative sources of investment – most notably China.<sup>88</sup>

China, for its part, has shown a reciprocal interest in the Canadian North, as discussed in the Context section of this paper. Not only are they interested in Canada's North, but they are interested in the region as a whole. As Greenland marches towards independence, that portion of their budget that is currently guaranteed by Danish transfer payments could well be replaced with Chinese investment.<sup>89</sup> The Chinese are eager to

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<sup>86</sup> Scott Gilmour, "How Ottawa Abandoned Our Only Arctic Port," *Maclean's*, August 18, 2016

<sup>87</sup> "A New Shared Arctic Leadership Model," Mary Simon

<sup>88</sup> Rodman, "China's Ambitions in the North American Arctic," p.66

<sup>89</sup> *Ibid.*, p.65

invest in the much-needed regional infrastructure and commercial endeavors across the North American Arctic, as these investments suit their own political objectives. The primary objective of China's One Belt One Road initiative is to reorient the world's commercial center of gravity towards itself.<sup>90</sup> Therefore, if China is able to commercially control a significant portion of Canada's northern infrastructure, the federal government will find its own agenda subordinate to Chinese priorities. This is true because Chinese firms are widely understood to be extensions of the Chinese state;<sup>91</sup> their commercial interest in the Canadian North is not as benign as the Optimists argue.

There are already signs that China will flex its diplomatic muscle following massive infrastructural investments. The Canadian Security and Intelligence Service's (CSIS) latest academic outreach workshop carried stark warnings of the Chinese government actively seeking to influence western democratic processes.<sup>92</sup> Among its methods of doing so is through investments in western businesses and projects. Such efforts have been the subject of media investigation and were cited as concerns contributing to Canada's vetoing of Chinese-owned CCCC's purchase of Canadian construction giant Aecon.<sup>93</sup> Put simply, if the Canadian government continues to underinvest in the Arctic, one of its geostrategic rivals will do so on its behalf.

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<sup>90</sup> "One Belt and One Road: Connecting China and the World," McKinsey & Company, July 2016 <https://www.mckinsey.com/industries/capital-projects-and-infrastructure/our-insights/one-belt-and-one-road-connecting-china-and-the-world>

<sup>91</sup> "Rethinking Security: China and the Age of Strategic Rivalry," Canadian Security and Intelligence Services Academic Outreach Workshop, May 2018

<sup>92</sup> "Rethinking Security: China and the Age of Strategic Rivalry"

<sup>93</sup> "Federal Government Blocks Sale of Construction Giant Aecon to Chinese Interests," *CBC*, May 23, 2018 <https://www.cbc.ca/news/politics/canada-blocks-aecon-sale-china-1.4675353>

An overreliance on Chinese investment to make up for Canada's capability gap is a real threat to Canada's *de facto* sovereignty in the North. If a significant portion of the North's major infrastructure is owned and operated by extensions of the Chinese government, then there is a presence of external authority. This violates Dr. Krasner's fifth condition of sovereignty: an absence of external authority. If the Chinese government were to halt, withhold, or otherwise tamper with services in Canada's Arctic, the Canadian government would be beholden to China's wishes.

We therefore see that the true threat to Canadian sovereignty lies somewhere in between the Pessimist and Optimist schools of thought. On one hand, there is no conventional military threat to Northern Canada. As the Optimists argue, no actors are incentivized to disrupt the status quo. The Arctic is a region of laws defined by remarkably peaceful and cooperative relations. However, as insinuated but not fully captured by the Pessimists, the Arctic's high levels of cooperation may prove to be a Trojan Horse. A robust system of laws and regulations in the north does not prevent massive investment from China; indeed, it promotes it. The Pessimists' intuition proves right: asymmetric capabilities in the Arctic are a cause for concern. The concern is not that the asymmetry poses a threat to the rule of law; rather, the threat that Canada faces is a gradual but assertive wresting away of control over its Arctic territories. Canada faces a slow erosion of its *de facto* sovereignty.

## **Government of Canada Policy**

If the Canadian government is to prevent this slow erosion of sovereignty, it must begin to take action immediately. In this section we will analyze the government's existing and imminent Arctic policy.

Arctic policy falls under the purview of many federal cabinet ministers. Ostensibly chief among them is the Minister of Northern Affairs. However, the current Minister of Northern Affairs, Dominic LeBlanc, is also the Minister of Intergovernmental Relations and Internal Trade. The Northern file is his third priority. Moreover, the title of Minister of Northern Affairs does not confer onto him sole ministerial jurisdiction on all Arctic matters. The Minister's mandate letter tasks him with 11 actionable items. Only points 5, 9, 10, and 11 explicitly mention Northern Affairs. Specifically, the Minister is tasked with supporting the Minister of Environment and Climate Change in adapting to new climate realities in the North, leading the development and implementation of the APF, updating and expanding Northern Nutrition programs, and supporting the Minister of Crown-Indigenous Relations in bringing devolution forward.<sup>94</sup> There is no direct mention of defence, fishing, infrastructure, or energy policies. Indeed, it seems as if Mr. Leblanc will have to defer to his cabinet colleagues in those issue areas. Given the narrowness and third-tier status of Northern Affairs within the Minister's mandate, the Liberal government has clearly not prioritized Arctic development within Cabinet.

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<sup>94</sup> Mandate Letter to Minister Daniel LeBlanc's, Office of the Prime Minister of Canada, August 28, 2018 <https://pm.gc.ca/eng/minister-intergovernmental-and-northern-affairs-and-internal-trade-mandate-letter-august-28-2018>

Meanwhile, Canada's Arctic policy itself is comprised of two portions: military strategy and the Arctic Policy Framework. Lack of priority given to this file aside, the application of these two policies is intended to address the myriad challenges facing the Canadian Arctic, ensuring long-term stability and prosperity in the region. The government's military plans were released within DND's broader defence strategy, entitled "Strong, Secure, Engaged".

### Strong, Secure, Engaged

Strong, Secure, Engaged (SSE), released in June 2017, is the government's current defence policy. It is a wide ranging-document, intended to guide Canadian defence purchasing and policy until 2026-2027.<sup>95</sup> Its highlights include an addition of 3,500 troops, a 70% increase in defence spending (bringing the total to \$32.7 billion annually), and a guaranty of full funding for both acquisitions and operations.<sup>96</sup> The policy also commits the government to a "rigorous" costing process vetted by defence costing experts at Deloitte. For this reason – and in order to simplify this paper's analysis – we will take the government at their word: we will assume that the promises in this document will be fulfilled.<sup>97</sup>

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<sup>95</sup> Government of Canada, *Strong, Secure, Engaged* [Ottawa] 2017, p.11

<sup>96</sup> *Ibid.*, p.11-13

<sup>97</sup> We are aware that Canada has a long and well-documented history of delays and broken promises with respect to defence procurement. However, this only serves to complicate our analysis and is beyond the scope of our discussion.

Canada's North is the only region to be called out specifically as an area of focus in SSE; the rest of Canada is addressed more broadly. Indeed, the Arctic receives its own list of initiatives. In all, there are 110 new policy initiatives announced in the plan, each of which is tied to a broader strategic goal. Of these initiatives, there are 13 that explicitly address the Arctic.<sup>98</sup> These initiatives include:<sup>99</sup>

1. Specific Purchases:

- a. Five to six Arctic Offshore Patrol Ships. These ships would not possess year-round ice-breaking capabilities and would therefore be reliant on Canada's ice-breaking fleet for much of the year. The budget for these ships is \$3.5 billion, and delivery will begin in 2019.<sup>100</sup>
- b. A next generation multi-mission aircraft, including the CP-140 Aurora maritime patrol aircraft and drone technology.
- c. All-terrain vehicles, snowmobiles, and larger tracked semi-amphibious utility vehicles. There is no mention of how many of these vehicles are to be bought or where they are to be deployed.

2. General investment promises:

- a. Space-based systems that will enhance and improve tactic narrow- and wide-band communications globally, including the Arctic.

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<sup>98</sup> *Strong, Secure, Engaged*, p.107-113

<sup>99</sup> *Ibid.*, Annex D

Government of Canada, *Strong, Secure, Engaged* [Ottawa] 2017, p.11

<sup>100</sup> *National Shipbuilding Strategy*

- b. Modernized communications, shelters, power generation, advanced water purification systems, and equipment suitable for austere environments.

3. Strategic actions not requiring new investment:

- a. Aligning the Canadian Air Defence Identification Zone (CADIZ) with Canada's sovereign airspace.
- b. Focusing on recruiting and retaining underrepresented populations within the Canadian Armed Forces, including Indigenous peoples (among others).
- c. Prioritizing Arctic Joint Intelligence, Surveillance and Reconnaissance as a defence research and development priority to produce innovative solutions to surveillance challenges in the North. This is being undertaken in conjunction with the US under the terms of NORAD.
- d. Enhancing mobility, reach, and footprint of CAF in the North to support operations, exercises, and the CAF's ability to project force into the region.
- e. Enhancing and expanding the training and effectiveness of the Canadian Rangers to improve their functional capabilities within the CAF.
- f. Collaborating with the US on the development of new technologies to improve Arctic surveillance and control, including the renewal of the NWS.

- g. Conducting joint exercises with Arctic allies and partners and support the strengthening of situational awareness and information sharing in the Arctic, including with NATO.

While we agree with the need for most of these goals, only the first five of these initiatives have specifically-allotted funding and will contribute tangibly to the military's ability to operate in the North.

### Arctic Policy Framework

The upcoming Arctic Policy Framework was expected to be released by the end of summer 2018. That deadline has been pushed back indefinitely. Regardless, the governing Liberals have been transparent about what to expect. A statement released by then-Minister of Crown-Indigenous Relations and Northern Affairs Carolyn Bennett indicated that the framework will be intended to “align Canada’s national and international policy objectives with the priorities of Northerners.”<sup>101</sup> The APF is to “provide overarching direction to the Government of Canada’s priorities, activities, and investments in the Arctic, with a horizon of 2030.”<sup>102</sup> The policy initiatives contained within the framework will “focus on the priorities and themes identified by Northerners through the work of [the] Minister’s Special Representative Mary Simon”.<sup>103</sup> It will also

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<sup>101</sup> Minister of indigenous and Northern Affairs Carolyn Bennett, November 15, 2017 [https://www.canada.ca/en/indigenous-northern-affairs/news/2017/11/joint\\_ministerialstatementtowardanewarcticpolicyframework.html](https://www.canada.ca/en/indigenous-northern-affairs/news/2017/11/joint_ministerialstatementtowardanewarcticpolicyframework.html)

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

incorporate the Prime Minister's 2016 joint statement with President Obama. It is important, therefore, to examine the contents of both Ms. Simon's report and the leaders' statement.

### Mary Simon's Report

Mary Simon, in her capacity as Special Representative to the Minister of Indigenous and Northern Affairs Canada, submitted her special report in March of 2017. This report outlined 41 recommendations in the areas of education, research and indigenous knowledge, infrastructure, broadband, housing, reducing fossil fuel dependence, conservation (including indigenous protected areas), the development of the APF itself, and mental health. Its focus is very much on supporting and developing the people and the institutions of the Canadian Arctic in cooperation with and with respect for indigenous communities.<sup>104</sup>

### Leaders' Joint Statement

The Joint Arctic Leaders Statement between the United States and Canada was made by President Obama and Prime Minister Trudeau on December 20, 2016. Four commitments were made at that time: to take a science-based approach to oil and gas, to support Arctic communities, to develop low-impact shipping corridors, and to support science-based management of Arctic fisheries. Its focus was environmental protection.

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<sup>104</sup> "A New Shared Arctic Leadership Model," Mary Simon

Since the announcement was made, the Trump administration has reneged on many of the American promises. Canada's commitments remain in place. Importantly, Canada has kept in place a ban on all oil extraction off the coast of the NWT. The ban is subject to review every five years.

### **Policy Proposal**

To address the challenges outlined in this paper, we propose a two-pronged policy response, consisting of four policy suggestions in total. Our suggested responses share the overarching goal of proactively asserting and practicing Canada's *de facto* Arctic sovereignty in ways that the current government's approach does not. Our policy proposal is as follows:

- A. Renewing the focus on commercial development of the North. This would include a relaxing of certain environmental protections, in consultation with indigenous communities, as well as incentivizing businesses to invest. Commercial investment would help accomplish human the security goals of the forthcoming APF the long run.
- B. The Arctic should be made to be more important in the minds of Canadians. To this end, the APF and all associated initiatives should be made to be politically "sticky." That is, its importance should be effectively communicated to the Canadian public, and it should be executed so as to make its reversal politically costly.

Given the nature of the threat we have identified – that of Chinese commercial investment and not any military action – we do not deem it necessary that the government go beyond its military investments identified in SSE.

### Renewed Focus on Commercial Development

With private investment would come economic opportunity for Arctic residents and – ultimately – the human security sought by the current Liberal government. We therefore recommend that the government – either within or outside of the APF – take the following actions:

1. Natural resource extraction should be made easier:
  - a. In 2021, the 5-year drilling ban off the coast of NWT should be partially lifted so that the NWT can exploit their most immediately attractive commercial product. This could be done at no cost to the government and would be welcome news to the government of the NWT.
  - b. The existing 15% junior mining tax credit outlined in Budget 2018 should be expanded to include all Canadian mining companies operating in the North, regardless of their size. This will give Canadian companies a commercial advantage over their foreign competitors, making a majority of Canadian investment more likely.

2. The federal government should invest in the infrastructure necessary to facilitate travel in the North. Their immediate priority should be to fund the deepwater port in Qikiqtarjuaq, Nunavut, whose “local leaders are ‘welcoming’ Chinese investment.”<sup>105</sup> Keeping majority Canadian ownership over Arctic infrastructure is the best way to prevent undue influence by Chinese companies in the region.

### Making the Arctic Matter to Canadians

The federal government has a long history of making and breaking budgetary promises with respect to the Arctic. The upcoming APF will not be the first of its kind. Still, the Arctic remains economically underdeveloped. The simple reason for this is that the Arctic is, in the long-run, a back-of-the-mind issue for the majority of Canadians.<sup>106</sup> Politicians find themselves with no political incentive to prioritize Arctic concerns. The task of engraining the importance of Arctic policy in the minds of Canadians is therefore critical to this entire proposal. Changing the mentality of Canadians would help greatly in making meaningful progress. Our proposed policy first must resonate with Canadians, and second be sticky. That is, any measures taken by the federal government should be difficult to reverse in the future, either for political or technical reasons. We therefore propose:

3. The Prime Minister should appointment of a Minister of Arctic Affairs. Arctic affairs have long been folded into ministerial files as secondary considerations

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<sup>105</sup> Rodman, *China's Ambitions in the North American Arctic*, p.64

<sup>106</sup> Landriault, “Public Opinion on Canadian Arctic Sovereignty and Security”

and spread out among members of Cabinet. As has been discussed, the file is currently called Northern Affairs, and it shared with Minister Daniel LeBlanc's other duties which include Internal Trade and Intergovernmental Affairs. None of his Northern Affairs mandates are headline issues for the current Government. Indeed, it is our opinion that these tasks could be eliminated entirely with very little public outcry. The creation of a Minister of Arctic Affairs, however, could change that.

First, an Arctic Minister's primary role would be that of a true champion for the region within Cabinet. There is currently none. The presence of a champion would make it easier to bring coherence to a policy area where coherence is notoriously elusive. This Minister's mandate should include all of Minister LeBlanc's current Northern Affairs mandate, plus the policy proposals introduced in this paper. More importantly, it should specifically direct the Minister to make the case for the importance of Arctic policy to Canadians. This is not without precedent. The mandate letter for the current Minister of International Trade Diversification tasks him with "...making the case for trade through clear communications with Canadians as [the Government moves] forward with [its] trade agenda."<sup>107</sup> Clearly, this Government is comfortable with selling Canadians on ideas they deem important to the national interest. It is our opinion that the threat to Canada's *de facto* sovereignty in the North is important to the national interest; it should be presented as such by a Minister of the Crown.

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<sup>107</sup> Mandate Letter to Minister James Gordon Carr, Office of the Prime Minister of Canada, August 28, 2018 <https://pm.gc.ca/eng/minister-international-trade-diversification-mandate-letter-august-28-2018>

These measures would make this appointment politically sticky. With the next Cabinet shuffle, either under a new government or this one, the elimination of the position could be picked up and commented upon by the media. The Government would then be forced to defend their decision in the public sphere.

4. The Prime Minister's Office should publicly prioritize the Arctic. As the focus of Canadian federal politics continues to concentrate in the PMO, any file given Prime Ministerial attention is rapidly understood to be a top priority. This was certainly true under Prime Minister Harper, whose conscious efforts to publicly prioritize the North (though insufficient, in our estimation) led to his being known as "Canada's most Arctic-minded Prime Minister."<sup>108</sup>

This combination of Ministerial and Prime Ministerial attention would be a powerful catalyst for public engagement. Here, again, there is precedent. The prioritization of repatriating the Constitution in the early 1980s was not the result of a groundswell of public interest; rather, it was the result of sheer determination on the part of then-Prime Minister Pierre Trudeau. Similarly, diversity in Canadian society was not a founding tenant of the Dominion in 1867. However, successive governments chose to prioritize it after in the decades following the Second World War. Today, Canada is one of the most harmoniously diverse countries in the world. The power of politicians to

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<sup>108</sup> P. Whitney Lackenbauer, "Harper's Arctic Evolution," *The Globe and Mail*, August 20, 2013 <https://www.theglobeandmail.com/opinion/harpers-arctic-evolution/article13852195/>

shape and lead public opinion is well-documented. We believe it is time it was used in Canada to counter this very real sovereignty threat.

## **Conclusion**

The changing climate of Canada's Arctic poses physical threats to Canadian citizens while at the same time unveiling economic opportunities. Recently, it has become an area of growing interest among international actors. Countries around the world are poised to invest in the Arctic, and Canada's North is very much a part of that. As commercial activity and transportation develop in the region, a robust and dependable government presence will be necessary to ensure stability, security, and prosperity. If Canada does not provide the infrastructure necessary to ensure this, someone else will. This represents a real and tangible threat to Canada's *de facto* sovereignty in the Arctic. We believe that as a sovereign nation, Canada would be wise to act. We advise that the government move to ensure that Canada can fully and independently operate in the North in the years and decades to come. To that end, we propose that the Government follow the recommendations outlined in this proposal.

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# Appendix



Item 2 – Detailed Map of Canada’s Arctic Claims

