

6 Our homeland

Arctic indigenous peoples' perspectives on non-Arctic states

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6.1 Introduction

Our language contains the memory of four thousand years of human survival through the conservation and good managing of our Arctic wealth.

Ours is the language of the very environment that challenges the environmental safety of existing offshore technology.

Our language contains the intricate knowledge of the ice that we have seen no others demonstrate. Without our central involvement, there can be no safe and responsible Arctic resource development.

We Inupiat live under four of the five flags of the Arctic coast. One of those four flags is badly missed here today ... it is generally agreed that we enjoy certain aboriginal legal rights as indigenous people of the Arctic. It is important that our governments agree about the status of these rights if they are to be uniformly respected.¹

(Eben Hopson, Founder Inuit Circumpolar Council)

Drastic changes are occurring within our world. We are on the forefront of these changes. We have lived here for millennia and have grown and changed with all that is around us. All that is around us physically and spiritually nourishes us, and our culture reflects the Arctic because we are part of this ecosystem.²

(Food Security Report, ICC)

Any discussion of legal order in the Arctic must recognise the status and rights of Arctic indigenous peoples throughout their circumpolar homeland, including the Inuit of the Russian Far East, Alaska, Canada and Greenland, the Sámi of northern Norway, Sweden, Finland and Russia as well as the various indigenous peoples and nations throughout the whole of the Russian Arctic territory. Indeed,

1 Eben Hopson (1977) "Welcoming Speech", 13 June 1977, Barrow, Alaska on the occasion of the first Inuit Circumpolar Conference.

2 ICC-Alaska (2015) *Alaska Inuit Food Security Conceptual Framework: How to Assess the Arctic from an Inuit Perspective*, Technical Report. ICC, Alaska: 4.

the states that have grown up around these long-standing, unique indigenous peoples, were all once “non-Arctic”. In fact, the earliest expeditions by non-Arctic explorers were plagued by failure and near-death experience, their success only ensured by the knowledge, capacity and compassion of Inuit hunters.³ Even the Vikings, facing grave difficulties and harsh conditions, retreated. Significantly, despite random and strange contact with Arctic explorers, Inuit homelands have largely remained our own domain. However, with time, technology and present global environmental conditions, we are now faced with dramatic change, including in the realm of political reality and legal orders.

Nevertheless, since first contact, Inuit have been generally successful at not only defining, but continuously re-defining our relations with others and working to maintain our cultural integrity as well as our blood relations across imposed national borders and an increasingly volatile political, economic, social and cultural milieu.

It is crucial to underscore that the Inuit worldview of the circumpolar Arctic region is expansive and inclusive of both *terra firma* and *marinus*. Inuit are a maritime people with an ancient history of reliance upon both the marine and terrestrial environment. Therefore, this chapter will emphasise the perspectives of Inuit largely due to their status and rights as a maritime Arctic people and the fact that the author is of Inuit descent.

This chapter will briefly cover the background and current work of Inuit political organisation, engagement in the United Nations and regional work of the Arctic Council, Inuit rights and status in the Arctic legal order, and conclude with some recommendations for non-Arctic states in this regard.

6.2 Inuit Circumpolar Council

Though a 1973 Arctic Peoples Conference was hosted by the International Work Group for Indigenous Affairs in Copenhagen, the first formal meeting of the Inuit took place in June 1977 at Barrow, Alaska. At the invitation of then Mayor Eben Hopson of the North Slope Borough, Inuit leaders from throughout Alaska, Canada and Greenland gathered in the Barrow High school gymnasium. An invitation was extended to the Siberian Yup’ik of the Soviet Union, but in the midst of the Cold War they were denied participation. The first conference resulted in a commitment to establish an official trans-Arctic Inuit organisation. In addition, numerous resolutions were adopted concerning the priorities of the day, ranging from safeguarding Inuit whaling rights to peaceful use of the Arctic to Arctic Policy and Land Claims to Education and Village Technology.⁴

³ Adriana Craciun (2016) *Writing Arctic Disaster: Authorship and Exploration*. Cambridge University Press, Cambridge.

⁴ Inuit Circumpolar Conference (1977) *Summary and Resolutions*, Barrow, Alaska, 13–19 June 1977. www.inuitcircumpolar.com/resolutions6.html (accessed 4 April 2018).

Resolution 77–01 provided the pathway towards future organisation by affirming that:

Whereas, the Inuit of Greenland, Alaska and Canada are one indivisible people with a common language, culture, environment and concerns; Whereas, the Inuit of the circumpolar regions declare the oneness of its culture, environment and land and the wholeness of the homeland and that it is only the boundaries of certain nation states that separate us; ... Whereas, we wish to reaffirm our right to self-determination; and Whereas, there is a need for an international organization of Inuit to study, discuss, represent, lobby and protect our interests on the international level; ... That this Charter be so drafted as to include, but not be limited to the following areas of concern namely:

- a) the safeguard and protection of the resources of the Inuit homeland;
- b) the preservation, retention and further development of Inuit language and culture in all their aspects;
- c) the development and improvement of adequate and safe transportation and communication systems for the Inuit homeland;
- d) the Inuit be adequately consulted and take part in any and all discussions affecting their homeland which may have potential significant impact;
- e) the development of proper and adequate game management systems for our homeland;
- f) the development of mutual exchange in areas of improving all aspects of living conditions;
- g) the development of a meaningful Arctic policy;
- h) the establishment of funding sources to permit the operation and future existence of this international Inuit body.⁵

At the subsequent 1980 conference in Nuuk, Greenland, the ICC was crystallised as the “transnational organization in the Inuit homeland to serve these people in the circumpolar region”.⁶ As articulated in its Charter, the principal goals of ICC are to: a) strengthen unity among Inuit of the circumpolar region; b) promote Inuit rights and interests on an international level; c) develop and encourage long-term policies that safeguard the Arctic environment; and d) seek full and active partnership in the political, economic, and social development of circumpolar regions.

In 1977, the objective of “the development of a meaningful Arctic policy” was expressed and took shape throughout the various ICC General Assemblies and

5 ICC Resolution 77–01, 15 June 1977. www.inuitcircumpolar.com/iccs-beginning.html (accessed 4 April 2018).

6 ICC Resolution 79–01, 17 July 1979. www.inuitcircumpolar.com/resolutions6.html (accessed 4 April 2018).

recently updated in 2010. One of the key objectives of the ICC Principles and Elements for a Comprehensive Arctic Policy⁷ is respect for and recognition of the rights of Inuit, which transcend international boundaries. In addition, the ICC Arctic Policy principles seek to gain coherence and coordination in relation to indigenous rights. The recognition and treatment of Inuit rights by both Arctic and non-Arctic states has been uneven at best and misunderstood or unacknowledged at worst.

Another crucial theme is the need for the full, effective and direct role of Inuit in promoting and protecting our distinct culture, our unique environment, and our traditions and values at all decision-making levels, from local to regional to national and international. As the title suggests, the ICC's Arctic Policy document is comprehensive, addressing issues ranging from the right of self-determination to peace and security and scientific research to environmental protection to Inuit elders and youth. These Arctic policy principles and elements have ultimately influenced numerous other developments, including the Arctic Council, the UN Declaration on the Rights of Indigenous Peoples,⁸ the ILO revision of the Convention on Indigenous and Tribal Peoples, 1957⁹ (which resulted in ILO C169),¹⁰ the IUCN's World Conservation Strategy and other international developments. To a large extent, non-Arctic actors have remained uninformed and ignorant of the substance of the distinct human rights of Inuit despite the fact that many non-Arctic states have engaged in the international human rights standard-setting process for decades.

The ICC gained non-governmental organisation (NGO) status from the UN Economic and Social Council (ECOSOC) in 1983, which has provided access to a wide range of UN specialised agencies, organs and bodies. At that time, there were only 12 indigenous peoples' organisations that held such "consultative status" with the United Nations.¹¹ In 1986, the Siberian Yup'ik of the Russian Far East were able to join the ICC and actively engage in their work. Presently, the organisation represents approximately 165,000 Inuit through Inuit Nunaat, the traditional Inuit homeland. In addition, the ICC was one of the framers of the Ottawa Declaration and an original Permanent Participant to the Arctic

7 Inuit Circumpolar Conference/Centre for Northern Studies and Research (1992) *Principles and Elements for a Comprehensive Arctic Policy*. http://arctic.gordonfoundation.ca/sites/default/files/ICC_Principles_and_Elements_for_a_Comprehensive_Policy_PART_1.pdf (accessed 7 August 2018). The initial draft was prepared in 1983 and refined through Inuit debate and dialogue until its final adoption at the 1992 ICC General Assembly held in Inuvik, NWT, Canada.

8 United Nations Declaration on the Rights of Indigenous Peoples (2007), UNGA/RES/61/295, Annex, 13 September 2007.

9 Indigenous and Tribal Populations Convention, International Labour Organization C107, adopted 26 June 1957 and entered into force 2 June 1959.

10 Indigenous and Tribal Peoples Convention, International Labour Organization C169, adopted 27 June 1989 and entered into force 5 September 1991.

11 See generally Jens Dahl (2012) *The Indigenous Space and Marginalized Peoples in the United Nations*. Palgrave Macmillan, London: 37–38.

Council (to be discussed below) when this intergovernmental forum was established in 1996. In addition, the ICC leadership and representatives substantively influenced the Arctic Council Rules of Procedure, including the emphasis upon consensus decision-making as well as other procedural rules. One of the key Inuk diplomats involved in these organisational discussions was then ICC President Mary Simon, who later became the Canadian Ambassador for Circumpolar Affairs.

ICC holds a major General Assembly every four years wherein Inuit delegates from across the circumpolar region elect a new Chair and an Executive Council, develop policies, and adopt resolutions that will guide the activities of the organisation for the coming term. The General Assembly is the heart of the organisation, providing an opportunity for sharing information, discussing common concerns, debating issues, and strengthening the bonds between all Inuit, and significant cultural celebration.

Over its four decades, it is safe to say that the ICC has garnered a solid reputation for Inuit diplomacy.¹² ICC's work has substantially increased Arctic knowledge, political leadership and important insights into the lives, conditions and concerns of Arctic peoples generally and Arctic indigenous peoples specifically.

6.3 Intertwining national and international developments

In a global sense, the intersection of Inuit aspirations and international relations have afforded Inuit the opportunity to raise awareness about the issues facing our peoples and to demonstrate the legitimacy of Inuit perspectives in the context of international human rights law and a wide range of other issues.

Simultaneous with the ICC's preparation of the Arctic Policy, the UN took on the initiative of preparing a declaration on the rights of indigenous peoples, initiated in 1982 by five independent human rights experts of the UN Working Group on Indigenous Populations (WGIP). Due to these concurrent debates and dialogue, we were able to intensify or amplify our fundamental organisational objectives as well as influence many provisions of the UN Declaration's final texts adopted by the UN General Assembly in 2007.¹³

12 See generally Frances Abele and Thierry Rodon (2007) "Inuit Diplomacy in the Global Era: The Strengths of Multilateral Internationalism" *Canadian Foreign Policy* 13-3: 45-63; Gary Wilson (2007) "Inuit Diplomacy in the Circumpolar North" *Canadian Foreign Policy* 13-3: 65-80.

13 From 1982 to 2007, the ICC participated in the Working Group on Indigenous Populations (WGIP), which forwarded their text to the then Sub-Commission on Prevention of Discrimination and Protection of Minorities, which subsequently adopted the draft UN Declaration in Resolution 1994/45 of 26 August 1994 as an annex. U.N. Doc. E/CN.4/1995/2, E/CN.4/Sub.2/1994/56 (1994), 105. The text was then transmitted to the Commission on Human Rights and subsequently to its successor, the Human Rights Council. The ICC maintained its participation throughout the HRC consideration as well as in the Third Committee and, finally, the General Assembly.

In this regard, there were and continue to be conditions within the Arctic region that are dramatically distinct from those facing indigenous peoples in other parts of the world. For example, the remote, cold climate conditions as well as the heavy reliance upon the coastal seas and Arctic Ocean for survival and sustenance. Such living conditions have always been the hallmark of Inuit and their profound relationship with the Arctic environment. This is in dramatic contrast to indigenous peoples in milder, temperate or equatorial climates.

Among other articles, an explicit example of Inuit engagement was inclusion of the term ‘sea-ice’ in the original article 26 of the WGIP draft UN Declaration.¹⁴ Despite the overall cost to participate throughout all of the UN human rights standard-setting sessions, the ICC recognised the importance of the UN Declaration as a tool to advance our concerns within our particular geopolitical region and beyond. Therefore, we maintained our constant presence and participation in all relevant human rights standard-setting sessions of the UN.¹⁵ It is important to underscore the fact that UN member states from across the globe also played a direct role in this standard-setting exercise, ranging from Japan to India to France and the United Kingdom. So the constant chore of the ICC and other indigenous NGOs was to educate and influence such member states to ensure that the individual and collective rights related to our distinct status were safeguarded.

Aside from the adverse impacts of the Cold War, throughout the elaboration of the UN Declaration, a wide range of developments within the Arctic were happening at a very fast pace. Threats to Inuit whaling activities¹⁶ emerged within the context of the International Whaling Commission; low-level test flights¹⁷ were being initiated throughout the Canadian Arctic and sub-Arctic; a mass drowning of thousands of caribou in Northern Quebec¹⁸ (later attributed – but still disputed – to flooding initiated by Hydro Quebec and their massive, complex hydroelectric system affecting the Caniapiscou River); the 1986 Chernobyl disaster; offshore lease sales in the Chukchi and Beaufort Seas; and dumping of radioactive waste into the Arctic Ocean by the former USSR just to name a few.

14 Article 26 of WGIP *draft* UN Declaration: “Indigenous peoples have the right to own, develop, control and use the lands and territories, including the total environment of the lands, air, waters, coastal seas, sea-ice, flora and fauna and other resources which they have traditionally owned or otherwise occupied or used. This includes the right to the full recognition of their laws, traditions and customs, land-tenure systems and institutions for the development and management of resources, and the right to effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.” Unfortunately, this term has been removed in the final text of the Declaration.

15 In addition to the UN Declaration work, the ICC participated in the 1988 and 1989 revision process of the ILO’s Convention on Indigenous and Tribal Populations, No. 107.

16 In the mid-1970s, the International Whaling Commission extended its regulations to Inuit whaling activity in Alaska and voted to ban the subsistence take of whales by the Inuit of Alaska’s north and northwest coast.

17 A 1983 agreement between Canada and the United States allowed cruise missile low-level test flights to take place over certain corridors throughout Northern Canada, including Goose Bay, Northwest Territories and Labrador.

18 Sports Illustrated (1984) “Letter from the Publisher”, 15 October 1984. New York Times (1992) “Power Struggle”, 12 January 1992.

More significantly, the growth and strengthening of Inuit political leadership and institutions as well as the recognition of Inuit rights to lands, territories and resources through national law in the United States; the comprehensive Inuit land claims agreements in Canada; and the status of the Greenland Government in the Danish realm all have a direct bearing upon the Arctic legal order.

By virtue of the Alaska Native Claims Settlement Act of 1971 (ANCSA)¹⁹ adopted by the US Congress and signed into law by President Nixon, the Inuit of Alaska collectively hold right and title to nearly 16 million acres, including surface and subsurface rights at both the regional and village corporation level. In addition, two regions – North Slope and Northwest Arctic – have organised state-chartered Borough governments that provide local control and capture revenue from developments on their respective lands.

In Canada, the James Bay and Northern Québec Agreement of 1975²⁰ is regarded as “the first major agreement between the Crown and the native people in Canada since the numbered treaties of the 19th and early 20th centuries”.²¹ The agreement was triggered by the 1971 announcement of the mega project to build a complex system of hydroelectric dams throughout the territory of the Cree and Inuit of Northern Quebec. The Agreement provided for 8,151 square kilometres for the Inuit. The provisions also affirm exclusive harvesting rights throughout the lands transferred as well as over an additional 15,000 square kilometres of land. More recently, discussions over the Nunavik Self-Government Political Accord (the Accord)²² have been agreed upon, providing for a measure of self-government and self-determination.

Just to the east of Alaska, the Inuvialuit Final Agreement (IFA),²³ the subject of one of the 1977 ICC resolutions, was finally adopted between the Inuvialuit and the Crown in 1984. The Agreement provided for 90,600 square kilometres of land, including 12,980 square kilometres of subsurface mineral rights and \$152 million. In addition to hunting and fishing rights secured by the Agreement, the Inuvialuit have co-management roles in matters related to fisheries, wildlife, and environmental impact through various joint boards and councils. As one might guess, self-determination and self-government were not addressed and the corporate model of ANCSA was generally replicated in the Inuvialuit context. However, the major distinctions between the Inuvialuit and ANCSA are that

19 The Alaska Native Claims Settlement Act of 1971, Pub. L. No.92–203, 85 Stat. 688, 43 U.S.C.A. §§1601 et seq.

20 The James Bay and Northern Quebec Agreement, signed on 11 November 1975. www.gcc.ca/pdf/LEG000000006.pdf (accessed 21 August 2018).

21 See John A. Price and Brian Craik (2011, 2015) “James Bay and Northern Québec Agreement” *The Canadian Encyclopedia*. www.thecanadianencyclopedia.ca/en/article/james-bay-and-northern-quebec-agreement/ (accessed 21 August 2018).

22 Political Accord between the Nunavik Party, the Government of Québec and the Federal Government for the Examination of a Form of Government in Nunavik through the Establishment of a Nunavik Commission, 5 November 1999. [www.autochtones.gouv.qc.ca/relations_autochtones/ententes/inuits/19991105_en.htm](http://www.autochtones.gouv.qc.ca/rerelations_autochtones/ententes/inuits/19991105_en.htm) (accessed 21 August 2018).

23 Inuvialuit Final Agreement, 5 June 1984. www.irc.inuvialuit.com/sites/default/files/Inuvialuit%20Final%20Agreement%202005.pdf (accessed 21 August 2018).

the Inuvialuit included negotiated provisions (rather than an Act of Congress or Parliament); a full and formal referendum allowing for free, prior and informed consent; and an agreement, rather than a “settlement”. It also entrenched hunting, fishing and gathering rights as well as joint management.

Significantly, the Nunavut Land Claims Agreement of 1993²⁴ is the largest Aboriginal land claim settlement in Canadian history. When the Agreement was signed, legislation was also passed leading to the creation of a new Canadian territory called Nunavut on 1 April 1999. The new territory is a public government serving both Inuit and non-Inuit in the form of a unicameral legislative assembly. However, provisions for a form of self-government for the Nunavut Inuit were included in the agreement. Inuit have title to approximately 350,000 square kilometres of land and of this about 35,000 square kilometres include mineral rights. Inuit and government are represented equally in matters concerning wildlife management, resource management and environmental boards. Inuit rights to harvest wildlife on lands and waters throughout the Nunavut settlement area were secured. A scheduled distribution of compensation over a 14-year period totals approximately \$1.161 billion as well as revenue sharing from royalties generated by oil, gas and mineral development on Crown lands.

In contrast to being used as “human flag poles” to advance the interests of the government of Canada,²⁵ the reality and terms of Nunavut as an autonomous territory is a significant development for Inuit, which certainly figures into the issue of Canadian Arctic sovereignty and the Northwest Passage. The combination of public government and provision for possible distinct Inuit government have led some to believe that “devolution” of control to Nunavut will enhance Canada’s assertion of sovereignty over the internal waters of the Canadian high Arctic.²⁶

Interestingly, when the Inuit Circumpolar Conference General Assembly in Barrow, Alaska, was being organised, the Labrador Inuit were preparing to pursue a land claims agreement with the Canadian government. After 27 years of effort,

24 Nunavut Land Claims Agreement Act, S.C. 1993, C.29, signed on 25 May 1993. www.gov.nu.ca/sites/default/files/Nunavut_Land_Claims_Agreement.pdf (accessed 21 August 2018).

25 See generally Shelagh D. Grant (2016) *Errors Exposed: Inuit Relocations to the High Arctic, 1953–1960*. Centre for Military, Security and Strategic Studies, Centre on Foreign Policy and Federalism & Arctic Institute of North America. <http://pubs.aina.ucalgary.ca/dcass/82785.pdf> (accessed 9 August 2018). More recently, CTV News (2018) “Ottawa sorry for using Inuit as ‘human flagpoles’”, 18 August 2018, covering Canadian government apology to Inuit forcibly relocated in 1953: “As a side benefit, having Canadian civilians living in an otherwise unoccupied area bolstered Canadian sovereignty at a time when other nations, especially the United States, were expressing increasing interest in the Arctic as a possible front in the Cold War with the Soviet Union.” www.ctvnews.ca/ottawa-sorry-for-using-inuit-as-human-flagpoles-1.543546 (accessed 9 August 2018).

26 See generally Samantha Arnold (2008) “Nelvana of the North, Traditional Knowledge, and the Northern Dimension of Canadian Foreign Policy” *Canadian Foreign Policy Journal* 14–2: 95–107; Samantha L. Arnold and Stéphane Roussel (2009) “Expanding the Canada–US security regime to the North?”, paper presented at the Academic Roundtable “Security Prospects in the High North: Geostrategic Thaw or Freeze?”, 29–30 January 2009, Reykjavík, Iceland.

the Labrador Inuit Land Claims Agreement²⁷ was adopted by referendum of the Labrador Inuit in December 2004. The Labrador Inuit now own 15,800 square kilometres of land as well as traditional use rights (including hunting, fishing, harvesting and social and ceremonial use) to 72,500 square kilometres of land and 48,690 square kilometres of sea.

This agreement specifies Aboriginal self-government and like other Canadian Inuit agreements provides for a co-management role for Labrador Inuit. More significantly, the provisions explicitly address the off-shore areas in terms of water rights and the adjacent ocean zone extending to the limit of Canada's territorial sea consistent with the UN Convention on the Law of the Sea. In addition, Inuit self-government, rather than merely public government or a corporate structure, is affirmed.

Significantly, each of these four agreements are considered modern-day treaties in Canadian law and their status as such is explicitly protected within the context of section 35 of the Canada's 1982 Constitution Act.²⁸ (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognised and affirmed; (2) in this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada; (3) for greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired; and (4) notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.²⁹

Canada declared in its November 2010 endorsement of the UN Declaration: "We are now confident that Canada can interpret the principles expressed in the Declaration in a manner that is consistent with our Constitution and legal framework."³⁰ On 16 December 2010, the last objecting state – the United States – reversed its position.³¹ Thus, the UN Declaration is now a consensus international human rights instrument.

In September 2017, Prime Minister Trudeau addressed the UN General Assembly affirming that the government of Canada supports the UN Declaration

27 Labrador Inuit Land Claims Agreement, signed on 22 January 2005. www.aadnc-aandc.gc.ca/eng/1293647179208/1293647660333 (accessed 21 August 2018).

28 Constitution Act, 1982. <http://laws-lois.justice.gc.ca/eng/Const/page-15.html#h-38> (accessed 21 August 2018).

29 Section 35.1 was added by the Constitution Amendment Proclamation, 1983 (see SI/84-102). <http://laws-lois.justice.gc.ca/eng/Const/page-16.html> (accessed 4 April 2018).

30 Canada (2010) "Canada's Statement of Support on the United Nations Declaration on the Rights of Indigenous Peoples", 12 November 2010. www.aadnc-aandc.gc.ca/eng/1309374239861 (accessed 9 August 2018).

31 United States (Barack Obama) (2010) "Remarks by the President at the White House Tribal Nations Conference", The White House, Office of the Press Secretary, Washington, DC, 16 December 2010: "(I)n April, we announced that we were reviewing our position on the U.N. Declaration on the Rights of Indigenous Peoples. And today I can announce that the United States is lending its support to this declaration." www.whitehouse.gov/the-press-office/2010/12/16/remarks-president-white-house-tribal-nations-conference (accessed 9 August 2018).

without qualification and will fully implement it at the domestic level.³² In addition, he has initiated two highly important policies. The first is in the form of his mandate letters to a number of ministers, including Minister of Crown – Indigenous Relations and Northern Affairs, Carolyn Bennett, whose mandate letter states: “No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.”³³ Also, on 9 February 2017, both Prime Minister Justin Trudeau and Inuit leadership from all four land claims agreement areas and the national Inuit leader of Inuit Tapiriit Kanatami (ITK – a national organisation representing Canadian Inuit) signed the Inuit–Crown Partnership Declaration.³⁴ The Declaration is a commitment made by the federal government and Inuit leadership to work in partnership on shared priorities through an Inuit–Crown Partnership Committee.

The Declaration is a non-binding symbol of goodwill and partnership that does not replace or infringe upon existing legal agreements, working relationships, or responsibilities between Inuit throughout Canada and the Crown. Since its signing, there have been at least two Partnership Committee meetings and priority issues that have been identified include funding for housing; elimination of tuberculosis by 2030; early learning and child care; an Arctic Policy Framework that outlines infrastructure needs; and ensuring Inuit residents and Inuit governments are “at the forefront of decisions about the future of their region”.³⁵

32 Prime Minister Justin Trudeau’s Address to the 72th Session of the United Nations General Assembly, 21 September 2017. <https://pm.gc.ca/eng/news/2017/09/21/prime-minister-justin-trudeaus-address-72th-session-united-nations-general-assembly> (accessed 9 August 2018).

33 Minister of Crown-Indigenous Relations and Northern Affairs Mandate Letter, 4 October 2017. <https://pm.gc.ca/eng/minister-crown-indigenous-relations-and-northern-affairs-mandate-letter> (accessed 4 April 2018).

34 Prime Minister of Canada and President of Inuit Tapiriit Kanatami announce the Inuit–Crown Partnership Committee. The Rt. Hon. Justin Trudeau, Prime Minister of Canada: “Last December, I promised that federal ministers and Inuit leaders would meet regularly to tackle important issues. Today, we’re making good on that pledge by signing the Inuit Nunangat Declaration with our Inuit partners. While much remains to be done to address the unique social, cultural, economic, and environmental issues that Inuit face every day, we will move forward together, based on a respectful, renewed Inuit–Crown relationship, for the benefit of all Canadians.” *Natan Obed, President of Inuit Tapiriit Kanatami*: “The Inuit–Crown Partnership Committee will play an important role as we take action on the priorities that matter to Inuit and Canadians. This committee will enhance cooperation between Inuit Tapiriit Kanatami and the federal government, allowing us to continue renewing the relationship between Inuit and the Crown in a sustainable and positive way.” <https://pm.gc.ca/eng/news/2017/02/09/prime-minister-canada-and-president-inuit-tapiriit-kanatami-announce-inuit-crown> (accessed 4 April 2018).

35 Justin Trudeau, Prime Minister of Canada (2018) “Inuit–Crown Partnership Committee makes progress on shared priorities”, Ottawa, Ontario, 29 March 2018. <https://pm.gc.ca/eng/news/2018/03/29/inuit-crown-partnership-committee-makes-progress-shared-priorities> (accessed 4 April 2018).

Similar to the heightened political and legal developments amongst Inuit elsewhere, the 1979 establishment of the Home Rule Government in Greenland is another example where Inuit prompted re-definition of relations with others. Enacting the Greenland Home Rule Act,³⁶ the Kingdom of Denmark did in fact recognise Greenland as a distinct community within its “realm”. The Act provided for both legislative and executive branches of home rule government in Greenland, with powers to administer domestic affairs and a range of international affairs with the exception of foreign relations and defence or national security. However, Greenland Government has the latitude to advance their own interests within the European Community.

One clear example of such a matter is the 2004 revised Agreement between US and Denmark,³⁷ including Home Rule Government of Greenland, to amend the 1951 Agreement pursuant to the North Atlantic Treaty concerning the defence of Greenland.³⁸ The Agreement focuses on the strategic role of Thule Air Base, defence areas in Greenland, and the need for cooperation within NATO in ensuring North Atlantic security. The Agreement references the need to “ensure due protection of the environment and hunting areas in Greenland”³⁹ as well as the need to consult with the Home Rule Government regarding “any significant changes to United States military operations or facilities in Greenland”.⁴⁰ Finally, the Home Rule Government “may appoint a representative with whom the U.S. commanding officer at Thule Air Base will consult on local affairs that affect the Home Rule Government of Greenland”.⁴¹ Another example of the

36 The Greenland Home Rule Act, Act No.577 of 29 November 1978. www.stm.dk/_p_12712.html (accessed 21 August 2018).

37 Agreement between the Government of the United States of America and the Government of the Kingdom of Denmark, including the Home Rule Government of Greenland, to amend and supplement the Agreement of April 27, 1951, as amended, pursuant to the North Atlantic Treaty between the Government of the United States of America and the Government of the Kingdom of Denmark Concerning the Defense of Greenland (Defense Agreement) including relevant subsequent Agreements related thereto, signed at Igaliku 6 August 2004 and entered into force 6 August 2004. With related joint declarations on environmental cooperation in Greenland; and economic and technical cooperation also signed in Iqaliku (Greenland) by the same three parties. www.nanoq.gl (accessed 21 August 2018).

38 Defense of Greenland: Agreement Between the United States and the Kingdom of Denmark, 27 April 1951.

39 Article 3(1)(b): “In the exceptional case of planned landings of military aircraft in Greenland outside airports, the Government of the United States consults with and informs the government of the Kingdom of Denmark, including the Home Rule Government of Greenland, in order to ensure due protection of the environment and hunting areas in Greenland.”

40 Article 3(1)(c): “Consistent with the Defense Agreement, as amended herein, and the Memorandum of Understanding of March 13, 1991, and without prejudice to other relevant agreements and arrangements between the Parties, the Government of the United States will consult with and inform the Government of the Kingdom of Denmark, including the Home Rule Government of Greenland, prior to the implementation of any significant changes to United States military operations or facilities in Greenland.”

41 Article 3(2)(a): “The Home Rule Government of Greenland may appoint a representative with whom the U.S. commanding officer at Thule Air Base will consult on local affairs that affect the Home rule Government of Greenland ...”.

extent of authority that the Greenland Government enjoys is the EU Partnership Agreement.⁴²

In 2006 Greenland and the EU agreed on a comprehensive partnership for the sustainable development of Greenland. The Partnership Agreement is a political Declaration stating the parties' intentions to continue and expand their cooperation within various areas. The Declaration was made in recognition of the close historical, political, economic and cultural ties between Greenland and the EU. Essentially, the agreement provides Greenland with approximately 25 million euros to support Greenland Education in exchange for fishing rights for the EU.

Dramatic news included the 25 November 2008 referendum wherein 75.5 per cent of the Greenlandic electorate voted "yes" to the question of pursuing independence and nationhood. The 2008 referendum was the result of comprehensive review and study by the Commission on Self-Government established by the Parliament in 2002. There is no doubt that the Greenland Government, through its establishment of the Commission on Self-Government, reviewed all developments in international law concerning the right of self-determination and the UN Declaration text well before pursuing this referendum. This is a significant example of how Inuit have and will benefit from the reality of the UN Declaration. The future efforts of the Greenlandic Inuit to re-define and re-conceptualise their relations with others, in this case initially through self-government but potentially through actual sovereignty and independence, can clearly be traced not only to their own political aspirations, but also to the work of Inuit (and all indigenous peoples) at the international level.⁴³

Another significant example of recognition of the distinct status and rights of Inuit and other Arctic indigenous peoples emerged in the dialogue that resulted in the creation of the Arctic Council. The 1996 Ottawa Declaration affirmed that:

Out of a total of 4 million inhabitants of the Arctic, approximately 500,000 belong to indigenous peoples. Indigenous peoples' organizations have been granted Permanent Participants status in the Arctic Council. The Permanent Participants have full consultation rights in connection with the Council's negotiations and decisions. The Permanent Participants represent a unique feature of the Arctic Council, and they make valuable contributions to its activities in all areas.⁴⁴

42 Council Decision 2014/137/EU of 14 March 2014 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other, OJ L 76, 15.3.2014: 1–5.

43 Act on Greenland Self-Government, Act no. 473 of 12 June 2009 (English translation). <https://naalakkersuisut.gl/~media/Nanoq/Files/Attached%20Files/Engelske-tekster/Act%20on%20Greenland.pdf> (accessed 5 October 2018).

44 *Ottawa Declaration on the Establishment of the Arctic Council*, 19 September 1996. https://oarchive.arctic-council.org/bitstream/handle/11374/85/EDOCS-1752-v2-ACMMCA00_Ottawa_1996_Founding_Declaration.PDF?sequence=5&isAllowed=y (accessed 31 July 2018).

The Ottawa Declaration foresaw the status of Permanent Participants for Arctic indigenous peoples and their original organisations: Inuit Circumpolar Council (ICC); the Russian Arctic Indigenous Peoples of the North (RAIPON); and the Saami Council (SC). Later, the Arctic Athabaskan Council (AAC); the Aleut International Association (AIA); and the Gwich'in Council International (GCI) were welcomed. Since that time, these organisations have had an important and influential role in the work of the Arctic Council, both at the senior level and within the flurry of Working Groups that have since been established.

As reflected by these remarkable political and legal developments as well as the existing and emerging adverse environmental, social and cultural impacts upon Inuit communities and their homelands, the benefits that could be derived from an international human rights framework to address the fundamental rights Inuit can be easily identified. Hence, the importance of the UN Declaration and the norms affirmed in this unique international human rights instrument. Clearly, the procedural and substantive work to gain from the UN Declaration did in fact counterbalance the asymmetrical nature of negotiations over land claims provisions otherwise shaped by colonisation and the imposition of Western legal perspectives. Now, this counterbalance of international legal weight is sorely needed in the context of indigenous peoples and their efforts to promote and protect their rights in the face of the rapid and radical change taking place in the Arctic.

The objective of the UN Declaration process was to help reverse the tide of colonisation. One of the other important features of the UN Declaration is the fact that it is universal and ensures the expression of our distinct cultural context. Indeed, the concept of cultural context⁴⁵ is significant in order to reinforce the positive purposes of international human rights instruments. Our Arctic regional and cultural particularities and conditions require the manifestation of every right in a fashion unique to our circumstances. The UN Charter itself recognises that regional organs and arrangements were anticipated by the United Nations in order to accommodate regional differences.⁴⁶ This sentiment is also captured by one of the preambular paragraphs of the UN Declaration which recognises different circumstances and national and regional particularities.⁴⁷

45 American Anthropological Association (1947) "Statement on Human Rights" *Amer. Anthropologist* 49-4: 539, 542-543: "Today the problem is complicated by the fact that the UN Declaration must be of worldwide applicability. It must embrace and recognize the validity of many different ways of life."

46 Charter of the United Nations, Chapter VIII.

47 New preambular paragraph: "*Recognizing* also that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration." This is a major improvement over the text originally circulated in the Commission on Human Rights Working Group on the Draft Declaration (CHR-WGDD). This new language allows for the play of the important principle of universality of human rights and the significance of international law.

Again, it is important to underscore the role that all UN member states played in the drafting and negotiation of the UN Declaration, including both the Arctic eight states and non-Arctic states, ultimately in favour of Inuit and other indigenous peoples of the Arctic.

It is crucial for both Arctic and non-Arctic states to understand not only the concerns of Arctic indigenous peoples, but also their human rights as distinct peoples. As noted above, the late Eben Hopson articulated this need over 40 years ago and identified the importance of our distinct rights to be “uniformly respected”. In regard to the drafting and negotiation of the UN Declaration, Inuit played an active and influential role. In addition, the ICC has been active within the International Labor Organization; the Organization of American States; the World Intellectual Property Organization; and numerous other international fora.

6.4 Significance of international human rights law

Like the Universal Declaration of Human Rights, the UN Declaration provides a comprehensive human rights framework for indigenous human rights. Therefore, it is important to recognise that human rights are interrelated, indivisible and interdependent; and they are inalienable, cannot be destroyed or extinguished. The UN Declaration is also complemented by two other indigenous specific international instruments, namely the ILO Convention on Indigenous and Tribal Peoples No. 169 (1989)⁴⁸ and the American Declaration on the Rights of Indigenous Peoples⁴⁹ adopted by the OAS in 2016. The UN Declaration does not create any new rights, but more specifically it provides the cultural context necessary for the international human rights regime to be responsive to the distinct status and rights of indigenous peoples both collectively and as individuals.

After nearly 25 years in the making the UN Declaration affirms that indigenous peoples have the right to self-determination. The right enunciated in the UN Declaration⁵⁰ is the same right as that articulated in the legally binding International Covenant on Civil and Political Rights⁵¹ and the International Covenant on Economic, Social and Cultural Rights⁵² of 1966 and specifically article 1, which affirms that:

- 1 All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

48 ILO C169, *supra* note 10.

49 American Declaration on the Rights of Indigenous Peoples, AG/RES.2888 (XLVI-O/16) (15 June 2016).

50 Article 3, UN Declaration, *supra* note 8.

51 International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966 and entered into force 23 March 1976.

52 International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted 16 December 1966 and entered into force 3 January 1976.

- 2 All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

Article 3 of the UN Declaration states that: “Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”⁵³ Furthermore, the UN Declaration affirms the rights of indigenous peoples to lands, *territories* and resources; the right to free, prior and informed consent in regard to a range of matters; the right to participation in decision-making; protection from destruction of their culture; and the right to security, including food security and cultural security. Indeed, the UN Declaration is the longest discussed and negotiated human rights instrument in UN history. It also was the first time that the *subjects* of the instrument – in this case, indigenous peoples – participated extensively along with states in its formulation. This process set an important benchmark for indigenous peoples’ democratic participation in UN standard-setting.

The UN Declaration continues to grow in significance. Regional⁵⁴ and domestic⁵⁵ courts and commissions are increasingly relying on it. Notably, many are

53 Article 3, UN Declaration, *supra* note 8.

54 In the Inter-American human rights system, see, e.g., *Case of the Kalina and Lokono Peoples v. Suriname (Merits, Reparations and Costs)*, I/A Court H.R., Series C No. 309 (Judgment) 25 November 2015, para. 122; *Case of the Community Garifuna Triunfo de la Cruz & its members v. Honduras (Merits, Reparations and Costs)*, I/A Court H.R., Series C No. 305 (Judgment) 8 October 2015, para. 51; *Case of the Kuna Indigenous People of Madungandí and the Emberá Indigenous People of Bayano and their Members v. Panama*, I/A Court H.R. Series C No. 284, Preliminary objections, merits, reparations and costs (Judgment) 14 October 2014, para. 118. In Africa, see, e.g., *African Commission on Human and Peoples’ Rights v. Republic of Kenya*, Application No. 006/2012, African Court on Human and Peoples’ Rights, Judgment, 26 May 2017, paras. 131, 181, n. 53, and 209; *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, African Commission on Human and Peoples’ Rights, Communication No. 276/2003, Twenty-Seventh Activity Report, 2009, Annex 5, para. 204.

55 In Belize, see *Cal et al. v. Attorney General of Belize and Minister of Natural Resources and Environment*, Claim No. 171, and *Coy et al. v. Attorney General of Belize and Minister of Natural Resources and Environment*, Claim No. 172, Consolidated Claims, Supreme Court of Belize, judgment rendered on 18 October 2007 by the Hon. Abdulai Conteh, Chief Justice. Affirmed on appeal in *Attorney-General of Belize et al. v. Maya Leaders Alliance et al.*, Belize Court of Appeal, Civil Appeal No. 27 of 2010, judgment rendered on 25 July 2013. See also *Sarstoon Temash Institute for Indigenous Management [SATIIM] v. Attorney General of Belize*, Claim No. 394 of 2013, Supreme Court of Belize, decision rendered by the Hon. Michelle Arana, 3 April 2014. In New Zealand, see *Paki and other v. Attorney-General*, [2014] NZSC 118; *Takamore v. Clarke*, [2011] NZCA 587, *per* Glazebrook and Wild JJ, (appeal denied [2012] NZSC 116), para. 250, n. 259. In Australia, see *Aurukun Shire Council & Anor v. CEO Office of Liquor Gaming and Racing in the Department of Treasury*, [2010] QCA 37, Supreme Ct. Queensland, paras. 33–35.

non-Arctic state institutions, such as the courts and commissions of the Organization of American States and the African Commission on Human and Peoples Rights. Also, a “system-wide action plan”⁵⁶ has recently been devised within the UN with international and national dimensions. The action plan has the ultimate goal of implementing, with the effective participation of indigenous peoples, the UN Declaration at all levels.

In addition to the UN Declaration, numerous other important international developments are directly relevant. As noted above, the ILO C169 is vital for two reasons: 1) Norway and Denmark have ratified ILO 169; and 2) the UN Declaration and ILO 169 are mutually reinforcing and compatible.⁵⁷ Therefore, UN member states must be mindful of the interrelated, interdependent and indivisible nature of the rights enunciated in all international human rights instruments as well as how they can potentially be reinforced by other human rights jurisprudence and developments. Also, the recently adopted OAS American Declaration on the Rights of Indigenous Peoples⁵⁸ is relevant and substantively enhances the overall indigenous-specific international human rights framework. There are differences between these instruments and one must be cognisant of which instrument affirms the highest standard.

The synergy created by the negotiation of the UN Declaration also triggered significant consideration of indigenous human rights and perspectives in numerous intergovernmental bodies ranging from the IUCN to the International Whaling Commission or the World Bank and the recently adopted Paris Agreement on Climate Change and the 2030 Sustainable Development Goals. Numerous other standards have been developed or are emerging in relevant international fora nearly every day and corresponding jurisprudence at the local, national and international level is also contributing to greater understanding of the content of indigenous human rights.

International human rights instruments largely focus on individual rights. By affirming for the most part indigenous peoples’ *collective* rights, the UN Declaration fills an important gap in the international system. In this regard, the International Law Association (ILA) completed the task of an expert commentary on the

56 Permanent Forum on Indigenous Issues (2016) “System-wide action plan for ensuring a coherent approach to achieving the ends of the United Nations Declaration on the Rights of Indigenous Peoples”, UN Doc. E/C.19/2016/5 (19 February 2016).

57 See, for example, the UN–Indigenous Peoples’ Partnership (UNIPP) (2010) “For democratic governance, human rights and equality”, Multi-Donor Trust Fund, Terms of Reference ILO, OHCHR, UNDP, Framework Document, 15 February 2010: 4: “With the adoption of the *UN Declaration*, the international normative framework regulating the protection of the rights of indigenous peoples has been firmly strengthened. The [*Indigenous and Tribal Peoples Convention, 1989*] is fully compatible with the *UN Declaration* on the Rights of Indigenous Peoples and the two instruments are mutually reinforcing.” mptf.undp.org/document/download/4144 (accessed 5 October 2018).

58 American Declaration on the Rights of Indigenous Peoples, AG/RES.2888 (XLVI-O/16) (15 June 2016).

UN Declaration and arrived at the conclusion that though the whole of the UN Declaration is not legally binding, key provisions are in the realm of customary international law and thereby, binding upon UN member states, both Arctic and non-Arctic as well as those that presently do not have indigenous peoples within their borders.

The ILA Committee on the Rights of Indigenous Peoples' 2010 Interim Report updated the search for state practice and *opinio juris* and independently reached, with ever more examples of domestic and international practice, many of the results arrived at earlier, including the finding of customary international law including the right to the recognition and preservation of cultural identity; the right to traditional lands and natural resources; and the right to reparation and redress for the wrongs suffered.⁵⁹ That research was completed and brought up to date in the Final Report of the ILA as submitted to the 75th ILA Biennial Meeting in Sofia, Bulgaria.⁶⁰

The existing and future discussion by all actors, Arctic and non-Arctic, will have to take all of these developments into account as they begin to engage and potentially influence the overall Arctic legal order. This is especially true in the face of the adverse impacts of climate change, such as changing ice conditions and disappearance of sea ice; coastal erosion; dramatic weather changes; greater risk in unknown and fast changing conditions; and reduced biodiversity and invasion of species – each of these dynamics can be devastating for Arctic indigenous peoples not to mention their cumulative impacts.

Furthermore, with the changing sea-ice conditions the impacts of increased Arctic shipping activity will occur. Many of the following impacts have been witnessed by Inuit coastal communities and they will likely become greater threats to the overall environmental integrity of the Arctic and the cultural integrity of the Inuit and their food security in particular:

- changing ice conditions due to fracturing of sea ice
- coastal erosion generated by increased waves
- vessel noise and disruption
- disruption of marine mammal habitat and migration routes

59 For detailed research, see the chapter by the Committee's Rapporteur, University of Siena Professor Federico Lenzerini (2010, 2012) "The Rights of Indigenous Peoples under Customary International Law", 2010 ILA Interim Report: 43–52; and 2012 ILA Final Report: 28–29.

60 The Rapporteur integrated work done at an intersessional workshop at the European University Institute in Florence, Italy, and combined subcommittee reports in a 52-page interim report for the ILA's 74th Biennial Meeting in The Hague. After another intersessional meeting conducted at the University of Anchorage in Alaska in August 2011, at the invitation of Inuit Committee member Dalee Sambo Dorough, the final report of the committee and a resolution for the ILA's 75th Biennial Meeting in Sofia was prepared. The final report supplemented the interim report of 2010.

- increased potential for contamination due to waste; ballast water; petroleum, oil and lubricants (POLs), including heavy fuel oil
- increased potential for major oil spills and similar disasters
- invasive species
- increased marine traffic
- increased militarisation
- construction of ports and breakwaters
- vessel collisions and accidents that communities are unprepared for

The pressures by both Arctic and non-Arctic states are already being felt. For these and many other reasons, to date, Arctic Council Permanent Participants have varying opinions on the admission of new Observers,⁶¹ be they NGOs, inter-governmental organisations (IGOs) or non-Arctic states. For example, the ICC objected to Observer status of the European Union due to their damaging policy of fur seal bans – largely driven by animal rights organisations based in Europe – that devastated the economic vitality of many Canadian Arctic Inuit communities.

6.5 Recommendations to non-Arctic actors

As noted at the outset of this chapter, indigenous peoples and UN member states worked for over 25 years to achieve the UN Declaration. Too often, UN member states forget their solemn obligations in the field of human rights, too focused upon national security, economic development and other national interests. There appears to be a consistent tendency to behave as though international obligations or commitments made in one realm have no relevance within another or they take the view that some other government department is responsible for the rights, concerns and interests of indigenous peoples when in fact, the whole of government, the overall nation-state, holds these responsibilities and obligations. More troubling is the dynamic of governments both ignoring their commitments and actively working to undermine or diminish such obligations within another intergovernmental organisation.⁶²

61 Present Observers to the Arctic Council: France – Barrow Ministerial meeting, 2000; Germany – Iqaluit Ministerial meeting, 1998; Italian Republic – Kiruna Ministerial meeting, 2013; Japan – Kiruna Ministerial meeting, 2013; The Netherlands – Iqaluit Ministerial meeting, 1998; People’s Republic of China – Kiruna Ministerial meeting, 2013; Poland – Iqaluit Ministerial meeting, 1998; Republic of India – Kiruna Ministerial meeting, 2013; Republic of Korea – Kiruna Ministerial meeting, 2013; Republic of Singapore – Kiruna Ministerial meeting, 2013; Spain – Salekhard Ministerial meeting, 2006; Switzerland – Fairbanks Ministerial meeting, 2017; United Kingdom – Iqaluit Ministerial meeting, 1998; and 13 IGOs and 13 NGOs.

62 Permanent Forum on Indigenous Issues (2016) “Study on how States exploit weak procedural rules in international organisations to devalue the United Nations Declaration on the Rights of Indigenous Peoples and other international human rights law”, UN Doc. E/C.19/2016/4 (9 May 2016). <https://undocs.org/E/C.19/2016/4> (accessed 21 August 2018).

Indeed, the phenomenon of “rights ritualism” is far too common among many UN member states, especially in relation to indigenous peoples and their distinct human rights. Hilary Charlesworth describes the condition thusly:

Ritualism is a technique of embracing the language of human rights precisely to deflect human rights scrutiny and to avoid accountability for human rights abuses, while at the same time gaining the positive reputational benefits or legitimacy associated with human rights commitments.⁶³

Many have heard the Chinese and other non-Arctic state governments affirm their concern for the “interests and concerns”⁶⁴ of Arctic indigenous peoples at various venues, but refusal to acknowledge the substance of such interests, concerns or rights within other venues or domestically. Furthermore, for those seeking admission as an Observer, the Arctic Council will “take into account the extent to which observers ... [r]espect the values, interests, culture and traditions of Arctic indigenous peoples”.⁶⁵ Both Arctic and non-Arctic states express such a pathology and whether or not non-Arctic states will do so in the context of recognising and respecting the status, rights and role of Arctic indigenous peoples remains to be seen.

In order for the Arctic legal order to develop in a comprehensive, coherent and socially just fashion, it is crucial for non-Arctic states to acknowledge and recognise that though they are not Arctic states, they remain subject to the commitments that they have made at the international level in relation to indigenous peoples and especially Arctic indigenous peoples as they endeavour to have a place and role in the Arctic legal order. To do so, they must work to:

- Educate themselves, identify individuals that are or can become experts in the field of Arctic indigenous peoples and human rights
- Engage at the community level of Arctic indigenous peoples

63 Hilary Charlesworth (2017) “A Regulatory Perspective on the International Human Rights System” in *Regulatory Theory: Foundations and Applications* edited by Peter Drahos. ANU Press, Acton ACT, Australia: 357–374. www.jstor.org/stable/j.ctt1q1crtm.31 (accessed 21 August 2018).

64 Jia Guide, Deputy Director General of the Department of Treaty and Law (Ministry of Foreign Affairs, People’s Republic of China) spoke on China–Nordic Arctic Cooperation at the 2014 Arctic Circle Assembly at Harpa Conference Center in Reykjavik, Iceland, stated: “To build a strong and broad-based social foundation for Arctic cooperation we should continue to enhance the interaction and exchanges between research institutions, enterprises and civil societies. The Chinese government will guide its private sector to follow the domestic laws of Arctic countries concerned and relevant international treaties in conducting Arctic activities, taking fully into account the ecological environment, *the interests and concerns of the indigenous people* and combining its economic interests with the welfare of the local community.” Video recording last accessed on 8 August 2018 at: <https://vimeo.com/111294770>.

65 See Arctic Council website: “Criteria for Admitting Observers”. <https://arctic-council.org/index.php/en/about-us/arctic-council/observers> (accessed 21 August 2018).

- Engage with Arctic indigenous peoples outside the formal halls of the Arctic Council and other inter-governmental fora
- Engage in outreach to indigenous peoples' organisations and especially the Permanent Participants
- Meet to discuss real potential for genuine collaboration or at a minimum to identify areas of mutual interest and dialogue both within and external to the Arctic Council
- Be clear, specific and straightforward about their Arctic specific interests, objectives, initiatives and projects
- Consider ways and means to advance research in the field of social sciences and other areas of concern to Arctic indigenous peoples

6.6 Conclusion

There are a multitude of Arctic initiatives and entities emerging. As Mayor Harry Brower of the North Slope Borough recently stated in his welcoming remarks at the Inuit Circumpolar Council 13th General Assembly:

We have lived in the Arctic for thousands of years. It is our home. In Alaska, we have been reacting to others who wander into our region since 1854 ... I am tired of asking for a seat at someone else's table... Our country is just realizing it is an arctic nation. Over 59 new non-profit organizations have been established since we met last to debate Arctic policy. They are spending millions of dollars considering what the rest of the world should do with the Arctic. Our Vision of The Arctic We Want should be their Guide; they should be asking us for a seat at our table.⁶⁶

His views are shared by those Inuit diplomats and statesmen of the past and they are shared by those of the present. It is crucial that the rights and role of Arctic indigenous peoples be recognised and respected. This chapter has endeavoured to address our background and history as a people that have chosen to unite and organise ourselves in the face of change that we knew would come. Our current work as an Inuit political organisation has been successful on many levels, from engagement in the United Nations to the regional work of the Arctic Council. We have now set our sights on a host of other initiatives that require our attention. However, one issue that has remained constant is the central need for all others to respect and recognise Inuit rights and status and, in particular, within the new Arctic legal order that non-Arctic states are working to conceptualise and realise. Again, the Arctic is our homeland.

We are focused upon our efforts to shape all of these new, different and emerging issues from our point of view – like the theme of the ICC 13th General Assembly – we seek to define the Arctic that we want. In relation to the Arctic

66 Harry K. Brower, Mayor of the North Slope Borough (2018) “Welcoming Remarks: Our Vision of the Arctic”, ICC General Assembly, 16 July 2018.

that we want, in September 2015, the UN General Assembly adopted by consensus a key instrument for achieving sustainable development globally – *Transforming Our World: The 2030 Agenda for Sustainable Development*.⁶⁷ In particular, states resolved:

between now and 2030, to *end poverty and hunger everywhere*; to combat inequalities ...; to *protect human rights and promote gender equality and the empowerment of women and girls*; and to *ensure the lasting protection of the planet and its natural resources*.⁶⁸

Therefore, it is essential to underscore that in 2012, in *The Future We Want*, the Rio+20 UN Commission on Sustainable Development recognised “the importance of the United Nations Declaration ... in the context of *global, regional, national and subnational implementation* of sustainable development strategies”.⁶⁹ We regard these not as hollow aspirations and goals. The world community and especially UN member states within the Arctic region should be working to identify, in collaboration with Inuit and other Arctic indigenous peoples, the future we want in the Arctic. At least one Arctic state has made explicit, verbal commitments to be responsive to the aspirations of the Inuit.

The approach taken by the government of Canada has built upon the Inuit comprehensive land claims agreements, which were negotiated (not a unilateral act of Congress or Parliament like Alaska) over years. They began with an Agreement in Principle, norms that couldn’t be retreated from by either side. Following negotiation, they were adopted by referendum of the eligible Inuit individuals that would be affected – an act of consent on the basis of the Agreement interpreted into their Inuit dialects. In addition, they receive Constitutional section 35 protection.

These modern-day treaties affirm Inuit rights to lands, territories and resources; rights to manage and co-manage their resources; and again, the Labrador Inuit Land Claims Agreement affirms Inuit rights to the 12-mile territorial sea consistent with the UN Convention on the Law of the Sea. Though they are not perfect, they are significant and substantive in contrast to conditions faced by indigenous peoples in other regions of the world.

Canadian Prime Minister Trudeau has made a solemn commitments to implement the UN Declaration at the national level. He also set out important directives to his entire Cabinet through his Mandate letters specifically underscoring

67 UN General Assembly (2015) *Transforming Our World: The 2030 Agenda for Sustainable Development*, UNGA/RES/70/1, 25 September 2015 (adopted without a vote).

68 Ibid., para. 3 (emphasis added). On 1 January 2016, the 17 Sustainable Development Goals of the 2030 Agenda for Sustainable Development came into effect. Along with such Goals, there are 169 associated targets.

69 Rio+20 United Nations Commission on Sustainable Development (2012) *The Future We Want*, Rio de Janeiro, Brazil, 20–22 June 2012, UN Doc. A/CONF.216/L.1 (19 June 2012), para. 49 (emphasis added); endorsed by General Assembly (2012) *The Future We Want*, UNGA/RES/66/288, 27 July 2012 (without vote).

the important relationship between the federal government and the indigenous peoples of Canada. Not to mention the fact that his new Attorney General is an indigenous woman. Furthermore, in February 2017, Trudeau mandated a new Working Group of Ministers – chaired by the Minister of Justice – to review relevant federal laws, policies, and operational practices. The purpose is not only to ensure the Crown is “meeting its constitutional obligations with respect to Aboriginal and treaty rights”, but also “adhering to international human rights standards, including the United Nations Declaration”.⁷⁰ In addition, the Trudeau administration signed the 2017 Inuit Crown Partnership Agreement with the national Inuit Tapiriit Kanatami, the national Inuit organisation, which established a Committee of national and regional leadership. Again, this bilateral mechanism establishes priorities, for example the crisis of suicide, and helps to maintain a dialogue between Inuit and the national government.

Though Inuit remain watchful and await full delivery on such promises, these are significant steps for an Arctic UN member state to initiate. For all other Arctic and non-Arctic states, the time for governments to work with Inuit and all other Arctic indigenous peoples to effectively realise the UN Declaration across our homelands is past due. This chapter has attempted to illustrate the central nature of Inuit status and rights within the legal order of the Arctic. It should be apparent that through our direct participation in all Arctic related matters, states and others can make a significant contribution to the security and sustainability of the Arctic for all of humankind. We will be final arbitrators of whether or not our relations will result in a win-win for all concerned, but in particular for ourselves as the real people of the Arctic.

70 Justin Trudeau, Prime Minister of Canada (2017) “Prime Minister announces Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples”, 22 February 2017. <http://pm.gc.ca/eng/news/2017/02/22/prime-minister-announces-working-group-ministers-review-laws-and-policies-related> (accessed 21 August 2018).