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C. Mark Macneill

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# SPLITTING CANADA'S NORTHERN STRATEGY: IS IT POLAR POLICY MANIA?

By C. Mark Macneill\*

On July 15, 2019, Prime Minister Justin Trudeau's legislation splitting Indigenous and Northern Affairs Canada (INAC) into two new departments and dissolving INAC came into effect.<sup>1</sup> The same legislation also formally established the mandates of the two new departments, Crown-Indigenous Relations and Northern Affairs (CIRNAC)<sup>2</sup> and Indigenous Services Canada (ISC).<sup>3</sup> The Government of Canada passed the legislation to develop deeper relations and higher levels of collaboration with Canada's Indigenous people to build stronger and healthier northern communities.<sup>4</sup> Dovetailing with the splitting of INC, Prime Minister Justin Trudeau announce the Arctic Policy Framework (APF). The APF was co-developed with indigenous, territorial, and provincial partners.<sup>5</sup> This new framework effectively replaced Canada's Northern Strategy (2009) and the Statement on Canada's Arctic Foreign Policy (2010).<sup>6</sup>

The APF was developed through a series of consultations and forums in 2017 and 2018 and applies to the Yukon, Northwest Territory, Nunavut, and Canada's other Inuit Nunangut communities<sup>7</sup> representing the Inuit and Indigenous homelands of the Nunatsiavut region in Labrador, Nunavik (QC) and Northern Manitoba (including Churchill).<sup>8</sup> The consultation process flowed from commitments made in the U.S./Canada Joint Arctic Leaders Statement,<sup>9</sup> under which Canada committed to work collaboratively with its Indigenous Northern Communities to "build a long term vision to 2030 for the Canadian and Circumpolar Arctic."<sup>10</sup>

CIRNAC and ISC were partitioned from INAC to develop deeper relations and higher levels of collaboration with indigenous people. However, many core challenges remain largely unresolved. For instance, critical health care<sup>11</sup> and housing issues<sup>12</sup> continue to prevail in the Arctic. Furthermore, demographic data shows that while Canada's North is experiencing a rapidly growing population, it is plagued with a plethora of social-economic issues not being adequately funded and administered by the federal government. For instance, with close to half the Nunavut population under the age of twenty-five<sup>13</sup> with a stretched capacity need and accompanying shortage for employment,<sup>14</sup> education, training, housing, and health care.<sup>15</sup> Furthermore, facilitation for easier entry into the growing economic sectors in the north to meet Inuit employment quota goals per Article 23 of the Nunavut Land Claims Agreement<sup>16</sup> (e.g. resource extraction based industries) and a growing government and service support base are alternatively filling employment voids for expertise and skilled labor from southern communities in Canada. However, the Nunavut Land Claims Agreement 1999, Article 23 expressly calls for a preference to

be given to Inuit people for federal and territorial government positions<sup>17</sup> and per Article 24 with government contracts.<sup>18</sup> Thus, an employment policy priority exists within both the public and private sectors to get indigenous people trained across all occupations and into ever increasing higher levels of leadership, management, and skilled technical and trade positions.<sup>19</sup> In many instances, skilled positions are not being filled or left vacant while Inuit are being trained and/or recruited, leading to government departments and agencies with staffing deficiencies and productivity lapses.<sup>20</sup>

Furthermore under the APF, the Canadian government maintains that it is improving governance structures and capacity building for its northern communities and people.<sup>21</sup> Yet those who believe in less government and or in a devolution of power to the local and regional levels are bound to disagree with the APF's effectiveness and efficiency. Arguably, the APF's co-development and implementation adds additional layers of bureaucratic process. While consultation is used to gather community input by Ottawa, power is still centrally retained by the federal government in a vertical chain of decision making. Under devolution, the power and decision making are decentralized via self-governance agreements to local and regional governments on specific sets of identified areas of responsibility.

Furthermore, the Nunavut Land Claims Agreement and many other land claims agreements across Canada's north have placed resource stewardship responsibility in the hands of indigenous people directly for the lands to which they hold title. The Nunavut Land Claims Agreement uses a collaboration mechanism for all the remaining lands in the north.<sup>22</sup> The process of devolution and its many variate forms has provided much of the requisite transfer of power and control from the federal government to territorial and self-governing entities and is aimed at furthering self-fulfillment and self-determination for

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\* C. Mark Macneill is the Executive Director of the Kivalliq Business Development Centre, Rankin Inlet, Nunavut Territory, Canada. He is also a part-time law student with the University of Ottawa, Faculty of Civil Law, National Program (LL.L. degree). His prior degrees include: an LL.M., University of Denver (Envir & Nat. Res. Law & Policy); LL.M., University of Miami (Foreign Lawyers Program – US & Comparative Legal Systems); LL.B., University of Edinburgh, Scotland, UK.; M.P.A., Carleton University, Ottawa, CA; and M.B.A., St. Mary's University.

He was one of five winners selected in 2007 for the annual national law student writing competition hosted by the American Bar Association's Section on Energy, Environment & Resources for his paper entitled "Gaining Command & Control of the Northwest Passage: Strait Talk on Sovereignty." Macneill is a dual US and Canadian citizen and hails from Cape Breton Island, Nova Scotia, Canada. He wishes to thank Adam Fraser LL.B./B.C.L., Kim Dalgleish, J.D. and Kristof Karcza, M.B.A., for their encouragement to research and write.

our indigenous people.<sup>23</sup> Yet, the Canadian government has been advised that these communities are ready for further devolution, which includes the acquisition of greater levels of responsibility, corroboration, and management of Canada's northern and Arctic region.<sup>24</sup>

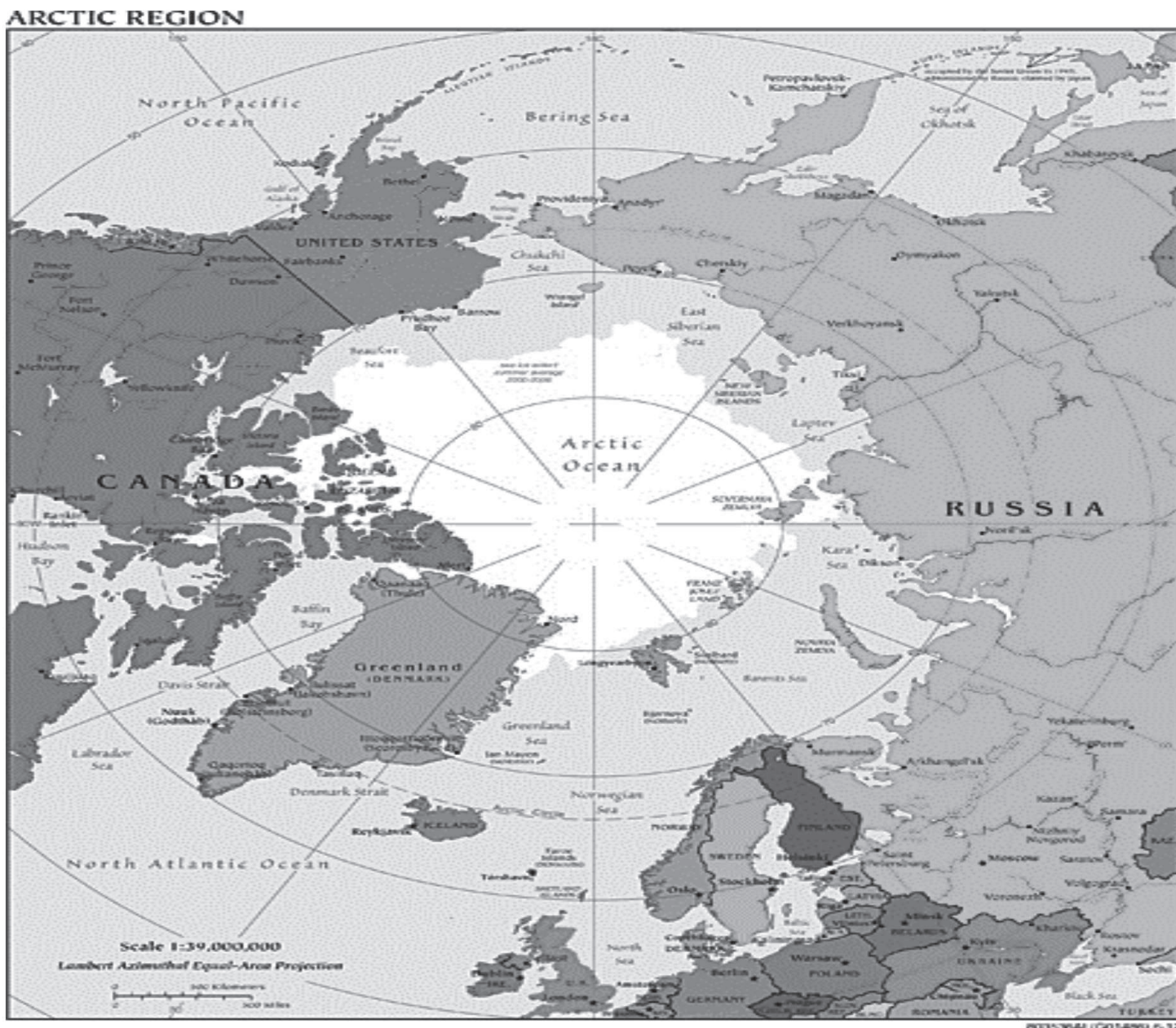
A challenge for Canada's indigenous governance structures is to implement current and future devolution measures in an effective manner. This can be accomplished by further development of indigenous management capacity to implement devolved powers and within structures suited to the uniqueness and diversity of indigenous cultures of the North. For the federal government, it is a matter of balancing and managing the myriad and plethora of multi-agreements, stakeholders, and associated regulations and legislation.

The Arctic represents one of the last frontiers of contemporary global economic expansion. This has been accelerated by climate change,<sup>25</sup> resulting in new ice-free arctic

shipping routes. Technological advances in communications and resource extraction have spurred increasing exploration and resource extraction, in response to a global consumptive demand from a burgeoning world population.<sup>26</sup> As a result, a race for the untapped resources of the Arctic and Antarctic has emerged.

The Arctic, along with the Antarctic, are part of our planet's circumpolar world. The term also generally includes the subarctic and the neighboring northern lands of the world's 8 northernmost nations; Canada, Finland, Denmark (including Greenland and Faroe Islands), Iceland, Norway, Russia, Sweden, and the United States.<sup>27</sup> See Exhibit 1. The critical issues facing the circumpolar regions are sustainability, subsistence living, community health and wellbeing, and self-government, all of which must be balanced with a diverse array of dominating variables such as climate change, economics, political, and social development.<sup>28</sup>

### EXHIBIT 1: MAP OF ARCTIC REGION<sup>29</sup>





At an international level, the circumpolar region is closely monitored and corroboratively guided to a large extent by the Arctic Council,<sup>30</sup> which is referred to as a supranational governance structure.<sup>31</sup> It is a multilateral organization created and comprised of the eight Arctic circumpolar states previously identified and six indigenous organizations that are designated as permanent participants.<sup>32</sup>

Other supranational entities which have emerged in response to ever growing interest in the Arctic are: the Barents-Euro Arctic Council (regional cooperation among Norway, Sweden, Finland & Russia); The Northern Forum (circumpolar forum of regions with Alaska as the headquarters); Nordic Council (five Nordic States plus Greenland & Faroe Islands).<sup>33</sup> The EU is also interested in cultivating an active role in the Arctic and is developing Arctic policy on the preservation of Arctic resources,<sup>34</sup> which is branding the Arctic as the 'Global Arctic'.<sup>35</sup>

The race for the Arctic goes beyond the supranational organizations and riparian states. Other nations, such as China, are interested in becoming involved<sup>36</sup> and will likely push for an international model of Arctic global management more similar to that of the Antarctic model. First, it is interest to distinguish that the Antarctic is not owned in by any nation. Second, the Antarctic features several conflicting national claims of sovereignty without any nation having any prior history of settlement, occupation and/or use of the continent. This led to collaboration between claimant states with vested interests. Rather than disputing and developing conflict, they resolved to alternatively work collectively together.<sup>37</sup> In contrast, the eight Arctic nations have long established sovereignty and history of governance in the Arctic circumpolar region, and these riparian nations have much at stake. *See Exhibit 2.*

## EXHIBIT 2: ARCTIC SEA ICE EXTENT IN SEPTEMBER 2008, COMPARED WITH PROSPECTIVE SHIPPING ROUTES AND OIL AND GAS RESOURCES<sup>38</sup>



The governance structure in the circumpolar north is shaped and directed by the Law of The Sea (United Nations Convention on the Law of the Sea).<sup>39</sup> It is also shaped by general international laws and precedence recognized by the International Court of Justice.<sup>40</sup> Also influencing the circumpolar north governance structure are a myriad of domestic state tools for power and controls, along with their respective economic, environmental, and national security policies.

The Arctic is also a prized laboratory of a sort for scientific and technological innovations and developments. The scientific community is relying closely on the Arctic as akin to a climate

barometer and is able, for instance, to take ice, permafrost, air, and land core samples for chronological scientific comparative analysis.<sup>41</sup> Global warming is also leading to new exploration and drilling techniques developed as nations and corporations race toward the vast quantities of energy, metals and minerals in the north.<sup>42</sup> Energy and resource extraction has to be balanced with an ever increasingly fragile global ecological system, unique indigenous cultures, and socio-economic considerations for the region.

CIRNAC and ISC were partitioned from INAC to develop deeper relations and higher levels of collaboration with

indigenous people, to build stronger and healthier northern communities, and to fulfill their aspirations. However, these challenges remain largely unsolved. Critical health care<sup>43</sup> and housing issues<sup>44</sup> continue to prevail in the Arctic.<sup>45</sup> The new Arctic Policy Framework is intrinsically myopic because its

focus is primarily inward (intra-Canadian relations), and it does not focus nor adequately address the rapidly manifesting geopolitical pressures on Canadian arctic sovereignty from external foreign sources.<sup>46</sup>



## ENDNOTES

- <sup>1</sup> See Naomi W. Metallic, *Making The Most Out Of Canada's New Department Of Indigenous Services Act*, YELLOWHEAD INST. (Aug. 12, 2019), <https://yellowheadinstitute.org/2019/08/12/making-the-most-out-of-canadas-new-department-of-indigenous-services-act/>.
- <sup>2</sup> See CROWN-INDIGENOUS RELATIONS AND N. AFFAIRS CAN., <https://www.canada.ca/en/crown-indigenous-relations-northern-affairs.html> (last visited Mar. 13, 2020) (displaying CIRNAC's official webpage).
- <sup>3</sup> See INDIGENOUS SERVS. CAN., <https://www.canada.ca/en/indigenous-services-canada.html> (last visited Mar. 13, 2020) (displaying ISC's official webpage).
- <sup>4</sup> See Press Release, Prime Minister of Can., New Ministers to support the renewed relationship with Indigenous Peoples (Aug. 28, 2017), <https://pm.gc.ca/en/news/backgrounders/2017/08/28/new-ministers-support-renewed-relationship-indigenous-peoples> (announcing new governmental institutions because "the level of ambition of this government cannot be achieved through existing colonial structures").
- <sup>5</sup> See generally *Canada's Arctic and Northern Policy Framework*, CROWN-INDIGENOUS RELATIONS AND N. AFFAIRS CAN. (2019), <https://www.rcaanc-cirnac.gc.ca/eng/1560523306861/1560523330587> [hereinafter *Arctic and Northern Policy Framework*] (describing the vision and goals of the Arctic Policy Framework).
- <sup>6</sup> See *Toward a new Arctic Policy Framework*, CROWN-INDIGENOUS RELATIONS AND N. AFFAIRS CAN. (2019), <https://www.rcaanc-cirnac.gc.ca/eng/1499951681722/1537884604444>.
- <sup>7</sup> See Karen Everett, *Canada's Arctic Policy Framework: A New Approach to Northern Governance*, THE POLAR CONNECTION (May 18, 2018), <http://polarconnection.org/canada-arctic-policy-framework/> (explaining how the Framework compares to the previous strategy).
- <sup>8</sup> See *Arctic and Northern Policy Framework: Inuit Nunangat*, INUIT TAPIRIIT KANATAMI (2019) <https://www.itk.ca/wp-content/uploads/2019/09/20190925-arctic-and-northern-policy-framework-inuit-nunangat-final-en.pdf> (detailing that Inuit Nunangat makes fifty-one communities spread across northern Canada and "makes up nearly one third of Canada's landmass and fifty percent of its coastline").
- <sup>9</sup> See Press Release, United States-Canada Joint Arctic Leaders' Statement (Dec. 20, 2016), <https://obamawhitehouse.archives.gov/the-press-office/2016/12/20/united-states-canada-joint-arctic-leaders-statement> (announcing that Canada's new APF will include priorities identified by the Minister of Indigenous and Northern Affairs' Special Representative and will include an Inuit-specific component).
- <sup>10</sup> See *Toward a new Arctic Policy Framework*, *supra* note 6.
- <sup>11</sup> See Darrell Greer, *Health care staffing crisis*, NUNAVUT NEWS (Jan. 25, 2019), <https://nunavutnews.com/nunavut-news/health-care-staffing-crisis/>.
- <sup>12</sup> See Jim Bell, *Inuit housing shortage is a public health crisis, says Canadian Senate report*, ARCTIC TODAY (Mar. 3, 2017), <https://www.arctictoday.com/inuit-housing-shortage-is-a-public-health-crisis-says-canadian-senate-report/>.
- <sup>13</sup> See *Nunavut Inuit Labor Force Analysis Report: Executive Summary: August 2018*, GOV'T OF CAN. (2018), <https://www.canada.ca/en/employment-social-development/corporate/reports/research/nunavut-inuit-labour-force-analysis-summary.html> (discussing demographics of the Nunavut population).
- <sup>14</sup> See Derek Neary, *Nunavut's 'ugly' double-digit unemployment rate must come down, says Main*, NUNAVUT NEWS (Feb. 23, 2020), <https://nunavutnews.com/nunavut-news/nunavuts-ugly-double-digit-unemployment-rate-must-come-down-says-main/> (illuminating Nunavut's high unemployment rate).
- <sup>15</sup> See also *Social Determinants of Inuit Health in Canada*, INUIT TAPIRIIT KANATAMI (Sep. 2014), [https://www.itk.ca/wp-content/uploads/2016/07/ITK\\_Social\\_Determinants\\_Report.pdf](https://www.itk.ca/wp-content/uploads/2016/07/ITK_Social_Determinants_Report.pdf) (exploring factors of Inuit well-being).

- <sup>16</sup> See *Inuit Employment*, GOV'T OF NUNAVUT, DEP'T OF HUMAN RES. (last visited Mar. 9, 2020), <https://www.gov.nu.ca/human-resources/information/inuit-employment> (explaining Article 23 in reference to Inuit Employment).
- <sup>17</sup> See generally Nunavut Land Claims Agreement art. 23, Tunngavik Fed'n of Nunavut-Can., May 25, 1993, <https://gov.nu.ca/sites/default/files/files/013%20-%20Nunavut-Land-Claims-Agreement-English.pdf> (incorporating Nunavut involvement in government).
- <sup>18</sup> See generally Nunavut Land Claims Agreement, art. 24, *supra* note 17 (discussing Nunavut involvement with government contracts).
- <sup>19</sup> Nunavut Land Claims Agreement, art. 23, *supra* note 17.
- <sup>20</sup> Beth Brown, *Inuit employment, staff retention a focus for Nunavut's new HR department*, NUNATSIAQ NEWS, (July 13, 2018), [https://nunatsiaq.com/stories/article/65674inuit\\_employment\\_staff\\_retention\\_a\\_focus\\_for\\_nunavuts\\_new\\_hr\\_department/](https://nunatsiaq.com/stories/article/65674inuit_employment_staff_retention_a_focus_for_nunavuts_new_hr_department/) (identifying staff retention as a concern); see also *Human Resource Capacity—Government of Nunavut*, OFFICE OF THE AUDITOR GEN. OF CAN. (Mar. 2010), [https://www.oag-bvg.gc.ca/internet/English/nun\\_201003\\_e\\_33568.html](https://www.oag-bvg.gc.ca/internet/English/nun_201003_e_33568.html) (noting that staffing shortages are an on-going problem, and that 800 positions (twenty-three percent) were vacant at the end of March 2009).
- <sup>21</sup> See INUIT TAPIRIIT KANATAMI, *supra* note 8.
- <sup>22</sup> See generally Nunavut Land Claims Agreement art. 5, 7, 8, 21, 25, *supra* note 17.
- <sup>23</sup> See *Nunavut devolution*, GOV'T OF CAN. (2019), <https://www.rcaanc-cirnac.gc.ca/eng/1352471770723/1537900871295> (describing the policy objectives of transferring responsibilities to the territories).
- <sup>24</sup> See generally Masami Iwasaki-Goodman, *Resource Management for the Next Generation: Co-Management of Fishery Resources in the Western Canadian Arctic Region*, 67 SENRI ETHNOLOGICAL STUD. 101 (2005) (illuminating the role of native peoples in Western Canadian resource management).
- <sup>25</sup> See *Canada's Arctic and Northern Policy Framework*, *supra* note 5 ("The Canadian North is warming at about 3 times the global average rate, which is affecting the land, biodiversity, cultures and traditions. At the same time, climate change and technology are making the Arctic more accessible.").
- <sup>26</sup> See *Exploitation of the Arctic must be reined in*, NEW SCIENTIST (Oct. 3, 2012), <https://www.newscientist.com/article/mg21628853-800-exploitation-of-the-arctic-must-be-reined-in/> (discussing the negative impacts of global consumption on the Arctic).
- <sup>27</sup> See *The Circumpolar North*, UARCTIC (last visited Jan. 23, 2020), <https://education.uarctic.org/circumpolar-north/> (defining the Circumpolar World and the Circumpolar North).
- <sup>28</sup> See generally *Climate Change and Arctic Sustainable Development: scientific, social, cultural and educational challenges*, UNESCO (2009), <https://unesdoc.unesco.org/ark:/48223/pf0000186364> (listing topic issues for climate change and the Arctic).
- <sup>29</sup> *Arctic Political Region*, CIA WORLD FACTBOOK (last visited Mar. 14, 2020), [https://www.cia.gov/library/publications/the-world-factbook/attachments/images/large/arctic\\_region-political.jpg?1547145647](https://www.cia.gov/library/publications/the-world-factbook/attachments/images/large/arctic_region-political.jpg?1547145647).
- <sup>30</sup> See generally ARCTIC COUNCIL <https://arctic-council.org/index.php/en> (last visited Jan. (listing participants of the Arctic Council)). <https://arctic-council.org/index.php/en>.
- <sup>31</sup> See Bernard P. Herber, *Economic Change in the Arctic: Is the Antarctic Governance Model Needed?*, UDALL CTR. FOR STUDIES IN PUB. POL'Y 1, 5 (2013), [http://udallcenter.arizona.edu/eppubs/herber\\_economic\\_2013.pdf](http://udallcenter.arizona.edu/eppubs/herber_economic_2013.pdf) (discussing governance issues of the Arctic).
- <sup>32</sup> See *id.* at 11.

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