



THE
FUTURE
IS DUE
NORTH

UNCERTAIN BOUNDARIES, UNTAPPED POTENTIAL

Challenges and Opportunities for
Canada's Arctic Sovereignty

JULY 2019

BY DR. JENNIFER SPENCE





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INTRODUCTION

Sovereignty, as a concept, is a critical building block of our international system of governance. State sovereignty is generally defined as “intentional independence of a state, combined with the right and power of regulating its internal affairs without foreign interference” (Lehman & Phelps, 2008). Of course, throughout history there are many examples of this principle being stretched or compromised but, overall, it remains a defining feature of global governance.

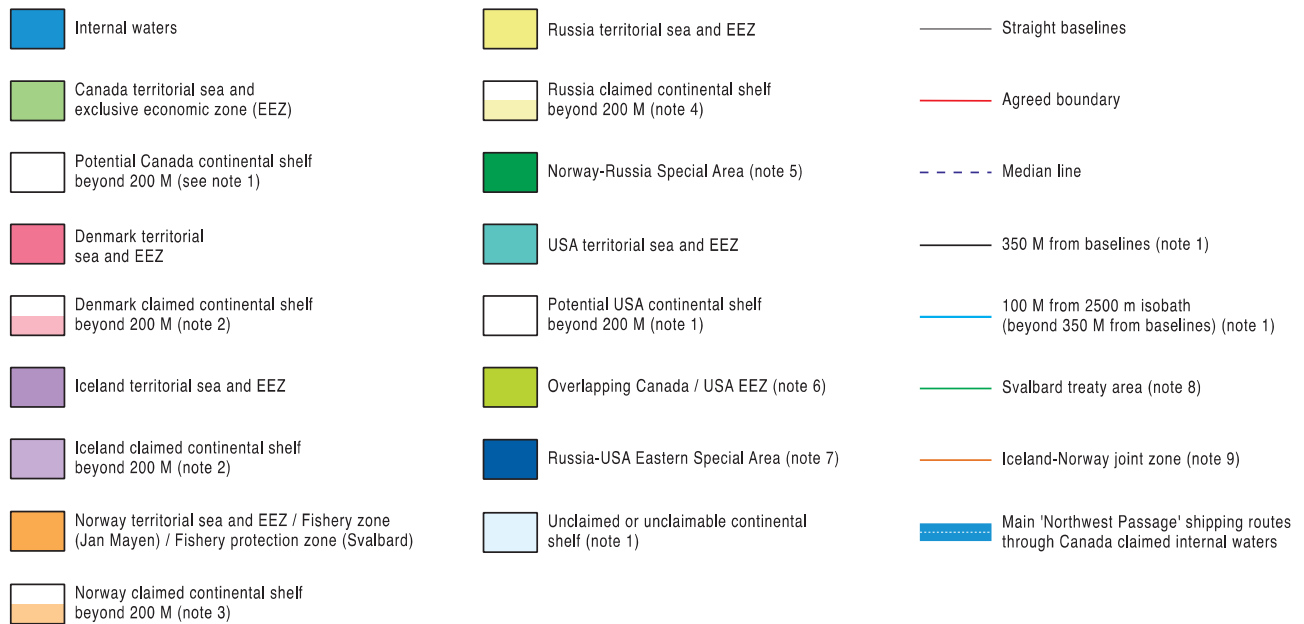
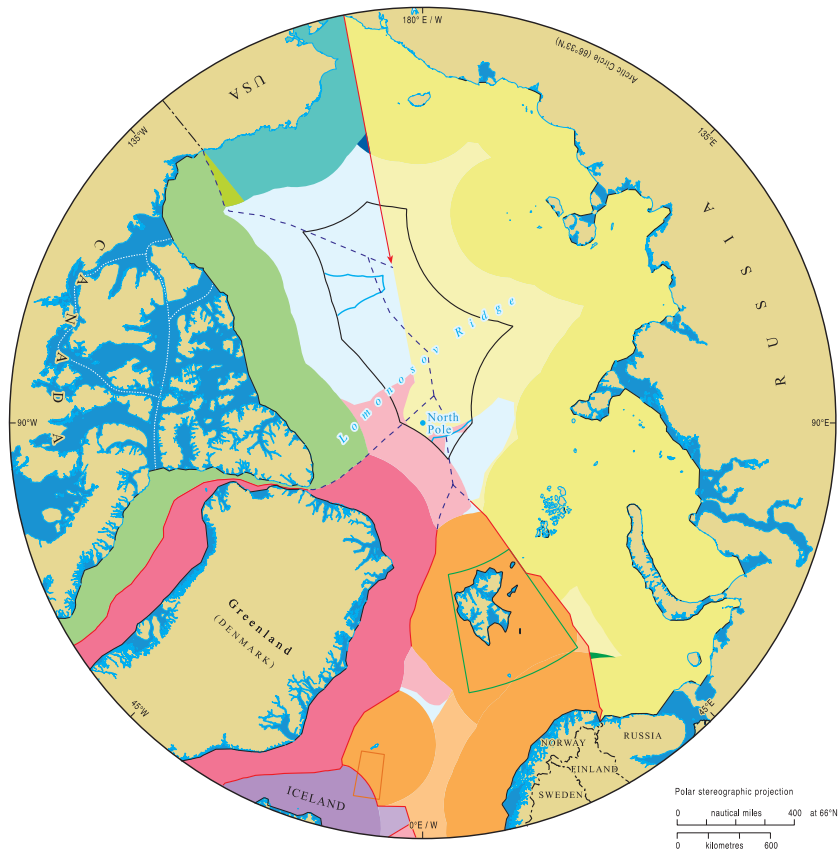
Most Canadians take our country’s sovereignty for granted. We look to the east and see the definitive boundary set by the Atlantic Ocean and our distant European allies. We look to the west and see the Pacific Ocean and our even more distant Asian partners. But, perhaps most importantly, we look south and see the longest undefended border and our powerful neighbour—the United States. With these three directions assessed, we state with confidence that our borders are defined and our sovereignty is secure.

A smaller number of Canadians shift their gaze north. They may recall unsavoury stories of the Government of Canada’s relocation of Inuit people to Resolute Bay and Grise Fiord during the Cold War as a means to assert sovereignty over Canada’s Far North. Others may contemplate the significance of the Canada-United States Distant Early Warning Line (DEW Line), a system of radar stations that spread across the Arctic to protect North America from Soviet attack. But, ultimately, most Canadians will relegate these issues to the history books and conclude that Canadian sovereignty is secure despite a fuzzy understanding of our northern boundaries. But is it? And if it isn’t, why should we care?

GLOBAL INTEREST IN THE ARCTIC IS ON THE RISE

We should care because global interest in the Arctic has grown exponentially over the last two decades. For some, the Arctic’s melting sea ice and degrading permafrost are harbingers of global climate change; for others, the Arctic represents potential access to new, abundant sources of non-renewable resources and shorter, more direct international shipping routes. By extension, as international interest in the circumpolar region mounts, any uncertainty about Canada’s northern sovereignty takes on new significance and the potential for development opportunities in the Canadian North become not only real, but imminent. We should care because Canada can either be a leader in defining its northern sovereignty and development or have its roles and responsibilities determined for it by global actors with an interest in the region.

Figure 1: Maritime jurisdiction and boundaries in the Arctic region



Source: IBRU, Durham University, <http://www.durham.ac.uk/ibru/resources/arctic>

On the question of legal sovereignty, the governments of the five Arctic coastal states (Canada, Denmark, Norway, Russia, and the United States) are quick to contend that there are no uncertainties surrounding their sovereign rights and jurisdiction in the region. In 2008, these states released the [Ilulissat Declaration](#), which acknowledged the United Nations Law of the Sea (UNCLOS) as the international legal framework that recognizes their borders and sets out the process for defining states' coastal boundaries and resolving overlapping claims.¹ Figure 1 maps the existing claims in the region—projecting an image of firm boundaries and distinct sovereign territories. There are some overlaps indicated, but the Ilulissat Declaration assures us that the Arctic coastal states have a strong sense of their sovereign territories and any remaining boundary issues between them will be addressed bilaterally through a technical process.

CANADA'S CLAIM TO ARCTIC SOVEREIGNTY IS VULNERABLE

But is this realistic? In reality, the process of confirming Canada's sovereignty is ultimately not a technical process. It is a highly sensitive political process, one that has remained unresolved for decades. A number of factors contribute to Canada's uncertain sovereignty in the North:

The Northwest Passage

The issue that often springs to mind for Canadians is the legal status of the Northwest Passage. For decades, the Government of Canada has argued that most of the Northwest Passage (which traverses the Arctic Archipelago) rests within Canadian internal waters and, therefore, Canada claims all of the sovereign rights associated with this designation. However, this claim is contested by the United States and the European Union, which contend that this route is an international strait. This designation constrains Canada's sovereign rights and limits its ability to control access to these waters. So why hasn't Canada taken the necessary steps to resolve this issue? Some argue that Canada's hesitance to officially present its case is driven by a desire to maintain its relationship with its powerful neighbours and close partners. There is no question that Canada has no desire to engage its nearest "friends" in this debate, but there is more at play.

Sovereign rights vs. responsibilities

To understand the nuances behind this unresolved issue, we need to move beyond a focus on Canada's sovereign *rights* in the North to its sovereign *responsibilities*. Canada has known for some time that a claim of sovereignty in the Arctic depends on the government's ability to demonstrate continuous occupation and control in the North (recall the forced relocation of Inuit during the Cold

¹ It is interesting to note that the United States is a signatory to the Ilulissat Declaration that acknowledges the United Nations Convention of the Law of the Seas (UNCLOS) and it has been mapping the seabed surrounding Alaska consistent with the UNCLOS process. However, it is not currently a signatory to UNCLOS.

War). However, Canada's North is vast—close to 40% of Canada's total land mass—and sparsely populated in small, remote communities that make up less than one percent of Canada's population. This is not an easy or inexpensive space to govern or demonstrate sovereign control.

In 1993, Canada and the Tunngavik Federation of Nunavut signed the Nunavut Land Claims Agreement (NLCA), which created the territory of Nunavut and ceded the lands and waters of the region to Canada. Many experts argue that Canada's sovereignty claim to the Arctic Archipelago was bolstered by the signing of the NLCA (Lackenbauer & Legare, 1999; Mifflin, 2008). However, this agreement also intimately links Canada's sovereign rights to its responsibilities to implement the NLCA, a process that has been far from smooth.

In 2006, Nunavut Tunngavik Incorporated (NTI), the body that legally represents the Inuit of Nunavut, launched a lawsuit against the Government of Canada for not fully implementing the agreement. A settlement agreement was reached in 2015. However, serious capacity issues remain within the Government of Nunavut, and social and economic indicators for Nunavut are among the poorest in the country. This situation is not the ideal poster child for demonstrating Canada's successful dispensation of its sovereign responsibilities.

Investment and development

A focus on Canada's sovereign responsibilities also opens the door to considering the socio-economic potential of the North and governments' roles in fostering development opportunities. Countries like Russia, Norway and Iceland are making significant investments in public infrastructure in the region, including ports, navigation systems and telecommunications. In contrast, Canada's vision for its North remains murky. Successive federal governments have released various high-level policy statements. These declarations have been primarily aspirational and rarely translate into substantive policies and programs that advance the health and prosperity of northern communities. To date, there are no comprehensive plans to invest in much needed public infrastructure across the North (e.g. transportation, energy and communications). Instead, Canada's North is most often placed at a disadvantage when trying to attract the attention and resources of the federal government, whose policies and programs are designed to meet the needs and interests of southern Canada.

SOME STEPS HAVE BEEN TAKEN BUT MORE NEEDS TO BE DONE

However, there are signs that the importance of the North in Canadian federation may be gaining profile. Over the last two years, the federal government has been developing a new Arctic and Northern Policy Framework in collaboration with territories and provinces that is intended to fill this void. Furthermore, the

federal government's 2019 budget introduced several measures intended to "support the eventual Framework and complement existing efforts to strengthen Arctic and northern communities" (Government of Canada, 2019, p. 100). The budget included investments—modest relative to what is needed—in transportation, energy and communications infrastructure, but it was a step in the right direction.

It remains to be seen if there is the political appetite to make the larger investments necessary in the North. Understanding the relationship between Canada's ability to deliver on its sovereign responsibilities and its ability to claim its sovereign rights in the North may help to elevate northern issues and priorities on the government's agenda. However, this needs to be seen as a long-term undertaking. It will take time and resources to successfully implement. Canada's sovereign rights will not be secured through good intentions and words of support.

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