



Hybrid Sovereignties and Inuit Land Claims: Native Corporations and Resource Co-management as a Continuation of State Expansion ‘by Other Means’

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INTRODUCTION

For over three centuries, there has been an ongoing process of globalization, economic integration, and institutional modernization under way across mainland and maritime Arctic North America that has resulted

The pioneering structures of hybrid sovereignty introduced by Inuit Land Claims Agreements enhance Arctic sovereignty through mutual and reciprocal recognition of indigenous and State rights and the emergence of collaborative governing structures uniting indigenous and state interests in both economics and politics.

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from the colonial expansion of Westphalian states from Europe into the northernmost reaches of North America (from Alaska's westernmost terminus in the Bering Sea, to Greenland in the high North Atlantic), initially via proxies such as colonial-era Crown-chartered companies with monopoly trading rights, and offshore fleets of whaling and fishing vessels.

Economic dependency and collateral losses from diseases introduced by the representatives of those early proxies of the state were common and notoriously destructive, as were later efforts to forcibly assimilate natives through aggressive social and educational policies (also implemented by proxies, in this case various churches – resulting in generational separation, loss of cultural continuity, and a tragic loss of life only now being recognized as hundreds of unmarked graves are being unearthed across Canada). But without the even more horrific traumas of frontier warfare, known collectively as the Indian Wars in the United States which continued as the new state's frontier was pushed by armed force further and further West, annihilating all forces of indigenous armed resistance in its path, it became possible for an alternate history to unfold,¹ one shaped primarily by the reciprocity of trade that took place at trading posts that would in time dot the entirety of Arctic and sub-Arctic North America, whether under the flag of the Russian-American company in what is now Alaska, or the Hudson's Bay Company (and for a time, the Northwest Company with which it later merged) in northern Canada.²

However, the long-term economic interests of these commercial trading entities favored restrictions on the influx of settlers, moderating the colonial experience and mitigating the excesses associated with waves of human settlement as experienced in more southern latitudes and which

¹ Barry Scott Zellen, "Clan, the State, and War: Lessons from the Far North," *Joint Forces Quarterly* 58, July 2010, 20–21.

² For a colonial history of the Canadian side of the Fur Empires, see the following: Peter C. Newman's *Company of Adventurers* (Markham, ON: Viking/Penguin, 1985) and *Empire of the Bay* (Markham, ON: Penguin Books Canada, 1998), and Kenneth S. Coates, *Canada's Colonies: A History of the Yukon and Northwest Territories* (Toronto: Lorimer, 1985); for the Alaska/Russian-American side, see: John R. Bockstoe, *Furs and Frontiers in the Far North: The Contest Among Native and Foreign Nations for the Bering Strait Fur Trade* (New Haven: Yale University Press, 2009); Dorothy M. Jones, *A Century of Servitude: Pribilof Aleuts Under U.S. Rule* (Lanham, MD: University Press of America, 1981); and Barbara Boyle Torrey and Agafon Krukoff, *Slaves of the Harvest* (Anchorage: Tanadgusix (TDX) Corporation, 1980).

yielded the kinetic and highly destructive frontier wars between settlers and indigenous peoples in what became the United States.³ Colonization by proxy, while not without its challenges and traumas to the indigenous peoples of the North, offered one notable advantage to the region's first peoples: a near absence of dispossession from traditional lands or loss of political autonomy (though policies of assimilation including residential schooling led to generations of indigenous students being taken from their home communities, experiencing a separation from their land no less traumatic than dispossession).

TRADING POSTS AND WHALING SHIPS: REMOTE PLATFORMS OF GLOBALIZATION AND SOVEREIGNTY

Whether trading posts or whaling ships, for generations prior to the emergence of self-governing Westphalian states in North America after 1867, we observe a mix of smaller platforms of sovereignty by proxy that served as the primary (and in some cases, sole) interface between the old world and the new world of the Arctic. Some writers, like Western Arctic historian John Bockstoe, have observed that even before the arrival of whaling vessels, trading posts, and ships of exploration from the fast modernizing and globalizing outside world, there were numerous trade links connecting indigenous peoples and polities with their counterparts both across the Bering Strait and to the south in North America:

I met a number of Natives who many years before had participated in the fur trade ... when their existence had been simpler and harder, yet to them was remembered fondly. The fur trade of Bering Strait was one aspect of the European expansion into the most remote regions of Asia and America. At times, it involved the contest for dominion between Russia and Great Britain, but at its basis was always the search for profit – in whatever way it was defined by the participants. Far beyond the Europeans and Americans who sought to buy furs, ivory or whalebone for the markets of the south, members of fifty native nations provided these commodities to one another – and to foreigners – in return for goods that they required or

³ For additional details on this history, see Barry Scott Zellen, “Multinational Corporations in the Arctic: From Colonial-Era Chartered Companies to Contemporary Co-management and Collaborative Governance,” Chapter 11 in *The Palgrave Handbook of Arctic Policy and Politics* (Palgrave Macmillan, 2020), Ken Coates and Carin Holroyd, eds., 157–173.

desired. ... No matter which goods were exchanged, these transfers were almost universally regarded as advantageous by both parties.⁴

As Bockstoce has observed, the colonial-era fur empires that ruled much of Arctic North America were each powered by a vast network of indigenous hunters and trappers – some like the Unangax[^]/Aleuts have been described by historians as virtual slaves,⁵ displaced from their homelands by the conquering Russians and coerced by them into a lifetime of forced labor. Others, like the trappers of Rupert's Land and the old North-Western Territory, maintained much of their autonomy even as they became integrated with a globalized economy, and ever more dependent on its trade goods – but as a result of these northern chartered companies' dependency upon native labor, both sides of the Russian-American/British North America boundary would ultimately only lightly settle their colonial dominions, in part due to their respective efforts to ensure the sustainability of wildlife resources that fueled their economies, with Russian-American Company (RAC) settlers never totaling more than 5,000 and the Hudson's Bay Company (HBC) said to have peaked at only 3,000 despite the vast extent of their territories. Both fur empires, in spite of their vast differences in governance and asymmetries in their respect for indigenous traditions, remained united in their mutual decision to – settle the region only lightly, protecting the fur-bearing ecosystems upon which they depended by holding back the pace of colonial settlement. Both RAC and HBC would overharvest and locally decimate wildlife populations, forcing their trappers and hunters to seek new, untapped ecosystems further afield, but like farmlands left fallow, they would return once replenished.

The existence of such a vast network connecting northern furs to Eurasian markets, and its continuity (under direct Russian control) after its colonial expansion to Alaska (and beyond, to the Russian River settlement in California where any further expansion was contained by the northernmost reach of Spain's American Empire), suggests a continuous and enduring globalized political economy linking the self-governing era of pre-contact indigenous polities to the colonial era, when the earliest multinational companies (MNCs), the crown chartered companies, first

⁴ Bockstoce, *Op. Cit.*, xv–xvi.

⁵ Torrey and Krukoff, *Op. Cit.*

reached into the Arctic.⁶ But even the light demographic intrusion of the sort initiated by the early Russian fur traders and the HBC's "company of adventurers" who would come to dominate the interior, as well as the coastal whalers who traded seasonally by sea (and occasionally overwintering, though usually not by choice), could bring calamity even without the direct displacement experienced farther south (as exemplified by the Cherokee "Trail of Tears"⁷), particularly as new diseases carried by agents of these many early modern multinationals – whether fur traders, whalers or miners – devastated long-isolated Native populations lacking prior exposure and therefore at great immunological risk, whether by smallpox, tuberculosis, influenza, or other diseases. But in spite of these dangers, globalization would continue to integrate the northern and southern economies, establishing a pattern that is retained in the post-land claims Arctic, where land claims treaties, at once a tool of state expansion and consolidation as well as a tool of decolonization and indigenous empowerment, retained the corporation as a central component of their structure.

The arrival of both mobile maritime and remote terrestrial platforms of trade and proxy sovereign representation had a profound and transformative effect on the peoples and politics of indigenous Arctic North America, integrating remote and primarily subsistence-oriented northern economies with the Westphalian world. These various platforms, whether on land or sea, would establish trade links that endured for generations, reshaped empires, and drew new boundaries that would in time become today's border across Arctic North America. Both Russian-America, under the administration of the Russian-American Company (RAC), and British North America (and in particular, the North-Western Territory adjacent to Rupert's Land), under the dueling administrations of the Hudson's Bay Company (HBC) and its arch-rival, the North West Company (which operated independently from 1779 to 1821 before finally merging with HBC after a protracted, low-intensity conflict between the two competing companies), enjoyed quasi-sovereign control for centuries via Crown-chartered trading monopolies, represent what Edward Cavanagh calls

⁶ Zellen, *Op. Cit.*

⁷ See the Cherokee Historical Association website for more information on this tragic episode of forced displacement, <https://www.cherokeehistorical.org/learn-more-about-the-choerokee-indian-removal-and-the-tragic-trail-of-tears/>.

“company-states.”⁸ They’re not entirely sovereign, but in many important ways they exercised sovereignty – whether in the administration of justice, the management of regional economies and international trade, and in defense and security matters – while serving as proxies for distant sovereigns whose economic, military and diplomatic support undergirded their quasi-sovereign efforts. This model of governance would come to define in many of the same ways the nature of governance in Arctic North America, with a preponderance of corporate entities, such as natural resource exploration and extraction companies in quest of resources reminiscent of the fur empires and whale trade (itself a predecessor of the modern petroleum trade), wielding enormous local and regional influence over relatively weak governing entities.

COMPANY-STATES OF THE FUR TRADE: COLONIZATION BY GENTLER MEANS?

The experience was not entirely unlike that experienced elsewhere in the colonial world, such as India under the British East India Company (EIC), as one such scholar, Nick Robins, has argued: “The East India Company, romantic as it may seem, has more profound and disturbing lessons to teach us. Abuse of market power; corporate greed; judicial impunity; the ‘irrational exuberance’ of the financial markets; and the destruction of traditional economies (in what could not, at one time, be called the poor or developing world): none of these is new. The most common complaints against late 20th- and early 21st-century capitalism were all foreshadowed in the story of the East India Company more than two centuries ago.”⁹ But whereas the EIC is widely perceived as an exploitative colonizer that subjugated the peoples of its colonies, the HBC, and to a lesser degree, the RAC, are looked back with more nostalgia by both indigenous and non-indigenous alike, though not necessarily with equal enthusiasm. While Bockstoce, as noted above, illustrates the deep and enduring participation by indigenous peoples in the fur trade and the mutuality of gain enjoyed by both indigenous

⁸ Edward Cavanagh, “A Company with Sovereignty and Subjects of Its Own? The Case of the Hudson’s Bay Company, 1670–1763,” *Canadian Journal of Law and Society* 26: 1 (2011), 25–50.

⁹ Nick Robins, “The World’s First Multinational,” *New Statesman*, December 13, 2004, <https://www.newstatesman.com/politics/politics/2014/04/worlds-first-multinational>.

and non-indigenous participants of that trade, critics point out there are fundamental asymmetries and inequalities in the power relationship between the two. As Melissa Gismondi has noted:

While the HBC provided urban shoppers with a range of goods, many Indigenous Peoples maintained a different relationship to the company, particularly those in northern communities where the HBC trading post was the only store around. As related in *The Other Side of the Ledger*, a 1970 documentary produced by Canada's National Film Board, the HBC operated some 100 stores in Indigenous communities into the 20th century. Charging the company with setting low prices for furs and high prices for their goods, a process that kept Indigenous consumers in a perpetual state of debt, narrator George Manuel, then-President of the National Indian Brotherhood, notes, 'The Hudson's Bay Company has almost complete economic control and through this power governs the lives of our people.' Ojibwe artist and scholar Duke Redbird, who appears in the documentary, says this relationship persisted until 1987, when the HBC sold its interests in Canada's fur trade and northern trading posts to an American company.¹⁰

As Gismondi described, the "history of the HBC is messy and complicated. It has moments of compassion, but also competition and contention. It's the history of global capitalism, North American colonialism and the British Empire."¹¹

The chartered companies would collaborate with the indigenous peoples whose resources they coveted, and in time, that collaboration would give way to distinctly northern style of co-management and collaboration. That is why perhaps even today, the HBC, an icon of Arctic colonial history, retains its popularity across Arctic North America, as does the HBC store and its descendants – first as "The Bay," and later among the 178 former North West Company stores (which merged with HBC in 1821), as the "Northern" store (until being sold off by HBC in 1987, to form a separate company, resurrecting "The North West

¹⁰ Melissa Gismondi, "The Untold Story of the Hudson's Bay Company: A Look Back at the Early Years of the 350-year-old Institution that Once Claimed a Vast Portion of the Globe," *Canadian Geographic*, May 2, 2020, <https://www.canadiangeographic.ca/article/untold-story-hudsons-bay-company>.

¹¹ Ibid.

Company” name, causing much grumbling in the northern communities when it was learned the stores could no longer be popularly known as the Bay).¹² Even under new ownership, however, the former HBC stores have remained vital to the communities they served, and remained a welcome and important part of the northern business community, in marked contrast to how the liberated, post-colonial citizens of India felt about the British East India Company, or the displaced Aleut/Unangax^ community felt about the Russian-America Company, after their departures – though in the latter case, Alaska’s Native communities remained divided from the very arrival of Russian traders from across the Bering Sea, on whether their arrival was a risk or opportunity for Alaska natives.

This division on the merits of economic integration with the trading companies of the Fur Empires would at times lead to armed clashes not only between Natives and Russian traders, but intra-native clashes as well.¹³

The emergence of a new community of Metis in the former HBC territories, or Creoles as they are known in the former RAC territories,¹⁴ would further complicate the narrative, with the emergence of a new, hybrid demographic community occupying a middle ground between the chartered companies of the colonial eras, and the indigenous peoples they encountered. HBC, perhaps more than RAC, aspired to provide natives of what would later become Canada’s northern territories a protective, mutually beneficial, and sustainable relationship based on the enduring, multigenerational reciprocity of its commercial relationship with the hunters and trappers of Rupert’s Land, facilitating a lighter and less intrusive form of colonization that required not the subjugation, displacement, or enslavement of the native population, and much more than the mere survival of the indigenous people of the North: namely their sustained

¹² See Northwest Company, “History,” northwest.ca/about-us/history.

¹³ As discussed by Alan Boraas and Aaron Leggett, “Dena’ina Resistance to Russian Hegemony, Late Eighteenth and Nineteenth Centuries: Cook Inlet, Alaska.” *Ethnohistory* 60: 3 (July 2013), 485–504.

¹⁴ On Creoles in Russian-America, see: Susan Smith-Peter, “Creating a Creole Estate in early nineteenth-century Russian America,” *Cahiers du Monde Russe* V51, N2-3 (2010), 441–459; John McGraw, “The Creoles and the Cross: The Role of Russian-Alaska Native Creoles and the Orthodox Church in Colonial Russian Alaska,” Undergraduate Thesis in History, University of Florida, 2011; and Margaret Mary Wood, “The Russian Creoles of Alaska as a Marginal Group,” *Social Forces* 22: 2 (December 1943), 204–208.

and supportive participation in the newly globalized commercial activities that would come to define the northern political economy for later generations. Critics would, and continue to, note the many asymmetries and new dependencies that emerged, but as Bockstoce noted above, both sides found advantages in the economic intertwining of their worlds.¹⁵

Perhaps the biggest advantage is that it prepared peoples on both sides of these trading relationships for the world to come. Trading posts, like whaling ships and other fascinating, remote, and/or mobile platforms of globalization that defined the colonial Arctic, set the stage for the Arctic's modernization. While the fur empires brought either mobile maritime or remote terrestrial platforms of sovereignty to Arctic North America, serving as an economic bridge between the old world and new, and through the reciprocity of trade moderating the interface between the two and maintaining an equilibrium that was sustained for centuries (and even after left largely intact ecosystems that would provide much future wealth to the sovereign states that arose on this colonial edifice), as noted they also introduced new risks, particularly those associated with unknown pathogens or illicit substances like alcohol or opium, which while opposed by the major chartered companies which shared, relative to some of their less ethical peers, a commitment to the wellbeing of the indigenous peoples of the North. But while war was more a feature of the continental expansion of the young United States as it sought to overpower and dispossess the indigenous polities to its west, its presence in Arctic North America was the exception and not the rule. But as an exception, it would on occasion disrupt the pacific calm that otherwise characterized the Arctic region and the exceptionalism for which it has become known.

One notorious example is that which took place during the U.S. Civil War, when the Confederate commerce raider, *CSS Shenandoah*, took aim at the Yankee Arctic whaling fleet in a desperate gambit to compel the North to negotiate an end to the war by attacking its lucrative whale oil trade at its source, off shore of what was still Russian-America.¹⁶ Thus the colonial world of¹⁶ the Arctic trading posts and whaling ships presents

¹⁵ John Bockstoce, Op. Cit., xvi.

¹⁶ Among the many works on the fascinating cruise of the *Shenandoah*, see the following: Dwight Sturtevant Hughes, *A Confederate Biography: The Cruise of the CSS Shenandoah*. Annapolis, Maryland: Naval Institute Press, 2015; William C Whittle (eds. D. Alan Harris and Anne B. Harris), *The Voyage of the CSS Shenandoah: A Memorable Cruise*.

us with a fascinating episode (and brief counternarrative), where a rogue state (in this case, the briefly sovereign Confederate States of America) exploited the absence of effective sea control by the quasi-sovereign crown chartered companies, particularly RAC (though unbeknownst to RAC, HBC was actively trading in and around Fort Yukon, deep in RAC territory), which possessed nominal sea power assets barely sufficient to sustain the economic bridge between colonial territories and the Russian mainland, leaving no capacity for naval protection of remote coastal regions from a rogue external actor like *Shenandoah*. And while both RAC and HBC exercised reasonable (if not absolute, as HBC's trading presence on Russian-American territory illustrates) territorial control, offshore lay a veritable maritime free-for-all allowing for nearly ubiquitous free access by foreign-flagged vessels, enabling the waters off RAC lands to become a virtual American lake benefitting the Yankee whalers, and, in the case of the *Shenandoah*, drawing the attention of a foreign belligerent. Onshore there were disputes over contested lands as well, as seen during the decades-long battle over the North-West Territory between the HBC and its rival, the Northwest Company, which continued by proxy the long Anglo-French rivalry in the New World after the French and Indian War formally concluded. In later years, similar free-for-alls emerged with the various gold rushes in which gold panners (often from the U.S.) flowed north into new areas of the North, regardless of their nationality. The Klondike gold rush of 1898 was thus largely an American economic experience though it took place on Canadian soil,¹⁷ and just off the Yukon North Slope on Herschel Island, where overwintering whalers, also predominantly American, established a persistent presence that made Canadian authorities nervous.

The success of the *Shenandoah* mission illustrates the anarchy that can emerge in lightly settled colonial polities, revealing a risk to what is otherwise, on the whole, an advantage to these polities that benefited

Tuscaloosa: University of Alabama Press, 2014; Tom Chaffin, *Sea of Gray: The Around-the-World Odyssey of the Confederate Raider Shenandoah*. New York: Hill and Wang, 2007; Angus Curry, *The Officers of the CSS Shenandoah*. Gainesville: University Press of Florida, 2006; Lynn Schooler, *The Last Shot: The Incredible Story of the CSS Shenandoah and the True Conclusion of the American Civil War* (Waterville, ME: Thorndike Press, 2005); and James I. Waddell, *C.S.S. Shenandoah: The Memoirs of Lieutenant Commanding James I. Waddell*, James D. Horan, ed. (Annapolis: Naval Institute Press, 1960).

¹⁷ Kenneth S. Coates, *Canada's Colonies: A History of the Yukon and Northwest Territories* (Toronto: Lorimer, 1985).

native people. Russia, always worried about British expansion toward its flanks, saw in the reunification of the United States in 1865, an opportunity to create a buffer state by its sale to the newly reunited nation its colony in Alaska, leveraging American power to contain continued British expansion and leveraging to Moscow's advantage the *de facto* American maritime presence in RAC waters, which was until then a liability to RAC. More often than not, whale ships were challenged by sea ice, the unpredictability of Arctic weather, the vagaries of whale migrations, and the potential for hostile reactions by natives, but generally not war ships (even converted, unarmored, lightly armed raiders like *Shenandoah* which had more bark than bite). So they remained vulnerable to what was perceived to be an unlikely risk. The undefended nature of the Yankee whaling fleet is what made it such a tempting target to the Confederacy, much like the Saudi oilfields today (as the Iranians realized when launching a cruise missile raid in 2019¹⁸ and one might argue, remote oil and gas infrastructure in both Alaska and Siberia. As one sees in the few surviving *Shenandoah* officer diaries that remain today, many a Yankee whaler regretted surrendering to what they thought was a *bona fide* war ship upon realizing the *Shenandoah* used deception to feign greater destructive capabilities than it really possessed, being at heart a vessel of commerce designed for the Bombay spice trade, and barely armored.¹⁹

When thinking about colonial-era fur trading companies and their intriguing quasi-sovereign status (as Cavanagh, above,²⁰ has described with his aptly-described “company-state” concept), consider their historic role in the ongoing process of globalization of the Arctic, integrating the Arctic interior and coastal regions with the global economy well ahead of formal state presence in, and direct sovereignty over, the region. In many ways, the cruise of the *Shenandoah* smashed this architecture,

¹⁸ Tamir Eshel, “Attack on Saudi Oil Refineries Proves the Devastating Potential of Iranian Cruise Missiles,”

Defense-Update.com, September 14, 2019, https://defense-update.com/20190914_arco_attack.html

¹⁹ For a video introduction to the cruise of the CSS *Shenandoah*, see The History Guy, “Last shots of the American Civil War and the CSS *Shenandoah*” (Updated), <https://www.youtube.com/watch?v=oJWjTp7DHEk>. On the newest addition to the surviving officer and crew memoirs from the *Shenandoah*, Karen Percy, “Crew Diary Sheds Light on *Shenandoah* Links to Melbourne,” *ABC News Australia*, <https://www.youtube.com/watch?v=yEBX2QTMrQo>.

²⁰ Boraas and Leggett, Op. Cit.

revealing the weak grasp that European states had over the seas adjacent to their colonies, and the maritime free-for-all that resulted, with American whaling captains largely in a position of complete autonomy, as were the officers and crew of the *Shenandoah* who were later hunted as pirates once their rogue state collapsed as a sovereign entity, and was forcibly re-integrated into the United States. For the Russians, the American commercial presence reinforced their perception that American interests in the Arctic (and our historical rivalry with Britain) positioned the United States as an appropriate sovereign for its former Alaska colony to evolve from colonial possession to buffer state, one whose renewed unity, military power, and economic influence could protect Russia's northeastern flank from British power.

TRIBALISM MEETS GLOBALISM: GLOBALIZATION THEORY AND ARCTIC GLOBALIZATION

If the trading post (or whaling ship) was central to the globalization experience of the Arctic, and their small staff (and crew) and isolation from the traditional tools of power of the state made them uniquely vulnerable as colonizing agents and particular sensitive to the needs and aspirations of the indigenous peoples who greatly outnumbered them, it becomes clear why the Arctic's foundational structures were largely commercial in nature, driven by the reciprocity of trade more than by the pursuit of power in the traditional Westphalian tradition. Tribal and global interests had to be reconciled then and there; each post, each ship, was a node in a global network that had to strike a balance between these otherwise contending forces to endure. Consider Benjamin Barber's classic ideas on the clash between "McWorld" and "Jihad" as he described in the 1990s, which help us to resolve this inherent state-tribe dialectic with a synthesis.²¹

Instead of a continuing dialectic between globalization and tribalism, or the triumph of one over the other through military victory as we see

²¹ See Benjamin R. Barber, "Jihad vs. McWorld: The two axial principles of our age—tribalism and globalism—clash at every point except one: they may both be threatening to democracy," *The Atlantic*, March 1992, <https://www.theatlantic.com/magazine/archive/1992/03/jihad-vs-mcworld/303882/>, as well as his book length elaboration of his classic article, *Jihad vs. McWorld: Terrorism's Challenge to Democracy* (New York: Time Books, 1995).

in the U.S. expansion, we witness instead the emergence of a synthesis reflected by the proliferation of both “global tribalization” as well as “tribal globalization.” Nationalist backlashes and renewed state rivalry driven by nationalist sentiments may reflect the former (global tribalization), as did the Jihadist movements of the Global War on Terror (GWOT), including the emergence of the Islamic State as a recent, transnational (if ephemeral) sovereign form. The latter, tribal globalization, is evident in the increasing role of tribal peoples and organizations in contemporary diplomacy, whether at the UN (as illustrated by UNDRIP), or at the Arctic Council, with its active and influential Permanent Participants. The colonial-era clash of competing (and, for IR theorists, unusual “levels of analysis”) sets up of an ongoing collision of dueling polities, some tribal, some global, that evolves into a new synthesis that defines the modern North, as states find there is room for competing power centers, whether corporate, native, and/or environmental, that become partners (albeit unequal) in Arctic sovereignty.

It is no coincidence that the emergence of the modern Arctic in North America begins in 1867 with the Alaska purchase and the formation of the Dominion of Canada that very same year, right when the traditional “first wave” of globalization (as agreed to by a wide range of globalization theorists, even when they disagree on the subsequent waves) is said to begin. Just as Barber describes the clash between globalist and tribalist forces in contemporary globalization, we see the same duel play out during the first wave of modern globalization of the late 19th century, of which America’s Arctic expansion is part (driven by Secretary of State Seward’s infamous “folly,” or prescient brilliance, which is often confused with historical folly by contemporaries), as articulated in his 1853 *Destiny of America* speech, which foresaw America’s rise as a global power through dual expansion to its north and south.²² To ascend as a global power, Seward envisioned, the United States was destined to expand north to the polar regions even as it expanded south to the tropics. So just as forces of modernization arrived in Alaska with the conclusion of Russian colonial rule, forces of tribalism were likewise released from the captive tyranny imposed by Russia on the natives of Alaska. This dualistic rise of modernization (and

²² William H. Seward, *The Destiny of America: Speech of William H. Seward, at the Dedication of Capital University, at Columbus, Ohio, September 14, 1853*, <https://www.loc.gov/resource/gdclcn.17018137/?st=gallery>.

closer integration to a modernizing world) and renewal of native traditionalism is part and parcel of the underlying clash of values inherent in globalization.

Reconciling the traditional and modern worlds becomes the mission of the United States and Canada in the Arctic, from the very start of their domestic experiences in 1867. Globalization theory, through the lens of Benjamin Barber, provides us with a helpful analytical tool pitting “McWorld” and “Jihad,” which he explained as a clash between economic integration and its homogenized culture of assimilation to modernizing impulses, and a backlash by forces of tribalization, whether literally by tribal peoples, politics and values, or more figuratively by subnational groups and movements as well as nationalist movements opposed to globalization.

As we think about whaling and the fur empires, the idea of globalization nodes as “platforms of globalization” whether whaling ships or trading posts or church missions, these platforms can become two-way circuits, and be harnessed to serve as “platforms of re-tribalization” as well, as we will see when looking at the native rights movements, Arctic land claims, and the introduction of new systems of native governance. As Boraas and Leggett observed above with the resistance Dena’ina, the only maritime Athabaskan people inhabiting an oceanic coastal region,²³ a resistance that was mirrored by Aleut, Tlingit, and Haida (whether armed, economic, and/or spiritual in nature), we see how the Russian Orthodox faith, an institution of colonial hegemony and part of a colonial era culture war, was ultimately harnessed by natives to serve as a vehicle of cultural protection and re-appropriation, with the Orthodox church becoming a center of native identity that, curiously, survived the end of Russian rule, in part because, as one can see in the text of the Treaty of Cession, church property was protected as community-owned property and not transferred to U.S. sovereign control, in contrast to most other property asset classes, from RAC offices and warehouses to Russian military bases and forts. We also see in the literature on the Aleutians, from the Russian invasion to the Japanese occupation to the American liberation,²⁴ an enduring presence of Russian Orthodox faith as part of

²³ Boraas and Leggett, *Op. Cit.*

²⁴ See Memorial/Conference, Alaska Extreme, “Bombing of Dutch Harbor and Aleut Evacuation,” December 16, 2017, <https://www.youtube.com/watch?v=vnU97AS8iC4>

modern Unangax[^] (Aleut) identity. Thus churches are, in many of the same ways, platforms of theological globalization as much as platforms of cultural synthesis and native identity restoration – in short, “platforms of re-tribalization,” mirroring the same dialectical interactions between globalism and tribalism taking place across the Arctic. Trading posts, too, become more locally controlled, and after native land claims, we see new native corporations rising, and gaining in wealth and influence, enabling the corporation to also become a platform of retribalization, in preview of my later discussion of land claims and native cultural restoration, below – but before jumping ahead on this point, let’s step back and consider the transition to modernity that was ushered forth, in part, by the Alaska purchase.

The bountiful literature on the HBC, its heritage, and its historic charter articulate its ambitions, all part of an effort to discover and utilize new sea lanes to the Pacific, and the ongoing and centuries-long effort to find, chart, navigate, and commercialize a Northwest Passage in the interest of Britain’s Crown strategic interests. As well, it was a commercial venture to profit from the untapped fur resource in the high north, and to extract wealth from the Hudson’s Bay watershed, one that would endure as well for several centuries as the company established its presence, evolved, in fits and starts, with the times and in response to nimbler (and in some cases, less ethical) rivals. In time, it would expand beyond its original footprint to encompass the North-West Territory in addition to its original Rupert’s Land, which would be transferred to Canada much the way title to Russian-colonized Alaska was transferred to the United States, allowing for sovereign expansion by two North American states into the Arctic, completing the official sovereign map of North America.

Intriguingly, these early modern platforms of economic modernization and globalization, the networks of trading posts along the rivers, lakes, and ocean shores of the Arctic region, would become platforms of sovereignty as well. In the maritime domain, as we saw with the first summer cruise of the revenue cutter *Bear*,²⁵ we find the Revenue Cutter Service, the predecessor of the United States Coast Guard, quickly emerging as a principal platform for projecting sovereignty along Alaska’s

²⁵ As described in Katherine C. Donahue and David C. Switzer, *Steaming to the North: The First Summer Cruise of the US Revenue Cutter Bear, Alaska and Chukotka, Siberia, 1886*, Anchorage: University of Alaska Press, 2014.

vast coastal and archipelagic regions, from Southeast all the way up to and beyond the Aleutians to the Arctic coast.

Recalling whaling in the age of Herman Melville's literary imagination,²⁶ we glimpse the fascinating role of whaling ships as solitary, mobile platforms of trade and economic globalization in not just the Arctic but all around the world ocean, with each ship containing a diverse demographic mix representing the globalizing culture of that era, and providing an interface for trade with isolated peoples worldwide. These platforms of globalization were often disconnected from the world of sovereignty, acting as independent nodes and at times violating laws and regulations placed on commercial enterprises, such as the illicit sales of alcohol and arms to natives, which disrupted much of the pacific economic order that HBC had sought to foster over its long presence in the interior. Whalers could thus contribute to a state of anarchy in the maritime Arctic, a situation that the *CSS Shenandoah* exploited – indeed, the *Shenandoah*'s commerce raiding mission may be viewed as pre-Alaska purchase's emergence of a powerful platform of sovereignty that imposed its own dramatic order on the Arctic via its assault on commercial whaling. The revenue cutters, representing the restored and reunified United States, would similarly impose a sovereign order on the same region, same commercial whaling enterprises, and on the indigenous peoples of the coastal and insular regions – but instead of the destructive order of a rogue state at war, or the repressive tyranny of empire, it was a constitutional order of the new sovereign in Alaska, the United States.

When looking back at Alaska after the U.S. purchase, one can't help but be struck by the vibrant, enduring, and central native presence in this newly acquired U.S. territory, as captured by both the literature and historic photos of that era, and the centrality of native issues, and in many ways protection, of the RCS mission. And at the same time, one can't help but be equally struck by the dated, and in so many ways, imperial views of William H. Seward, the architect of the Alaska purchase, as he expressed on his first visit to Alaska two years after its historic purchase. He too, noted the ubiquitous native presence, its diversity, and legacy, but he did not seem so concerned with its future or survival. But at the same time, the excitement and passion of Seward's words can't be missed,

²⁶ Mary K. Bercaw Edwards, "Herman Melville and Whaling Culture," Presentation to Navigating the New Arctic: Globalization, Modernization and Tribalization of the Warming North, U.S. Coast Guard Academy, September 22, 2020.

even if his views on diversity are antiquated – he loved the Alaska territory, every square inch of what he saw, a beautiful, resource-rich land for which so many native peoples had served as its stewards for so long, and that the Russians, obsessed as they were (like their HBC counterparts) with furs, had largely overlooked. But Seward’s observations do not really consider the mission of protecting native values, but instead foresees, indeed predicts, their eventual displacement. The Seward of 1869 (the year he finally set foot in Alaska), two years after the Treaty of Cession, does not seem much changed from the Seward of 1853 (when he presented his aforementioned *Destiny of America* speech), and his expansionist vision of Arctic manifest destiny. But “Hell-Roaring” Mike Healy’s more nuanced and balanced approach more aptly reflects the U.S. experience and its mission, both on the ground and in the seas adjacent to the newly possessed Alaska territory.²⁷

What has been made of Alaska, and what the fur empires left for Alaska and Canada to both develop and protect, are very much connected, and provide us with further opportunity to consider the historical links between the era of Arctic colonization, and the modern world. We will thus examine next the historic re-empowerment of Arctic indigenous peoples through the resolution through negotiation and/or legislation of native land claims, and the resulting renaissance of innovation in governance systems synthesizing indigenous and state interests, as states and natives began to collaborate more and more on governance, with co-management by tribe and state coming to define the way the Arctic would be governed at the local, regional, national, and even international-diplomatic level. We will learn more of these details as we examine the evolution of the land claims movement across the Inuit homeland (Inuit Nunangat) from its start in Alaska, with the passage of the very much flawed but nonetheless transformative Alaska Native Claims Settlement Act (ANCSA) of 1971 through the 1975 James Bay and Northern Quebec Agreement (JBNQA) / 1978 Northeastern Quebec Agreement (NEQA), the 1984 Inuvialuit Final Agreement (whose Agreement-in-Principle was negotiated in 1978, six years earlier), the 1993 Nunavut Land Claim Agreement (the first land claim to be formally tied to a (future) territorial secession (which took place six years later, in 1999), and the 2005 Nunatsiavut Land Claim Agreement and Constitution

²⁷ Dennis L. Noble and Truman R. Strobridge, *Captain “Hell Roaring” Mike Healy: From American Slave to Arctic Hero* (Gainesville: University Press of Florida, 2017).

(Northern Labrador), which like Nunavut was aligned with the formation of new governing institutions, envisioned and legally empowered by a constitution that accompanied the land treaty with law-making authority by and for

Labrador Inuit. LCAs also were negotiated south of Inuit Nunangat in both the Yukon and Northwest Territories, and collectively by the James Bay Cree, Naskapi Indians and Northern Quebec Inuit in JBNQA.²⁸

Each new generation of a land claim agreement introduces a new order or structure of indigenous self-governance (or in the absence of such, a vision for such an order or structure) in tandem with the land and resource rights negotiated by treaty, and while the latter has proved durable across the half century of LCAs, the former has shown remarkable innovation and evolutionary dynamism. Each new LCA thus in measurable way improved upon prior LCAs – part of a generational process that broadly aligns with increasing recognition by the state of inherent rights of indigenous self-governance and a deepening faith that increased Inuit self-governance, autonomy, and empowerment strengthens the sovereign bond uniting the remote north with the constitutional center, and that

²⁸ For a comparative history and analysis of land claims in Alaska and the Canadian Arctic, see Barry Scott Zellen, *Breaking the Ice: From Land Claims to Tribal Sovereignty in the Arctic*. Lanham, MD: Lexington Books, 2008. A more recent comparative discussion of Inuit land claims in Arctic Canada, and the constitutional and political evolution of what Gary N. Wilson describes as “nested federalism,” can be found in Gary N. Wilson, Christopher Alcantara, and Thierry Rodon, *Nested Federalism and Inuit Governance in the Canadian Arctic* (Vancouver: University of British Columbia Press, 2020). Wilson applied nested federalism to the understanding of Inuit multilevel governance in his earlier article, “Nested Federalism in Arctic Quebec: A Comparative Perspective,” *Canadian Journal of Political Science* 41: 1 (March 2008), 71–92. Stephanie Irlbacher-Fox, *Finding Dahshaa: Self Government, Social Suffering, and Aboriginal Policy in Canada* (Vancouver: University of British Columbia Press, 2009) and Thomas R. Berger, *Village Journey: The Report of the Alaska Native Review Commission* (New York: Hill & Wang, 1985) are also highly informative on the social, historical, and policy contexts that have fueled the evolution of nested federalism in Arctic North America. Texts of the above-mentioned land claims treaties and accords can be found at the following links: 1971 ANCSA: <https://uscode.house.gov/view.xhtml?path=/prelim@title43/chapter33&edition=prelim>; 1975 JBNQA: https://www.cngov.ca/wp-content/uploads/2018/03/01-james_bay_and_northern_quebec_agreement_consolidated_to_september_13_2013_1.pdf; 1978 Inuvialuit Agreement-in-Principle: <http://www.ifa101.com/content/inuvialuit-agreement-principle-1978>; 1984 Inuvialuit Final Agreement: <http://www.ifa101.com/search/principles/inuvialuit-final-agreement>; 1993 Nunavut Land Claim Agreement: https://www.gov.nu.ca/sites/default/files/Nunavut_Land_Claims_Agreement.pdf; 2005 Labrador Inuit Nunatsiavut.

decolonization of northern governance actually increases the sovereign legitimacy of the state in the Arctic rather than undermining it – and efforts to amend and improve prior land claims have been pursued by nearly all prior LCA beneficiaries once new breakthroughs are achieved by new LCA beneficiaries, as evident with ANCSA, which has been legislatively amended many times in the decades since its enactment, and augmented by the subsistence and land protection provisions of the federal Alaska National Interest Lands Conservation Act (ANILCA) in 1980, just two years after the Inuvialuit of Canada negotiated their 1978 Agreement-in-Principle for a Western Arctic land claim that united the corporate provisions of the ANCSA with resource co-management institutions explicitly integrated into the land claim treaty. It is no coincidence that the U.S. government at that time, during the Carter administration, viewed native subsistence and harmonious interethnic relations in Alaska as part and parcel of the national interest, likewise viewing state-tribe synthesis to be in the interest of the state and its efforts to assert, and augment, its Arctic sovereignty.²⁹

And now, there is a new (and somewhat controversial) effort by Labrador Inuit-Metis of NunatuKavut (Southern Labrador) to forge a new agreement with Ottawa, an effort that thus far lacks support from the Inuit Circumpolar Council (ICC) or the Inuit Tapiriit Kanatami (ITK), whose constituents from Inuit Nunangat inhabit a region to their north, where there are now long-established Inuit land claim settlement areas and with very limited non-Inuit settlement, in marked contrast to southern Labrador which diverges demographically and shares a history of settlement with the island of Newfoundland and much of the south. This explains to some extent why the more northern settlement areas and their leaders do not recognize the existence of this southern Inuit-Metis group, and views with skepticism the claims presented by southern Inuit-Metis, who have not yet earned a formal recognition by the other Inuit in Canada in contrast with the circumpolar Inuit solidarity that has been a

²⁹ Land Claim Agreement: <https://www.gov.nl.ca/exec/iar/overview/land-claims/labrador-and-inuit-land-claims-agreement-document/>.

As noted above, for a detailed discussion of the historical context for ANCSA and ANILCA, see Barry Scott Zellen, *Breaking the Ice: From Land Claims to Tribal Sovereignty in the Arctic* (Lanham, MD: Lexington Books, 2008). The text of ANILCA can be viewed at: <https://www.congress.gov/96/statute/STATUTE-94/STATUTE-94-Pg2371.pdf>.

hallmark of Inuit politics and diplomacy since the ICC's formation during the 1970s.

To help frame this fascinating treaty history, it can be helpful to recall some concepts from IR theory to make sense of the complex, asymmetrical cross-structural, and interorganizational relations between Inuit and the sovereign states of Arctic North America, including the unsteady and dynamic equilibrium between realist and idealist/liberalist values in regional and world politics;³⁰ and the many sub- and trans-national structures that exist between the national and international level of analysis, and which are the focus of regime theory (and more recently, institutionalist IR theory).³¹ While globalization theory pits globalism against tribalism, classical IR theory pits realism against idealism and much of post-Cold War IR theory pits national and international structures against sub- and trans-national structures. When considered in parallel, we can glimpse the complexities inherent in the state-tribe dialectic in the Arctic, and how indigenous land treaties become a cross-level bridge fostering reconciliation of these many disparate tensions all at once. One can think of it as a quantum IR theory for indigenous regions, where so much is the same and yet so much differs from the Westphalian world.

This will help to illustrate the many intense pressures of the modern, industrial, post-World War II, nuclear-age state on the fragile, largely pristine and lightly settled Arctic. Earlier in this chapter, we considered the early platforms of sovereignty and globalization in the Arctic that preceded the arrival of the modern state to the Arctic, and which paved the way after its arrival to govern lightly, with minimal reliance upon traditional tools of state power. But as we see during World War II, modern

³⁰ See Robert Jervis, "Realism, Neoliberalism, and Cooperation: Understanding the Debate," *International Security* 24: 1 (Summer 1999), 42–63. Also see John J. Mearsheimer, "The False Promise of International Institutions," *International Security* 19: 3 (Winter 1994/95), 5–49; Robert O. Keohane and Lisa L. Martin, "The Promise of Institutional Theory," *International Security* 20: 1 (Summer 1995), 39–51; John J. Mearsheimer, "A Realist Reply," *International Security* 20: 1 (Summer 1995), 82–93.

³¹ See Oran R. Young, "Review: International Regimes: Toward a New Theory of Institutions," *World Politics* 39: 1 (Oct., 1986), 104–122, as well as the works reviewed therein: Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984); Stephen D. Krasner, *International Regimes* (Ithaca: Cornell University Press (Cornell Studies in Political Economy, 1983); and John Gerard Ruggie, *The Antinomies of Interdependence: National Welfare and the International Division of Labor* (New York: Columbia University Press, 1983).

warfare introduces a new level of destructive state capacity, and this new and robust scale of state power does not go away at war's end. With the Cold War increasingly defining the limit and nature of post-World War II international relations, we begin to see numerous large-scale state-sponsored projects planned for the Arctic, some that came to fruition such as the Trans-Alaska Pipeline System (TAPS) and now known as the Alyeska Pipeline or more commonly Alaska Pipeline³² – whose construction directly precipitated ANCSA by uniting big oil, federal and state-level government, and indigenous interests (at least for the moment necessary to reach agreement).³³ But less well known are the Rampart Dam Project (proposed in 1954, but conceived in 1948, and not formally abandoned until 1980 with the passage of ANILCA and the shift in national interests from megaproject to land conservation, with environmental security offsetting energy security as a pillar of Arctic security well before the end of the Cold War) – a project that sought to dam Yukon River and floor Yukon flats, which would have created the largest reservoir on Earth with over 3,000 miles of new coastline, comparable in size to Lake Erie – a project so large it was expected to take over 30 years to build and fill with water. Such megaprojects are now perceived as hallmarks of Third World development projects, but it was not that long ago that the United States was seriously considering such a project, with all its potential environmental and cultural destruction, for a significant portion of Alaska.

Over on the northwest Alaska coast, where many have long dreamed (and still dream) of a deep water (or as favored today, deep-draft) port, there was Project Chariot, conceived by Project Plowshare and proposed by the Atomic Energy Commission (AEC) in 1958, to blast a deep water port by atomic demolition at Cape Thompson.³⁴ Headed by Manhattan Project luminary Edward Teller, the father of the H-bomb, Project Plowshare was dedicated to the art and science of large-scale nuclear construction and demolition projects. The project generated intense

³² For an excellent history of the Alaska Pipeline, see: Mary Clay Berry, *The Alaska Pipeline: The Politics of Oil and Native Land Claims* (Bloomington: Indiana University Press, 1975).

³³ Clifford John Groh, II, *Oil, Money, Land and Power: Passage of the Alaska Native Claims Settlement Act of 1971*, Harvard University Honors Thesis, 1976.

³⁴ For a detailed history of Project Chariot, see Dan O'Neill, *The Firecracker Boys* (New York: St. Martin's Press, 1994).

native and environmentalist resistance, bringing together two groups that have collided on other Arctic issues (whaling and sealing) and precipitating the project's cancellation in 1962. This successful coalition of native and environmental interests would soon turn its attention to the next Alaska megaproject: the Trans-Alaska Pipeline System (TAPS), a project that could not be stopped but which would successfully court native support through the innovative Alaska Native Claims Settlement Act, using a corporate model to modernize Alaska's political economy and turbocharge native participation in it (at least for the first 20 years after ANCSA was enacted, the period during which native ownership was assured).³⁵

Just a few years earlier, with the Cold War intensifying and the nuclear age becoming more dangerous with the horizontal spread of nuclear weapons and the vertical growth in the arsenals of both superpowers, it was determined that an early warning radar system was urgently needed across the Arctic coast, and driven by the perception of military necessity, much like the rapid World War II construction of the Alaska Highway,³⁶ the Distant Early Warning (DEW) Line would quickly go from concept to construction.³⁷ It was conceived in 1952 by the Summer Study Group at the Massachusetts Institute of Technology (MIT), and its 63 manned radar sites stretching 3,000 miles from Alaska to Greenland would be constructed by an army of 25,000 engineers and builders across the entirety of Arctic North America in just three years (1954-57), and operated continuously until the Cold War's end, when the DEW Line was upgraded to the automated, Canadian-managed North Warning System.

Catalyzed by the coalition formed to ensure the Trans-Alaska Pipeline System (TAPS) could proceed, the Alaska Native Claims Settlement Act of 1971 – the first comprehensive land accord affecting Arctic lands and

³⁵ See Berry, *Op. Cit.*, and Groh, *Op. Cit.*

³⁶ See Stan Cohen, *The Great Alaska Pipeline* (Missoula: Pictorial Histories Publishing Co., 1988); for a multimedia introduction, see The Milepost, "The Building of the Alaska Highway," September 25, 2013, <https://www.youtube.com/watch?v=BkQKQN26JMI>.

³⁷ See Center for Environmental Management of Military Lands (CEMML), Colorado State University, *Annotated Bibliography: Distant Early Warning (DEW) System, Alaska* (United States Air Force, 611th Civil Engineer Squadron, Elmendorf Air Force Base, September 2008; for a multimedia introduction to the DEW Line, see The History Guy, "The DEW Line and Forgotten History," https://www.youtube.com/watch?v=924n_cAx5zs.

peoples (and subarctic as well, given Alaska's vast north-to-south geography), modernizing Alaska's political economy with new, native-owned corporations holding title to vast tracts of native lands, and institutionalizing corporate cultural values across village Alaska, and soon thereafter as the land claims model caught on in Canada, across the entirety of Arctic North America from the Bering Sea to Baffin Bay. Like TAPS, Project Chariot, the Rampart Dam Project, and the DEW Line are all Arctic megaprojects emblematic of the modern state's arrival and maturation in the Arctic, with it its hitherto unrivaled appetite for resources, energy, and continental security. At the same time as the DEW Line emerged to transform the Arctic coastal landscape, the *USS Nautilus*, the first U.S. nuclear-powered submarine with unprecedented capabilities for extended subsurface operations, reached the North Pole in 1958³⁸ to great fanfare, and helping to redress the perception across the United States of Soviet technical superiority that followed the surprise Sputnik launch the year before; while less disruptive to the people of the Arctic, the *Nautilus* polar mission was an important part of the nuclearization of the Arctic region during the Cold War, and the intrusion of the strategic competition between the US and the USSR to the otherwise pacific region. What was originally criticized as William H. Seward's original 'folly' for acquiring what was perceived as a nonproductive wasteland would in time become a highly valued strategic territory and resource repository for the globally expanding U.S. power. Its coastal waters were well known at and before the purchase to offer great riches, and various resource commodity rushes brought a boom/bust realization of its wealth to later generations. But by the 20th century, the economic and strategic value of the Alaska territory became not only universally recognized, but non-cyclical, enduring and increasingly essential to the nation's power, and state interest rose accordingly. In many cases, negotiations for Native land and resource rights were driven by governments fearful of their own judicial branches, which could thwart executive-led projects.

Increasingly, they found native inclusion could reduce the risk of litigation and judicial intervention, from Alaska in the west to Northern Quebec (Nunavik) and Labrador (Nunatsiavut) in the west.

³⁸ British Movietone, "Nautilus Under the Pole," July 21, 2015, <https://www.youtube.com/watch?v=0JZIWyS8Sm0>.

1941–1971: WORLD WAR II AND THE COLD WAR: FROM ‘MEGAPROJECTS’ TO ‘GIGACLAIMS’

The momentum to settle Inuit land claims, just as these megaprojects, both energy-related and nuclear-strategic, came to fruition, was no coincidence. Isolated and remote platforms of sovereignty and globalization were now giving away to extensive, permanent infrastructure in places where the state had not hitherto expanded, at least not in Arctic North America, and these indicated that state expansion into the Arctic had achieved a new level. Settling native land claims, to further native participation and inclusion and to solidify sovereign claims to the Arctic by gaining native consent to expanded state governance, can thus be understood through a Clausewitzian perspective tying war to its political context.

Just as the famed Prussian theorist of war believed war to be a “continuation of politics (or policy) by other means,” the settlement of comprehensive indigenous land claims (utilizing an adaptive model that balanced corporate development and economic equity participation with, increasingly, cultural protection, social development, and resource and land co-management) would likewise be a continuation of state expansion by other means –strengthening the state’s military capabilities and sovereign presence in the Arctic by partnering with the region’s indigenous peoples. This brings us to the “Age of Arctic Land Claims,” which directly emerged from the challenges to native sovereignty and survival during the prior (and, to some degree, overlapping) “Age of Arctic Megaprojects,” and which in fact has been shaped and defined by the native response to the many megaprojects that were perceived as a threat to native lands, health and culture. Indeed, megaprojects (and their unprecedented scale of destruction on natural ecosystems in vast and unspoiled indigenous homelands) helped to catalyze the movement for land claims, which sought when possible to prevent such calamitous intrusions that threatened to despoil pristine natural ecosystems upon which subsistence depended, and when prevention was not possible, to at least mitigate the risks and dangers, and to provide remediation and compensation for losses – which started in 1971 with the billion dollar settlement with Alaska natives, catapulting new native corporations to elite status in their remote rural economies – hence my use of the term “gigaclaims” to redress the impacts of the many megaprojects of the Cold War Arctic.

With the modernization of the state and its expanded presence in the Arctic during and after World War II, national-level interests and projects would expand greatly beyond earlier platforms of globalization and sovereignty into more robust, and increasingly interconnected, networks of sovereignty that introduced a new, more tightly woven national fabric in a region long defined by patchworks of autonomous local and tribal communities. Values, interests and conceptions of security at the village level by predominantly tribal peoples of the interior and coasts of the

Arctic region were to be frequently challenged by assertions of sovereignty by the post-World War II state, with its capacity to rapidly transform and develop infrastructure and geographically re-engineer large spaces in places that had, prior to the thaw, been largely insulated from such a forceful, industrial-age state presence.

As discussed above, some of these modern megaprojects were dramatic and sensational, such as the Rampart Dam Project that emerged as an idea in 1948 to harness Alaska's vast interior hydro-power potential to electrify the state and stimulate its economic modernization, which sought, in the name of economic progress, to flood the Yukon Flats region and would have permanently altered the physical and environmental geography of the Yukon River watershed.

Project Chariot proposed to carve deep water ports and cross-peninsular canals out coastal lands with chains of atomic bombs, and a coalition of environmental and indigenous actors in Alaska and across the USA thwarted both these projects.³⁹ But not all megaprojects were doomed to become historical what-ifs. The DEW Line project, conceived in 1952, would rapidly construct (between 1954 and 1957) over sixty state-of-the-art radar sites along the entirety of the Arctic Coast of North America, and remain in operation nearly half a century with dozens of new, space-age platforms of sovereignty erected across the Inuit homeland. A decade later, the Trans-Alaska Pipeline System would connect the North Slope of Alaska with Prince William Sound by an equally impressive engineering marvel partly built on fragile permafrost that wormed its way 800 miles from north to south, which remains in operation today,

³⁹ For a detailed history of Project Chariot, see O'Neill, Op. Cit. A 2007 Basic Books edition of O'Neill's impressive account sports a new, and apt, subtitle: *H-Bombs, Inupiat Eskimos, and the Roots of the Environmental Movement*.

but which infamously planted the seed for the environmental destruction experienced in the 1989 Exxon Valdez oil spill.

Such large-scale projects remain part of the continuing narrative of Arctic development, and over time have transformed from state-driven projects imposed on native peoples that had little or no say on those projects to co-managed joint venture projects with the equity and managerial participation of natives, albeit “oil-age” natives that differ culturally from their contemporaries in earlier generations. Indeed, many of the more audacious projects were conceived just as Alaska was transforming from a remote territory purchased in 1867 into a bona fide U.S. state in 1959. It was the resulting Age of Arctic Land Claims that fostered an emergence of a new, modern corporate culture across the indigenous Arctic, and though this corporate culture is not representative of the entirety of the native community and at times finds itself at odds with traditionalists and practitioners of subsistence, it has provided a growing pool of trained and experienced participants to channel such megaprojects and reshape them to better meet the needs of native communities and values, with native hiring and subcontracting preferences, distributions of royalties and dividends, commitments to clean-up and restore lands to their original state (or provide compensation when that proves impossible). Elsewhere in the world, megaprojects on native lands (primarily proposed or constructed dams and pipelines) have led to persistent clashes between native communities and state interests (Borneo, Burma), but also formal reconciliation processes through land claims treaties (Quebec, Western Arctic and subarctic), and/or recognition of indigenous cultural rights (Hokkaido, where the unprecedented Nibutani Dam case led to judicial recognition of indigenous cultural rights in Japan, part of a slow but forward process of recognition that continues to the present).

The Alaska experience – harnessing the transformative vision (and risks) of megastate development and channeling these, through political organization, lobbying and negotiation, into a catalyst for positive change and indigenous empowerment. This would, as noted above, directly inspire the rest of Arctic North America, with successive and iteratively adaptive land claims treaties following sequentially upon the heels of the 1971 ANCSA legislation – including both the 1975 JBNQA/1978 NEQA and the 1978 Inuvialuit-Canada Agreement-in-Principle (AiP) (which was finalized in 1984 as the IFA), which helped transform the land claim model from ANCSA’s vision to modernize Alaska’s native economy

over twenty years through rapid corporate development, but which was counterbalanced by the 1980 Alaska National Interest

Lands Conservation Act (ANILCA) that protected much of Alaska's wilderness and redressed ANCSA's controversial and much regretted exclusion of subsistence. The Nunavut land claim agreement was signed in 1993, and tied to the subsequent 1999 formation of the Nunavut territory for *de facto* Inuit governance at a territorial level (after a successful 1992 plebiscite to divide the Northwest Territories in two),⁴⁰ and the 2005 Labrador (Nunatsiavut) Inuit land claim embraced traditional Inuit law and established *de jure* Inuit governance at the regional level – transcending the municipal model embraced by JBNQA/NEQA a generation earlier, with the potential for one more Inuit land claim yet to come (for the Inuit-Metis of southern Labrador, currently in discussions with Ottawa but facing intense resistance from the other Inuit regions with settled claims in regions with far less non-native settlement and where Metis identity has been subsumed to Inuit identity and not separate from it, in contrast to southern Labrador).

⁴⁰ See CBC News, "Nunavut: New Territory Born at Midnight," *CBC Focus North*, April 1, 1999, <https://www.cbc.ca/archives/entry/nunavut-new-territory-born-at-midnight>. The land claims story achieved a vast and still unprecedented territorial scale in the 1990s with the emergence of Nunavut as both a land settlement (1993), and six years later as self-governing territory (1999). While sweeping in its ambition and accomplishments, like nearly all the other Inuit LCAs, Nunavut has been plagued by numerous implementation challenges and disappointments during its early years, suggesting that structure alone is only part of the solution, with continued engagement and mutual respect essential to success as the ongoing tribe-state dialectic continues. Does the successful constitutional empowerment of Nunavut, as an autonomous territory, forever alter the fundamental relationship of Inuit to the federal government in Canada, and the narrative of historic reconciliation, despite these tensions over implementation? History has shown it does indeed. Before Nunavut, Inuit regained lands and rights, and augmented their powers of self-governance at the municipal level, but found that governmental power remained in the hands of the settler-majority at higher levels, allowing for a narrative of continued colonization of the Inuit homeland even as self-government was achieved. But after Nunavut, territorial governance came under Inuit control in marked contrast to state government in Alaska and territorial government in Yukon and what was the Western Northwest Territories (but since the Nunavut secession remains the entirety of the NWT), with all the responsibilities and challenges associated with governing with decisive and undisputed majority control. Problems previously associated with a "distant" government unfamiliar with the realities of Inuit culture, history and politics are now problems of Inuit self-governance. Iqaluit continues to blame (and sue) Ottawa on a regular basis over numerous implementation disappointments, but as time passes, these problems will invariably be increasingly perceived as owned by the Inuit themselves.

LAND CLAIMS AND STATE EXPANSION: FROM FLAWED VICTORY TO FIXED MODEL

What I call the “Age of Arctic Land Claims” got its start in 1971 with ANCSA, and has continued to evolve and transform over the half century that followed, evident not only in the many ANCSA amendments (1976, 1988 (the so-called “1991 amendments” which addressed what was called by critics the “1991 Time Bomb” when native protections would expire),⁴¹ 1995, and as recently as 2017) but also in the subsistence provisions in ANILCA in 1980, and in

Washington’s 1993 tribal recognition of Alaska native villages, in culmination of the tribal sovereignty movement that gripped village Alaska during the 1980s – all part of a complex, piecemeal, multilevel effort to align federal policy and tribal aspirations (amidst periodic resistance by the state of Alaska, and well as oil, mining, and commercial fishing private interests) that has played out in the decades since ANCSA was enacted.

Across the border in Canada, the process has been less piecemeal, though every bit as iterative, with land claims accords internally integrating the very same processes that were partly addressed outside the land claims process in Alaska (primarily subsistence but also aspirations for tribal sovereignty and autonomy), making for a smoother and better integrated institutional process, albeit with numerous implementation challenges along the way revealing that the very same fault lines persist between traditional/indigenous and western/state values in both Canada and Alaska – as reflected in the structures of the 1984 Inuvialuit Final Agreement (agreed to in principle in 1978, the very same year NEQA was signed by Quebec’s Naskapi, and three years after JBNQA was signed by the Cree and Inuit; seven years after ANCSA; two years after ANCSA’s first amendments; and two years before ANILCA); the 1993 Nunavut Land Claims Agreement (whose secession, to form the Nunavut Territory, took place in 1999 and was agreed to by plebiscite in 1992, and which continues to experience frictions between the Inuit of Nunavut and the federal government over two decades later); and the 2005 Labrador (Nunatsiavut) Inuit Land Claim, which embraced ethnic Inuit government at the regional level, rather than a public system embraced by

⁴¹ Riccardo Worl, “The 1991 Time Bomb Defused,” *Alaska Native Magazine*, No. 1 (June 1988), 1.

Nunavut at the territorial level given the demographic and economic realities of the Province of Newfoundland and Labrador, where the consequent risk of non-native settlement and large scale economic development differ greatly from Nunavut with its overwhelming Inuit majority.

What looks to be a raw, dissonant clash in the Hegelian tradition of separate and competing processes driven by separate branches of government and competing levels of analysis in Alaska looks to be a much more unified synthesis in Canada. But all is not what it seems: the Canadian Arctic process achieves synthesis, by and large, but this is in the absence of large settler populations or powerful regional governments – in regions similar to Alaska with substantial non-native populations, such as the northern portions of the provinces, a very similar, highly dissonant, dialectical clash takes place. And even in regions of indigenous demographic predominance, there has been persistent resistance on federal implementation, insufficiency in training funds and support, and many other skirmishes between the Inuit and Ottawa, which has at times appeared to be more of reluctant partner, suggesting perhaps some second thoughts on the extent of devolution in power achieved by the Inuit and the relevance to other indigenous regions of Canada. Despite these bumps along the road to implementation, the embrace by governments at all levels and by many corporate stakeholders of co-management systems that endeavor to balance these competing interests offers no less important a path toward synthesis of these competing forces. States continue to predominate in terms of material power, but natives still (for now) command demographic predominance in most remote northern regions, becoming essential stakeholders in Arctic sovereignty.

Arthur Lazarus and Richard West describe ANCSA in 1976, just five years after ANCSA was enacted by Congress, as a “flawed victory”⁴² leaving Alaska natives corporatized while lacking sufficient protections to ensure native ownership would endure; the goal, at the time, was not all that far removed from earlier assimilation policies, in this case the goal was to assimilate natives into a corporate-dominated economy – but in time, corporations not only transformed natives by modernizing their economic systems, but were themselves transformed as the very nature of a corporation became infused with new values over time. This “flawed victory” of ANCSA inspired a movement for greater autonomy at the village level

⁴² Arthur Lazarus and W. Richard West. “The Alaska Native Claims Settlement Act: A Flawed Victory,” *Law and Contemporary Problems* 40:1 (Winter 1976), 132–165.

known as the tribal sovereignty movement, which sought greater (and perpetual tribal) protections of native lands, a closer relationship with the federal government modeled on the government-to-government relationships of tribal law in the Lower 48 states (to help counterbalance the state of Alaska's interests where often pitted against native interests), and the protection of subsistence-oriented cultural traditions. At the same time, the very speed of ANCSA's implementation caused numerous growing pains, in part because of a lack of local capacity and experience that required a disproportionate dependence on external consultants, lawyers and advisors whose interests often proved contrary to the native village interests, pushing many of the new corporations toward an early risk of failure – a failure the architects of ANCSA may have not only anticipated but sought, since native protections would expire in twenty years – after which lands and resources could be sold to service debts, and thus fall into the hands of the non-native majority. Additional strains included a revenue-sharing requirement between Alaska natives, resulting in a perception of unfair redistribution of native wealth from areas endowed with natural resources to those without – dividing the native community from the get go.

By the end of the 1970s the new corporations were, more often than not, in distress. In the early 1980s, just a decade into ANCSA's implementation before many of the subsequent amendments helped to modify the original model, former BC Supreme Court Justice Thomas R. Berger, who had chaired in the mid-1970s the pivotal historic Mackenzie Valley Pipeline Inquiry that resulted in a freeze on Arctic development in Canada for a decade to protect native interest, and his colleagues on the Alaska Native Review Commission Hearings, traveled village to village across rural Alaska to investigate the seemingly impending collapse of ANCSA. Berger called for a retribalization of native governance, to counterbalance the corporate bias built into ANCSA, and to protect native lands from the risk of loss to non-native interests as a result of economic failures. Wayne Edwards and Tara Natarajan suggest that ANCSA and ANILCA which followed in 1980 exhibited a “capabilities failure”⁴³ in 2008, and consider the Alaska land claim from the perspective of “entitlements and capabilities” to be a bottle that is simultaneously and ambiguously half-full and half-empty, in contrast to Berger's more pessimistic view earlier

⁴³ Wayne Edwards and Tara Natarajan, “ANCSA and ANILCA: Capabilities Failure?” *Native Studies Review* 17: 2 (2008), 69–97.

in ANCSA's experiential history, though somewhat more empty than full. As they conclude, ANCSA and ANILCA: both provided Alaska Natives with entitlements. Both acts had, on average, positive impacts on Natives. However, the structure of the settlement provided by ANCSA meant that some entitlements were aggregated and subject to the control of corporate directors. Furthermore, the land conveyance process remains incomplete and so the entitlements provided by ANCSA have not been fully transferred, let alone the ultimate capabilities that could have flowed from the entitlements. For ANILCA, the impermanent nature of the traditional lifestyle protection it offers diminishes any capability that might be generated by the entitlement. The positive impacts are short-term rather than permanent. Both acts can therefore be viewed as partial failures from an entitlements and capabilities point of view even if some short-term positive outcomes resulted.⁴⁴

This shift from doom-and-gloom to gloom-without-doom illustrates ANCSA's evolving nature through its multiple legislative amendments as an adaptive structure that changes with its times – and the 1980 ANILCA response to ANCSA's exclusion of subsistence arose in part from the seeming unanimous pessimism captured during Berger's "village journey" from so much of the Alaska native community in the 1980s, thus inspiring reform, thereby transforming Alaska's land claims model to address social/cultural issues and not just economic. The Canadian experience with Arctic land claims, starting with JBNQA in 1975, has been a decades-long journey evolving far beyond the original template provided by ANCSA,⁴⁵ from a land settlement aiming for shotgun economic modernization into a broader and deeper institutional transformation that would organically expand with each new iteration into new spaces for indigenous autonomy.

Land claims are thus rightfully called living treaties, or, as Len Sillanpaa described ANCSA in 1988, as "living settlements."⁴⁶ Sillanpaa's terminology may more precisely fit, since ANCSA was not a treaty *per se* but

⁴⁴ Ibid., 93.

⁴⁵ ANCSA: Caught in the Act, "Program 4: Plain and Simple," <https://www.youtube.com/watch?v=rseAvUu2-o>.

⁴⁶ Len Sillanpaa, "Alaska Native Claims Settlement Act: A 'Living Settlement?'," Ottawa: Circumpolar Affairs Division, Circumpolar & Scientific Affairs Directorate, December 1988, https://publications.gc.ca/collections/collection_2018/aanc-inac/R32-334-1987-eng.pdf.

an Act of Congress, while all of the Arctic land claims, whether negotiated treaties or not, are indeed land settlements.

Because ANCSA was not enacted by treaty negotiation, but through Congressional legislation, it has had to do its “living” (evolving and adapting) via subsequent legislative amendment, or through a completely new legislative act entirely (ANILCA), in addition to high-level political interventions, such as when the White House in 1993 granted Alaska native villages tribal status, thereby embedding them in the long and robust tradition of tribal law, with constitutional protections comparable to those enjoyed in Canada. On the Canadian side, land claims were not just *de facto* but were also *de jure* “living treaties” that would likewise grow and adapt with their times. Through the institutional and structural integration of land claims with subsistence protections and consequent institutional participation in the co-management process, they achieved much more universal inclusivity than seen in Alaska, where ANCSA’s corporate structures aligned primarily with business interests, marginalizing subsistence interests to a greater degree than experienced in Canada.

That’s why when ANCSA turned 40 in 2011, it was both celebrated and critically scrutinized (more so than its more recent 50th anniversary, whose coverage was largely celebratory). For instance, when Paul Ongtooguk revisited ANCSA in 2012 after it turned 40, he found “ANCSA is criticized both in terms of product and process, i.e., it yielded too little and the process did not meet a reasonable bar for inclusion. Most condemning for some is that as Native corporations, created in the image of a Western corporate model, have prospered, many Alaska Natives see ANCSA as a vehicle for assimilation.”⁴⁷ But as Ongtooguk further reflected: “On the other hand, ANCSA is also celebrated as a David and Goliath story that ended with a victory that far exceeded what anyone could have, would have or should have predicted ... Once ANCSA had been legislated into existence, the terms were exceedingly complex, and corporations were formed in an era of high inflation by Native peoples who had little professional training and virtually no talent pool. While there have been painful failures, there have been outstanding

⁴⁷ Paul Ongtooguk, “ANCSA at 40: Where are we and where are we going?”, *Anchorage Daily News*, March 16, 2012, <https://www.adn.com/commentary/article/ancsa-40-where-are-we-and-where-are-we-going/2012/03/17/>.

fiscal successes.”⁴⁸ ANCSA has been criticized in some of the literature, and by many Alaska natives, for its corporate-focus, and yet the land claims structure in Canada preserves the corporate structure nearly intact, while at the same time correcting the many initial flaws from the native perspective in corporate structure identified by critics of ANCSA such as its exclusion of newborn natives born after the land claim was settled from shareholdership; and its failure to initially ensure native ownership of lands and corporate shares for perpetuity, or to ensure cash compensation was inflation-protected to meet future budgetary needs, or to provide supplemental implementation funds to ensure proper training and capacity development.⁴⁹

As noted above, the “Age of Arctic Land Claims” swept across Arctic North America for a half century in the wake of the post-World War II surge in Arctic megaprojects – while some remained only plans, like Project Chariot, the Rampart Dam, and the Mackenzie Valley Pipeline, others were fully implemented (TAPS, the DEW Line, and Hydro-Quebec’s many river-damming projects) – all galvanizing a wave of indigenous activism, fostering new partnerships with environmental organizations, and triggering negotiations for greater empowerment and constitutional integration of indigenous peoples into the fabric of the modern state. Negotiations for the Inuvialuit land claim gained traction during the mid-1970s oil exploration boom, and achieved agreement with Ottawa in 1978, early in ANCSA’s implementation, and prior to the epidemic of corporate governance and financial crises of the 1980s. By the time the Inuvialuit Land Claim was finally signed in 1984, ANCSA was showing cracks and the Alaska Native Review Commission was established across the border, with confidence in ANCSA and its corporate model falling to an historic low, with most of its worrisome structural problems not yet resolved through subsequent amendments, and growing grass-root calls (endorsed by Berger) for the “re-tribalization” of native lands to counterbalance the new corporate interests that ANCSA favored.

⁴⁸ Ibid.

⁴⁹ For a presentation on the corporate culture that emerged inside the Inuvialuit Settlement region after the IFA was enacted, see this Inuvialuit Development Corporation (IDC) corporate video,

<http://www.youtube.com/watch?v=sB2CLAKabmk>. Its flashy, promotional style captures the enduring corporatization of the land claims model perfectly, as it pivots seamlessly from a celebration of traditional culture to an embrace of modernization, globalization, and innovation.

In the Canadian Arctic, both positive and cautionary lessons of ANCSA were quickly understood, and Ottawa's conclusion (shared by much of the Arctic indigenous community) was that the corporate model was sufficiently visionary and innovative, and well-suited to the North where trading relationships and networks between the Arctic and non-Arctic worlds reached back centuries – but it required a counterweight to protect traditional native cultural values, interests, and lands (and this counterweight was the traditional subsistence economy and the cultures that embraced it) to avoid the risks and dangers of ANCSA, which by the 1980s teetered on the edge of failure, and whose original model came to be perceived as over-emphasizing corporations at the expense of native traditions. JBNQA (in 1975), and its extension to the Naskapi of North-eastern Quebec with NEQA (in 1978), followed quickly upon the heels of ANCSA (1971), and shared some similarities with that pioneering land claim, including its multiethnic nature serving both the Inuit of northern Quebec and the Cree of the James Bay lowlands (and three years later, the Naskapi of Northeastern Quebec), reminiscent of ANCSA's multiethnic diversity serving both Inuit and non-Inuit Alaska natives, in contrast to the subsequent Inuit LCAs in Canada that served only Inuit sub-regions. Also uniting JBNQA/NEQA and ANCSA were their rapid time frames from negotiation to enactment, under immense pressures of large-scale energy megaprojects (the Trans-Alaska Pipeline System (TAPS) in Alaska, and the James Bay hydroelectric development project in northern Quebec.)

While in 1971, ANCSA focused primarily on the creation of Alaska native corporations only to later redress the omission of subsistence and environmental preservation through the subsequent 1980 Alaska National Interest Land Conservation Act (ANILCA), JBNQA and NEQA aimed to foster a balance between governance, culture, environment and economy, foreshadowing later settlements in Nunavut and Nunatsiavut with its advances in local and regional governance, owing in part to the aspiration of Quebec to more firmly extend its provincial sovereignty into its remote north (much as Ottawa would do by wedding the 1993 Nunavut Land Claim to the formation of the Nunavut territory six years later) – a prescient and transformative revision to the land claim model pioneered in Alaska four years earlier. As John Ciaccia, special representative to premier Robert Bourassa, explained, with JBNQA “native peoples are offered a choice. They will be free, as individuals, to choose between their traditional occupations and new occupations. In this sense,

I think that both the Quebec Government and the native peoples can feel that they are sharing a victory.”⁵⁰ Ciaccia noted that with JBNQA’s enactment, “21 new municipalities are to be created” across “250,000 square miles of newly organized territory” – with 13 Inuit communities to be governed “through an administration to be called the Kativik Regional Government, a novel instrument suited to the conditions of the region.”⁵¹

In addition to JBNQA’s structural commitment to extending municipal governmental administration to the predominantly indigenous north of Quebec, it also embraces indigenous land use, protects the environment, and fosters a balanced and mixed approach to land usage that we now known as “sustainability,” using joint governance mechanisms now known as “co-management.” Similarly, the final structure of the Inuvialuit Final Agreement (IFA), based on the 1978 AiP negotiated between the Government of Canada and the Inuvialuit of the Western Arctic, more equally valued and more equitably balanced its corporate and its cultural components, and this revised model would remain part of Canadian Inuit LCAs for the next quarter of a century, with little fundamentally changed in the treaty structure for Nunavut in 1993 or Nunatsiavut in 2005. But as the Inuvialuit discovered after 1984, institutional balancing can only take you so far. While subsistence was better protected by land claims structures in the Canadian Arctic, a new wealth gap still emerged between the native corporations and the more traditional institutions such as the hunters and trappers committees (HTCs), and as this gap grew, corporate influence began to overwhelm traditional interests – and a replay of ANCSA’s early growing pains would recur in each of the subsequent Inuit LCA settlement areas as beneficiaries of each new LCA struggled to control their newly established institutions, and to thereby keep corporate interests and values in check.

To gain contemporaneous insight into the historical significance of the IFA, consider Marie Wilson’s news coverage on *CBC North* of “The Inuvialuit Land Claim.”⁵² Her 28 minute news documentary for *CBC North*’s “Focus North” series captured all the hope and excitement of

⁵⁰ John Ciaccia, “Philosophy of the Agreement,” *The James Bay and Northern Quebec Agreement* (JBNQA), November 11, 1975, 7.

⁵¹ *Ibid.*, 3.

⁵² See Marie Wilson, “The Inuvialuit Land Claim,” *CBC Focus North*, <http://www.youtube.com/watch?v=IjGZDOoJOBw>. For a detailed discussion of the historical context of

the first comprehensive land claim accord in the Canadian Arctic, one achieved by a group (the Inuvialuit) that is, intriguingly, predominantly of Inupiat descent, with close ties across the border that helped sustain community commitment to the slow-moving land claims process over the years, and to recognize the protective opportunities that a well-structured LCA could provide in the face of intense oil and gas exploration. The community's excitement in celebration of the land claim's finalization suggests why LCAs can be much more than they seem – reminiscent of the old “numbered treaties” between native tribes and the British Crown that were perceived to be, at heart, nation-to-nation treaties of friendship and alliance by the native negotiators, even if the Crown itself viewed the treaties as (and transcribed them as such to become) treaties of surrender and constitutional subordination of the natives to the state. We're introduced to a young Nellie Cournoyea in this documentary news feature, who rose from an Inuit Land Use and Occupancy Project (ILUOP) field worker to serve as a Committee on Original Peoples Entitlement (COPE) negotiator, and from there to serve as a Member of the Legislative Assembly of the Northwest Territories representing Nunakput, and from there to become Premier of the NWT, before returning to the Inuvialuit Settlement Region after a financial scandal at the Inuvialuit Regional Corporation led to a grassroots movement to rescue and renew the IFA under her leadership. In Cournoyea's journey, we can gain a sense of the importance of the individual level of analysis, where just one leader can play a super-sized role in the shaping of Arctic history and policy, and ascend from the local to the tribal to the regional to the territorial to the national (and, in some cases, international) levels, and back again to the local level as needed. We also meet Marie Wilson, *CBC North's* reporter, who went on to serve as head of CBC Western Arctic in Yellowknife, and later as a Commissioner of the Truth and Reconciliation Commission of Canada, helping to shape the historic process of reconciliation between Ottawa and indigenous peoples – another example of influential individuals and indigenous communities transforming national politics in the

the IFA, see Barry Scott Zellen, *Breaking the Ice: From Land Claims to Tribal Sovereignty in the Arctic* (Lanham, MD: Lexington Books, 2008).

Arctic, and expanding the role of indigenous peoples in the governance of the Arctic.⁵³

After the IFA, a new lesson was learned by the Inuit: a land claim treaty, even a well-balanced one, needs a parallel level indigenous self-government to ensure balance between the modernists/corporatists and traditionalists/tribalists can be maintained, and that parallel level of government must represent native interests first and foremost. JBNQA/NEQA, with Quebec's support, interconnected the treaty structure with new institutions of governance at the municipal and regional level, while the IFA sought to counterbalance the native corporations with institutions of resource and land co-management without creating a new structure of indigenous self-governance to align with the LCA settlement area. When the Nunavut LCA was signed in 1993, 15 years after the Inuvialuit-Government AiP and nearly two decades after JBNQA, it included a political accord that promised to create a new, public but predominantly Inuit territorial government, the Nunavut Territory, by 1999. And in 2005, when the Labrador Inuit of Nunatsiavut signed their land claim, it also created a mechanism for Inuit self-government, but instead of a public territorial government, this was accompanied by a Labrador Inuit Constitution that created ethnic, Inuit self-governance for the five villages in the Nunatsiavut settlement area, one that could never be undermined by a change in demographics (which Nunavut is not as well-structured to withstand.)

Another important consideration is in the process utilized to negotiate a LCA. With ANCSA, the land claim was achieved through a lobbying process in the halls of Congress as stakeholders sought to influence the outcome and was not the direct result of a community-based bilateral negotiation process with the government. In Canada, however, land claims were indeed treaties that resulted from such bilateral negotiations, and which in the end were approved by referendum community. ANCSA was approved by vote of the Alaska Federation of Natives, but there the Inupiat famously voted against the land claim, but were ultimately outvoted by the majority of Alaska natives who stood more to gain from revenue sharing provisions than the Inupiaq, whose oil fields would power not only the state economy, but the native economy as well. In Canada,

⁵³ For an historical discussion of the ILUOP, see Milton M.R. Freeman, "Looking Back—and Looking Ahead—35 Years after the Inuit Land Use and Occupancy Project," *Canadian Geographer / Le Géographe Canadien* 55: 1 (February 2011): 20–31.

the Inuvialuit communities voted overwhelmingly in support of the land claim, which had evolved greatly beyond the ANCSA model, and had, with the collapse of a broader and more diverse multiethnic LCA from western to eastern Arctic, become a regional land claim serving a more unified and ethnically cohesive region (with its own divisions and variation, but less complexity and diversity as seen in ANCSA, which was state-wide in its scope).

Nunavut came into existence through a more complex process, since it was associated with the subsequent secession of the eastern NWT from the western NWT, requiring multiple democratic affirmations, including a 1992 referendum that preceded the formal 1993 signing of the Nunavut Land Claim, whose first step was a territory-wide plebiscite (held on May 4) on whether to divide the Northwest Territories, which then included the Eastern and High Arctic, allowing Nunavut to peacefully secede from the NWT – winning 54% of the vote. The next step was a referendum (held November 3–5) in the new territory set to become Nunavut, winning 69% of this regional vote of the Eastern and High Arctic communities. The formal birth of the Nunavut Territory on April 1, 1999 was a huge historical moment for the Inuit, for Canada, and for the history of Inuit LCAs. The birth of Nunavut was comparable, in geographic scale, to the Alaska Purchase, as the latter brought Alaska under U.S. sovereignty after its long period of Russian colonization, thereby initiating a slow multigenerational process of political reform that would, over time, better serve indigenous interests; while the former more strongly aligned Inuit and national interests by augmenting the Inuit LCA model with the secession of a majority-Inuit territory, enabling indigenous governance through a public model. So while the latter integrated the former RAC colony into the U.S. constitutional polity and brought an end to Russian sovereign claims on mainland North America, the former redrew internal territorial boundaries so that the Inuit could effectively govern themselves as the overwhelmingly predominant ethnic group of the new territory, instead of as a minority in the more demographically complex pre-division Northwest Territories.

Each has contributed to the political stability of Arctic North America and enhanced the sovereign claims of their states (the United States, and Canada, respectively) and in many ways, each has enabled those two states to more ably assert and project sovereignty in the Arctic, though the purchase of Alaska was only the first step, and required ANCSA a century later to provide Alaska natives with additional levels

for meaningful participation in the governance and economy of the state, followed by ANILCA and the numerous subsequent legislative amendments tweaking and improving ANCSA, right up to (and beyond) the 1991 Amendments (technically enacted in 1988, in anticipation of the looming 1991 “time bomb”⁵⁴) just around when the Nunavut land claim was finalized and the path to the 1999 Nunavut secession mapped out.⁵⁵ Both cases were thus pivotal but unto themselves incomplete forward steps toward indigenous inclusion in Arctic governance.

As we see in with the Quebec Inuit, Cree and Naskapi in 1975/1978; Inuvialuit in 1978/1984; Nunavut in 1993/1999; and Nunatsiavut in 2005, settling a LCA is just the starting point, but not the end point, in the broader process of native empowerment and inclusion. It has become universally accepted as an essential first step, and has retained the native corporation (and its division into regional and village/community corporations) as its economic engine, but it has grown into a more complex and ambitious project, starting with the extension of municipal and regional governance into the remote north with JBNQA/NEQA in 1975/1978, the institutional inclusion and protection of subsistence as part of the land claim with the Inuvialuit land claim (1978/1984); and after Nunavut (1993/1999) included a vast territorial restructuring of government to ensure Inuit democratic participation and control at the local, regional and territorial level of governance. After 1984, the Inuvialuit long aspired to establish their own structure of regional self-governance to augment their land claim for their own ethnically diverse region, and came close several times to achieving a new Western Arctic Regional Municipality reminiscent of the regional governing structures established by JBNQA; but even with in its absence, they successfully resolved the subsistence challenge that ANCSA had left unsolved.

⁵⁴ Worl, *Op Cit.*, 1.

⁵⁵ See: CBC News, “Inuit Vote for New Territory,” *CBC National*, 1992, <https://www.cbc.ca/archives/entry/1992-inuit-vote-for-new-territory-of-nunavut>. With a majority of the entire Northwest Territories supporting the Nunavut secession, and an even stronger majority of residents of the future Nunavut territory supporting the formation of Nunavut in their region, the 1993 Nunavut Land Claim and subsequent formation of the Nunavut Territory strengthened its legitimacy and democratic foundation with support of its neighbors in the old pre-split NWT, its residents in the new territory, and the national government in Ottawa. With multiple levels of government behind it – and representing multiple levels of analysis from the local to the national level, as well as Inuit, Dene-Metis, and non-native settler communities – Nunavut entered the world with much legitimacy.

Moreover, it appears to be more than just a coincidence that the blueprint of the 1984 Inuvialuit Final Agreement, the 1978 Agreement-in-Principle, precedes the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 by two years, which, in addition to offering federal protection to much of Alaska's wilderness lands, also addressed subsistence – and while separate from ANCSA, is often perceived to be the completion of the journey that ANCSA started. Moreover, it appears to be more than just a coincidence that in 1993, Ottawa agreed not only to the Nunavut Land Claim but also to the formation, six years later, of the Nunavut Territory, while at the same time in Alaska, the federal government recognized Alaska native villages as tribal entities – counterbalancing the state of Alaska's long opposition to tribal government in Alaska and further strengthening the native position with regard to the feared losses of native equity control and ownership associated with the 1991 “time bomb.”⁵⁶ These historic alignments in native empowerment on both sides of the border suggest that aspirations and realities would reset in both Alaska and Canada, with the former happening much more piecemeal, while the latter, over time, would happen in a more unified manner but also with the need for additional steps to ensure implementation lived up to expectations. So, there was progress, and setbacks too, on both sides of the Alaska-Canada border, along with decades-long efforts at institutional reform and improvement. Institutionally, the LCA experience in the Canadian Arctic has benefited from the passage of time, and the expansion of opportunities (from municipal self-government in 1975/78 to subsistence protection in 1978/84 to territorial secession in 1993/99, to the restoration of Inuit law at the regional level in 2002/05) that accompanied time's passage (along with a general absence of large concentrations of non-native residents, in contrast to much of Alaska) in addition to a more favorable constitutional environment (particular with Canada's constitutional embrace of the inherency of Aboriginal rights) for addressing and improving indigenous rights issues over time.

In the famed 1961 documentary on the Barrow “Duck-In”⁵⁷ that preceded ANCSA, indigenous rights leader Charlie Etok Edwardsen refers to the rise of “Eskimo power” in response to Alaska's modernization

⁵⁶ Worl, Op. Cit., 1.

⁵⁷ Uncivilized Films, *The Duck In*, 1961, <http://www.isuma.tv/uncivilized-films/the-duck-in>.

and expansion of governance as a state, and the state's early insensitivities to indigenous rights issues. The pioneering transformation of Arctic governance fostered by ANCSA, its many (and seemingly never ending) amendments, in combination with ANILCA that re-introduced federal protection of subsistence as part of this landmark land conservation act wedding land conservation to the national interest in 1980, created new institutions for indigenous governance and economic participation (primarily the Alaska Native Corporations of ANCs), and for federal protection of subsistence on the vast federal wilderness lands in Alaska – protecting those lands from development pressures by corporate and state-level governmental interests.

The result was a complex system of contending levels of governance with a more robust role for indigenous stakeholders than ever before – a role that would continue to grow as Alaska natives looked beyond the corporation as a model, and revisited tribal government as an option for achieving their aspirations at the local level – a movement, as what the late Thomas Berger has chronicled in his writings on his “Village Journey”⁵⁸ into native Alaska in the mid-1980s, that arose in widespread community opposition to ANCSA's corporate structure – but which gained federal support during the Clinton Administration with the tribal recognition of Alaska native communities in 1993, when Ada Deer served as Assistant Secretary of the Interior and head of the Bureau of Indian Affairs. Deer was a member of the Native American Rights Foundation (NARF) steering committee, and participated with Berger in the Alaska Native Review Commission (ANRC) during its community hearings in 1984/85, and which called for the “retribalization” of Alaska native lands. The ANRC was sponsored by the (then-named) Inuit Circumpolar Conference (now Council), one of the pioneering institutions behind the founding of, and a leading Permanent Participant on, the Arctic Council, part of a broader movement to augment and internationalize the voice of the Inuit in world politics; that it helped to foster the movement for greater tribal sovereignty in Alaska as it worked to create new autonomous forms of governance in Canada through the evolving LCA model is one more indicator of the transnationality of the Inuit, and their approach to strengthening autonomy and self-governance within the

⁵⁸ Thomas Berger, *Village Journey: The Report of the Alaska Native Review Commission* (New York: Hill and Wang, 1985).

constitutional parameters of their various sovereign states. It is this fascinating journey, of Inuit transnationalism and diplomacy, that arises from the domestic processes of land claims settlement, and associated institutional innovations in co-management and collaborative governance that followed, introducing a new paradigm for hybrid sovereignty in Arctic North America and beyond that is fundamentally rooted in the Inuit LCA experience.

ARCTIC LAND CLAIMS AS A SYNTHESIS OF MODERNIZATION AND (Re) TRIBALIZATION: CO-MANAGEMENT AS A PARADIGM OF COLLABORATIVE GOVERNANCE AND HYBRID SOVEREIGNTY

The balance struck between modernization of the Arctic, and its (re-)tribalization as called for by the ANRC after its public hearings in village Alaska in the 1980s, manifests itself primarily in the mutual commitment to co-management, which was enshrined as a governing paradigm and key structural component in all subsequent Arctic land claims, and appended to the corporate systems in Alaska, external to ANCSA, by ANILCA, which re-introduced federal oversight of the co-management process on federal lands in Alaska. Co-management has come to reflect the philosophy of hybridized Arctic governance in the Age of Arctic Land Claims, as it's not only built into the structural fabric of Canadian Arctic LCAs, but has taken form outside the framework of land claims (as it did in Alaska) in regions where land claims remain unsettled, and where non-indigenous interests complicate negotiations due to the multiplicity of third-party interests absent from much of Arctic North America. And since the formation of the Arctic Council in 1996, co-management has emerged as a paradigm for joint tribe-state governance not only in domestic politics, but international politics as well.

When we look to the Arctic Council, we see in its diplomatic structure a very similar balance of indigenous and state interests, with state interests continuing to hold most of the cards when it comes to decision-making powers, but indigenous stakeholders having a seat at the table and enjoying a prominent position from which to influence those decisions. This balancing of modernization and (re-)tribalization, as sought in the LCA settlement areas in the Canadian Arctic, mirrors that of ANCSA,

through legislative amendment, and through the introduction of ANILCA's additional protections (of wilderness lands, and of subsistence, under federal protection) – as noted above, this convergence and co-evolution reflects the porous nature of the U.S.-Canada border and the transnational nature of the Inuit, who helped to re-imagine land claims from the “before” (ANCSA) to the “after” (JBNQA/NEQA, IFA, Nunavut, and Nunatsiavut), and which continued to be re-imagined for more than two decades as subsequent LCAs took the previous iteration of the model, and negotiated iterative improvements, as we see most notably in Nunavut with the alignment of a new territorial government with a LCA settlement area.

In the literature on land claims and co-management in Arctic Canada, we see in general a more balanced approach between the processes of modernization and (re-)tribalization than we see in the literature on the Alaska land claim. The latter, as pointed out above, emphasized the former and this in turn helped to catalyze a movement to strengthen the latter through subsequent reform efforts, legislative amendments to ANCSA, and of course, through the federal intervention to protect Alaska's wilderness lands and subsistence upon them in ANILCA (whose name, the Alaska *National Interest* Lands Conservation Act (italics added) is telling, and illustrates how the conservation of land was perceived by the White House in 1980 as a pillar of the national interest, and as such, a component of national security.) In Canada, there was a similar recognition of the importance of land conservation as not just a tribal interest, but a national interest as well, and this mutual recognition made it possible for Ottawa to agree with Inuvialuit aspirations to protect subsistence and the lands upon which subsistence depended. Milton M.R. Freeman's retrospective discussion of the pivotal Inuit Land Use and Occupancy Project (ILUOP), as noted above,⁵⁹ commenced in 1973 at the request of the Inuit Tapirisat of Canada (ITC, now known as the Inuit Tapiriit of Canada).

The ILUOP introduced the use of individual “map biographies” as a methodology for countermapping (using maps to restore indigenous rights, and to counter claims by settler states), and in so doing illustrates a remarkable victory by the Inuit, who persuaded Ottawa to accept

⁵⁹ Freeman, Op. Cit.

their own narrative on land use and occupancy to establish the historical foundation for the land claims process based on claims of indigenous land use and occupancy “since time immemorial” that can not in many cases be historically verified. In thinking about the levels of analysis, this is another intriguing illustration of how the individual level of analysis became central to the groundwork for the land claims process, which ultimately was accepted by the national government to remap the northern third of Canada – evidence of effective individual agency in national politics and a reminder of the inherent causal ambiguity in world politics that gives rise to the perennial levels of analysis problem plaguing theorists since the 1960s. In the ILUOP, Inuit-hired anthropologists (led by Freeman), and a team of Inuit field workers (including Nellie Cournoyea, the aforementioned ILUOP field workers, future NWT Premier, and returning Chair of the IRC) mapped Inuit land use by recording the oral testimony of Inuit hunters and trappers. These oral testimonies would be accepted by Ottawa to verify Inuit claims to most of the Canadian Arctic, even some High Arctic lands that were only recently settled by Inuit in the 20th century and which had not been used historically by Inuit. How was this possible? The Inuit recognized Ottawa’s ultimate weakness, a weakness that Ottawa itself well knew (and reminiscent of Quebec’s own humility and self-awareness in the 1970s): in not effectively occupying its own Arctic territories, Ottawa desperately needed a proxy to do so on its behalf. Indeed, in the 1950s, Ottawa had relocated several dozen Inuit to the High Arctic, in a resettlement program that has gained much controversial notoriety in the years since. The Inuit take-away was obviously that Ottawa needed Inuit consent to its sovereign claims, which put them in a position of negotiating strength despite their relatively small numbers and lack of material wealth or power. Their gambit succeeded when Ottawa accepted the ILUOP in full without revision. When looking at the High Arctic exiles, the relocation effectively strengthened Ottawa’s claims to the region, which would soon be further strengthened with the 1956 extension of Canadian citizenship to Inuit. That Ottawa insisted on Inuit bringing subsistence to the High Arctic islands (in contrast to Washington’s approach with ANCSA in 1971 to emphasize economic modernization, or even Quebec’s mixed economic approach in 1975), and offered little economic assistance, supports the notion that Ottawa wanted Inuit to use as much of their new insular lands as possible, a necessity to survive without government support. This was a very different kind of colonization, one that strengthened subsistence, a foundation of

Inuit culture (but at very high personal cost and risk to the families, and very low cost to Ottawa – though the later human rights blemish, and demands for compensation, would offset this somewhat, but not so much considering how much territory Ottawa extended its sovereignty to thereby.)⁶⁰

What did Ottawa get in return for granting Inuit so much autonomy, and such a large land base (with significant economic compensation, too)? Just as a LCA transfers land title for what has averaged around one-tenth of the land base inside the settlement region to the native beneficiary group, the native group in turn agrees to surrender aboriginal title to that land to the national government. So, for instance, in settling the IFA, Ottawa in essence gained recognition of its claim of Crown title from the Inuvialuit to the other 90% of their oil-rich region that the Inuvialuit did not gain fee-simple title to; and in Nunavut, over a much larger and more strategic area, the ratio was much the same. So, in essence, Ottawa clarified its title (through something akin to title insurance) when the Inuit agreed not to contest Ottawa's sovereignty in a region that Ottawa has historically not fully occupied, settled or developed, in exchange for Ottawa's grant of fee-simple title a tenth of the land base (along with cash compensation and other rights and powers) – the essence here is diplomatic, and strategic. (Quebec's provincial government, which at the time of JBNQA/NEQA in the 1970s aspired to gain independence from Canada, had much the same ambition, as John Ciaccia described: "This Agreement has enabled us to accomplish two great tasks to which the government committed itself. It enables us to fulfill our obligations to the native peoples who inhabit our north, and to affirm finally Quebec's presence throughout its entire territory."⁶¹)

In Alaska, things were much the same: ANCSA provided Alaska natives with title to closer to one-ninth of the land, but at the same time the state gained immensely from the surrendering of native title to the remaining lands – ensuring that state and federal ownership of the rest of Alaska was, at last, undisputed. Whether Alaska or Canada (or even, potentially, an independent Quebec), the state receives undisputed sovereignty over the vast majority of its remote Arctic land mass from the consent provided

⁶⁰ See Melanie McGrath, *The Long Exile: A Tale of Inuit Betrayal and Survival in the High Arctic* (New York: Vintage Books, 2006) for more details of this controversial chapter in Canadian Arctic history.

⁶¹ Ciaccia, Op. Cit., 2.

by the indigenous LCA beneficiaries. For the Canadian side, this was ultimately rooted in those individual map biographies asserting individual use and occupancy of the land that lay the foundation for Canadian Inuit land claims. For areas where Inuit did indeed use and occupy these lands historically, the mutual exchange between the state and the indigenous community does seem to legitimize sovereign claims over those lands. But what of those areas where Inuit land use and occupancy are relatively new and thus lack such an historic foundation that were included in an LCA (as was the case for Cornwallis and Ellesmere Islands)? And what if the underlying claims of individual land use and occupancy in the map biographies undergirding LCAs are themselves exaggerated, as users of productive lands around the world will often do? Fortunately, until now, neither the Inuit nor the government of Canada has suggested there is anything shaky at all to the foundation of either Canadian Arctic land claims, or to Canadian Arctic sovereignty.⁶²

Also good news: the structures created by LCAs would establish a solid institutional foundation that would, over time, bring effective and meaningful governance to these regions – so even if the historical foundation was shaky, the post-settlement institutional development has strengthened Arctic sovereignty through the emergence of a diverse patchwork of governing institutions. For instance, the IFA established not only six community corporations and the Inuvialuit Regional Corporation (IRC), but also an Inuvialuit Development Corporation (IDC), Inuvialuit Investment Corporation (IIC), Inuvialuit Land Corporation (ILC, to hold title to Inuvialuit-owned lands), and Inuvialuit Land Administration (ILA, to administer those lands), as well as six Hunters and Trappers Committees (HTCs), an Inuvialuit Game Council (IGC) to which all six belonged,

⁶² Indeed, the collaborative underpinnings of Canadian Arctic sovereignty appear to be strengthening as Ottawa pursues devolution agreements with its northern territories. As reported by *Reuters*, on January 18, 2024, Ottawa “gave the giant territory of Nunavut control over its reserves of gold, diamonds, iron, cobalt and rare earth metals, a move that could boost exploration and development,” when Canada’s prime minister, Justin Trudeau, “signed a devolution agreement in the Nunavut capital Iqaluit with Premier P.J. Akecagok, granting the territory the right to collect royalties that would otherwise go to the federal government.” Natalie Maerzluf, “Canada gives mineral-rich Arctic region of Nunavut control over its resources,” *Reuters*, January 18, 2024, <https://www.reuters.com/business/environment/canada-give-mineral-rich-arctic-region-nunavut-control-over-its-resources-2024-01-18/>.

and five subsistence-oriented and environmental co-management organizations upon which they served: an Environmental Impact Screening Committee (EISC), Environmental Impact Review Board (EIRB), Fisheries Joint Management Committee (FJMC), and two Wildlife Management Advisory Councils (one for the NWT, and one for the Yukon North Slope, despite the strenuous objections by the Yukon territorial government that neither Ottawa nor the Inuvialuit had a right to govern anything inside the Yukon – a view Ottawa and the Inuvialuit rejected). The Inuvialuit made seasonal use of the North Slope for whaling, though had no permanent communities along the slope once past the Alaska border.

The inclusion of such a diverse array of structures of co-management with specific functions established what we can think of as a separation of powers system between the economic and the cultural – giving equal institutional consideration to both corporate and subsistence practices, while also embedding in the land claims structure an unprecedented degree of granularity matching each function to its own institution. While most of the money, and thus economic influence, stayed on the corporate side, creating an imbalance in influence within the Inuvialuit Settlement Region (ISR) during its first decade, the co-management structures would become, in essence, governing institutions that ensured a native voice was heard on matters of supreme importance to the Inuvialuit traditionalists, and in the rare case this voice was ignored by the federal government, the government felt enormous pressure to disagree respectfully – knowing the courts could, and would, intervene if Ottawa did not abide by the promises enshrined in the land claim treaty, which had constitutional protection. Even though Ottawa retains final decision-making authority, the landscape had forever changed, with native participation in all decisions affecting the land claim settlement area ensured.

With co-management now firmly embedded in land claims' structures, it has gained the same constitutional protections that the native corporations received early on, becoming a mechanism to defend indigenous rights under the protection of the Canadian constitution. In contrast, in Alaska, as discussed above, co-management remained separate from the land claims, and as such lacked the same elevated constitutional protection enjoyed in Canada; but as we saw with ANILCA, whose very title weds "lands conservation" with the "national interest" in Alaska, subsistence eventually gains federal protection even without the additional constitutional protection afforded in Canada, which has proven to

be powerful and enduring, even if a source of ongoing political friction with the state government in Juneau. Just as in southern Canada, where non-natives predominate demographically, co-management has emerged separate from the land claims process, often well in advance of land claims, but because of Ottawa's deep, high-level constitutional commitment to aboriginal rights, these co-management systems enjoy a special, quasi-governmental status even in jurisdictions where natives remain a minority and land claims remain an aspiration for tomorrow.

The paradigm of collaborative governance and hybridized sovereignties articulated through the co-management experience and evolution across Arctic North America and its historic experience pioneering indigenous land claims as an incubator for reconciling tribal and state interests and aspirations, and weaving together the twin paradoxes of globalization theory, the globalist wave of historical development and the tribalist response to it. It's been a process of continuous dialectical interaction and refinement between thesis and multiple antitheses on a long, multi-generational road toward reconceptualizing Arctic sovereignty that dates back to the Fur Empires. Much has been gained, but these gains should not be conflated with a presumption of ease, as the process has been with numerous challenges, requiring lifetime commitments of dedicated individual actors who have through their determined efforts literally kept the state in check, and constrained its worst excesses as seen in the Westphalian world.

Going forward we can expect continued reconciliation, but it will require continued dedication and sacrifices in time and energy by stakeholders representing both tribe and state. In the 2014 short film, *Kajutaijuq: The Spirit That Comes* (directed by Scott Brachmayer, which he co-wrote with Nyla Innuksuk and Craig Stewart, and starring Inuk actor Johnny Issaluk)⁶³ illustrates the deep intensity of anger and betrayal by the spirit world when witnessing the flow of modern values, ideas, and technologies into its remote and traditional domain, taking aim, paradoxically, against an Inuk hunter on the land who is trying his best to maintain a balance between the world of tradition and the world of modernity. The spirit does not appear angry at those who embrace modernization full on, nor those who resist modernity in favor of tribalism, but instead at those who seek to reconcile and balance these two

⁶³ Nyla Innuksuk and Craig Stewart, "Kajutaijuq: The Spirit That Comes," directed by Scott Brachmayer and starring Johnny Issaluk, 2014, <https://vimeo.com/103292836>.

contending world views that clashed over globalization (as described by globalization theorist Benjamin Barber at just around the time that the decades-long negotiations for Nunavut were successfully concluded⁶⁴) – taking deadly aim at those endeavoring to bridge the globalist and tribalist worlds, finding hybrid sovereignties to be blasphemous to true believers of both of globalization’s dueling philosophical pillars.

And this leaves a mystery for us to grapple: What provoked such an unforgiving wrath of the spirit? Why is it angry for the audacity of this hybridized synthesis of two otherwise dueling sovereign visions for the Arctic? Inuit have regained so much – land, wealth, political power, autonomy, agency, economic influence. True, they have yet to regain formal sovereignty over their land as an independent nation (and apart from in Greenland, have largely tied their destiny to that of the state) – but this does not seem to me to be the reason for the spirit’s anger. Indeed, the victim of the spirit’s wrath, played brilliantly by Inuk actor Johnny Issaluk, listens dutifully to an audio recording in his language, about the restoration of traditions. He is on the land, practicing Inuit traditions of hunting and living off the land central to Inuit identity for millennia. Then what was his transgression? Was it his reliance on outside knowledge and technology? Was it his and his peoples’ aspiration to live in two worlds at once, when the spirit commands obedience to just one? Or is it a reminder that in the end, nature is and always will be unforgiving – and the ultimate arbiter of whether we live or die? Or, might it be a metaphor for Nunavut’s failure to live up to the hopes and dreams of the Inuit? The film was obviously not political, and is in fact a short horror film that can bring a class of undergraduates hardened by the ubiquity of Netflix to a primal and unstoppable scream, year after year. Nowhere in it is Nunavut or its challenges discussed, and yet it captures the paradox of hybrid sovereignties perfectly, and hints that the reconciliation of tribalism and globalism by native land claims and indigenous corporate development is of itself an imperfect solution to the challenge of balancing tribal and state interests in the Arctic. And yet the historic endurance of this approach, and its notable gains and continued momentum, suggest it is perhaps the best we can achieve in this world, contextualized by our shared history. Perhaps it is this that angers the spirit: as with all mortal quests, perfection remains forever elusive.

⁶⁴ Barber (1992), *Op. Cit.*; Barber (1995), *Op. Cit.*

But as settled Arctic land claims continue to mature, and time brings greater capacity with a new generation taking over the helm of governance in the Arctic, it's a fruitful intellectual exercise to continue to wonder what it was that provoked the wrath of the spirit in *Kajutaijuq* and endeavor to proactively address this through further structural innovation and collaboration in Arctic governance. LCAs have transformed Arctic governance through the inherent hybridity of co-management, setting the region on a course of increasing collaboration between tribe and state, and thus allowing the state to expand into the Arctic with the consent of the indigenous people of the Arctic – a new experience for North America and a welcome alternative to the history of war and conflict seen elsewhere, including in the Lower 48 U.S. states with their history of Indian warfare.

But like Clausewitz reminds students and practitioners of war, war is at heart a continuation of politics (or policy) by other means – his original word in German is *politik*. And land claims are thus a compelling alternative to war, a kinder, gentler, and more respectful path to state expansion, even if in the end, it facilitates the state's expansion and the consolidation of its sovereignty over the Arctic, and this is the ultimate compromise that drives it forward, bringing tribal and state interests to the negotiating table over and again across the ages, much as we long ago saw at the parley table at Fort Niagara where native commanders and their colonial counterparts met to discuss the ebbs and flows of the French and Indian War, known in Europe as the Seven Years' War – a war for control of the interior of North America. Colonial warfare did not extend into the Arctic except on rare occasion, allowing instead for the future of the Arctic to be determined by continuing parleys not unlike those at Fort Niagara, which evolved into more modern negotiations between tribe and state that ushered forth the Age of Arctic Land Claims. In this way, war has been averted, but the clash of interests between tribal polities and peoples on the one hand, and Westphalian states on the other, continues, channeled into negotiated settlements, peace treaties without war. It is my hope, in the years ahead, that the spirit's unforgiving wrath as illustrated in *Kajutaijuq* is ultimately assuaged, and that the compromise achieved, through this novel and innovative alternative to armed conflict, becomes a model for all the world, and a stepping stone beyond the Westphalian order to a hybrid future that welcomes all of us at the sovereign table.

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