

THESIS

NATIVE SOIL: CONTEST AND CONTROL FOR LAND AND RESOURCE RIGHTS IN THE ARCTIC

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ABSTRACT

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The Arctic is a dynamic region that over four million people in eight different countries call their home. Many of the residents belong to indigenous groups who have lived there for millennia. These groups have retained their traditional cultural practices, values, and livelihoods while also having had to adapt to contemporary realities. Since the mid-twentieth century, the region has been increasingly seen as an appealing option for the exploitation of vital natural resources. As such, there has been contestation between industrial actors and Arctic indigenous groups over control of the land and its resources. States have played a pivotal role in mediating the tensions arising from interests in extractive industry development and indigenous groups' rights. In each of the cases presented in this paper, the states have chosen to incorporate their indigenous populations as the solution, although each has done so in a decidedly different way. This paper traces the ways in which indigenous peoples have been incorporated and how their rights to their ancestral lands have been recognized in three different Arctic countries, particularly in situations where there are conflicting interests over the land usage. It posits that the unique historical evolution of institutions in each country, with their idiosyncratic path dependencies and critical junctures, explains why they, and why countries in general, vary in the methods of incorporation they choose.

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INTRODUCTION

The Arctic has been popularly conceived as a cold and desolate place. But, in reality, it is a dynamic region that over four million people in eight different countries call their home.¹ Of prominence are the indigenous peoples who have lived in the region for millennia. Many of these groups have retained their traditional cultural practices and values while also having had to adapt to contemporary realities. Two realities in particular have shaped the post-World War II discourses and trajectories of Arctic indigenous peoples' livelihoods. First, the international norm of indigenous rights, as a subset of human rights, has empowered indigenous groups around the world to seek restitution for the ills inflicted upon them as a result of colonialism, especially re-gaining rights to their ancestral lands. Second, the region has been increasingly seen as an appealing option for the exploitation of vital natural resources such as oil, natural gas, gold, diamonds, and uranium. Inhabitants of the Arctic, particularly indigenous groups, are not opposed to development, but they have a vested interest in responsible stewardship of their homelands. As such, the region has become a location of contestation between industrial actors and Arctic indigenous groups over control of the land and its resources. The states in which these disputes occur play a central role in mediating these conflicts of interest. They are simultaneously responsible for ensuring that the rights of their citizens are upheld and needing to ensure that their economies are strong. However, states themselves are also actors and also have their own interests.

¹ Timothy Heleniak and Dimitry Bogoyavlensky, "Arctic Populations and Migration," in *Arctic Human Development Report: Regional Processes and Global Linkages*, eds. Joan Nymand Larsen and Gail Fondahl (Copenhagen: Nordic Council of Ministers, 2014): 53.

In their groundbreaking book, Ruth Berins Collier and David Collier introduced the concept of *state incorporation* as a strategy wherein states construct new institutions for a grouping of people. This form of legitimation serves to reformulate the state's relationship with the group by affording the state the ability to depoliticize and control their actions.² This concept has predominantly been applied to analyzing conflicts of interest between states and societal groups in Latin America and occasionally in comparisons between countries in the developing world.³ It has not yet been applied to analyzing the various strategies of indigenous peoples' incorporation by their respective states in the Arctic region. This paper seeks to fill this gap by answering the following questions: in what ways have indigenous peoples been incorporated and/or how have their rights to their ancestral lands been recognized in different Arctic countries, particularly in situations where there are conflicting interests over the land usage? More generally, why do countries vary in their approaches to indigenous rights to land and natural resources?

This paper posits that the unique historical evolution of institutions in each country, with their idiosyncratic path dependencies and critical junctures, explains the difference. This paper will examine the situations in the three federal Arctic states of the United States, Canada, and the Russian Federation. All three are considered to be highly developed.⁴ As such, each

² See the introduction of "Chapter 5: Incorporation: Recasting State-Labor Relations," in Ruth Berins Collier and David Collier, *Shaping the Political Arena: Critical Junctures, the Labor Movement, and Regime Dynamics in Latin America*, (Notre Dame: University of Notre Dame Press, 2002): 163.

³ There does not exist a comprehensive review of the works in which instances where the concept of "political incorporation" was utilized in the context of Latin America. However, Eduardo Silva and Federico Rossi's edited volume, *Reshaping the Political Arena in Latin America: From Resisting Neoliberalism to the Second Incorporation* (University of Pittsburgh Press, 2018) provides a useful bibliography of multiple recent sources.

⁴ According to the most recent Human Development Report (for 2016), all eight countries with Arctic territory ranked as "Very High Human Development." Canada and the U.S. shared tenth place, Russia occupied the forty-ninth place. See "Global Human Development Indicators," *United Nations Development Programme*, last accessed July 31, 2018, <http://hdr.undp.org/en/countries>.

state has high demands for natural resource products and all have developed natural resource extraction industries in the Arctic regions of their territories. Each of these countries also has indigenous groups residing in these lucrative areas who have a) historically been excluded from the processes and the benefits of extraction on their ancestral lands, and b) been most directly and detrimentally impacted by such industrial activities. Each state has proclaimed its commitment to international human and indigenous rights principles and each has its own national legislation concerning the rights of indigenous people within its sovereign territory. Finally, each has incorporated its indigenous peoples for the purposes of recognizing indigenous rights while simultaneously settling disputes over land ownership, but each has done so in a different way. To help illustrate this point, three cases exploring indigenous incorporation will be examined in this paper: the Iñupiat Inuit people of Alaska, the Inuit people in Nunavut, Canada, and the Nenets people in the Yamalo-Nenets Autonomous Region (YNAR) of Russia. Previous comparative studies have been conducted on different groupings of indigenous peoples in each of these areas, but none has compared these three cases specifically.⁵ The Inuit peoples in the United States and Canada have achieved significant land and resource rights through the implementation of legal mechanisms that ensure their political and economic incorporation in natural resource development on their traditional territories. The Iñupiat have been incorporated in a *business-friendly* manner that has enabled them to become corporatized actors in the global economy. The Inuit in Nunavut were incorporated in a

⁵ For a comparison of the self-government experiments between the Inuit of Greenland and the Inuit of Nunavut, see Natalia Loukacheva, *The Arctic Promise: Legal and Political Autonomy of Greenland and Nunavut*, (Toronto: University of Toronto Press, 2007). For a comparative international relations perspective on the Inuit peoples transnationally, see Jessica M. Shadian, *The Politics of Arctic Sovereignty: Oil, Ice, and Inuit Governance*, (Abingdon and New York: Routledge, 2014) and Jessica M. Shadian, "Reimagining Political Space: The Limits of Arctic Indigenous Self-Determination in International Governance?" in *Governing Arctic Change: Global Perspectives*, eds. Kathrin Keil and Sebastian Knecht (London: Palgrave MacMillan, 2017), 43-57.

mutually beneficial scheme that have, arguably, advanced the sovereignty interests of both the Inuit and the Canadian state. The Nenets in Russia do not enjoy similar treatment or gains; it is possible to say that their incorporation has had the effect of *atomizing*, as opposed to collectively recognizing them, as a people. On the surface, it is tempting to say that the difference is due to the fact that Russia has a *de facto* authoritarian-style government.⁶ However, there have been opportunities for change in Russia's recent past, both in the state's institutional structure and in the structure of state-society relationships. To gain a more nuanced understanding of why the case in Russia is different requires a comparative examination of the institutions that have historically developed in each of the three Arctic federal states, particularly those involving the territorial rights of indigenous groups.

DATA COLLECTION AND ANALYSIS

Data for examination were collected through primary source documents (legislation, speeches, and historical texts) and website content, as well as from scholarly texts. Looking at the question through a historical institutionalist lens, the framework of path dependence and critical junctures emerged as the optimal medium for interpreting the relationships between the state, industries, and indigenous groups within each country. The dual methods of within-

⁶ Since 2017, there has been increasing consensus amongst scholars that the Russian Federation is no longer some form of hyphenated democracy, but is exhibiting decidedly authoritarian characteristics in its structure and actions. Some consider Russia to be an "electoral authoritarian" or a "neo-patrimonial" state (in particular, see David White, "State capacity and regime resilience in Putin's Russia," *International Political Science Review* 39, no. 1 (2018): 130-143). Others consider Russia's unique style of authoritarianism under Putin to be considered as "Putinism" (in particular, see M. Steven Fish, "What Is Putinism?," *Journal of Democracy* 28, no. 4 (2017): 61-75).

case process tracing⁷ and causal narrative⁸ for cross-case comparison functioned to elicit understanding of the specific conditions that resulted each country's unique path. The arrangements in the U.S. and Canada are experiments with new forms of internal sovereignty and could potentially serve as forerunners or models for self-government arrangements in other countries with conflicts between dominant-ethnicity and indigenous groups. But, as the case of Russia demonstrates, the appropriate institutional mechanisms need to be in place in order to guarantee success in such arrangements.

The three cases under examination in this paper were selected for four reasons. The first reason is that each of the countries has a federalist political structure, defined as a "form of institutional arrangement that allocates authority and power resources between territorial units which either had previously been independent or barely existed."⁹ Secondly, each of the countries is demographically multi-ethnic, but has a historically dominant set of institutions attributable to one specific ethnic group. In the United States and Canada, the historically dominant group is that of the British; in Russia, it is that of the ethnic Russians. In all three of the countries, the indigenous populations have been historically subordinated to these dominant cultures and compelled to assimilate to their institutional structures. Thirdly, these specific indigenous groups were chosen because each has sizeable populations that have retained many of their traditional cultural practices and livelihoods. Finally, and most

⁷ Andrew Bennett and Jeffrey T. Checkel, "Process tracing: from philosophical roots to best practices," in *Process Tracing: From Metaphor to Analytic Tool*, eds. Andrew Bennett and Jeffrey T. Checkel (Cambridge University Press, 2014), 7.

⁸ James Mahoney, "Strategies of Causal Assessment in Comparative Historical Analysis," in *Comparative Historical Analysis in the Social Sciences*, eds. James Mahoney and Dietrich Rueschemeyer (Cambridge University Press, 2003), 365-366.

⁹ Jörg Broschek, "Federalism and Political Change: Canada and Germany in Historical-Institutionalist Perspective," *Canadian Journal of Political Science* 43, no. 1 (2010): 2.

contentiously, each of the Arctic indigenous groups has extensive internal and external interest in natural resource development on their ancestral lands.

There are two additional categories of Arctic indigenous peoples that will not be examined.¹⁰ The Inuit of Greenland have secured quasi-independence from Denmark in the form of Home Rule, or self-government. One of the conditions of home rule is that the Greenland Inuit have full control over natural resource development on the island, which results in a lack of conflict between the state and its indigenous people over land and mineral rights.¹¹ The indigenous Sami populations of Scandinavia have achieved impressive political representation in the form of their own parliaments in each of the Scandinavian countries. Another reason neither of these groups will be addressed in this paper is due to the fact that these groups do not meet the threshold of living in multi-ethnic states with a federalist structure.¹²

¹⁰ For a comprehensive overview of how the different experiences of all indigenous groups in the Arctic have intersected with energy and natural resource development, see Mauro Mazza, "Energy, environment and indigenous rights: Arctic experiences compared," *The Yearbook of Polar Law Online* 7, no. 1 (2015): 317-351.

¹¹ Loukacheva, 2007.

¹² The government type for Denmark, Norway, and Sweden is a parliamentary constitutional monarchy, while Finland has a parliamentary republic. Russia's form of government is listed as a semi-presidential federation. See "The World Factbook," *Central Intelligence Agency*, last accessed July 31, 2018, www.cia.gov/library/publications/resources/the-world-factbook/index.html.

HISTORICAL INSTITUTIONALISM

Historical Institutionalism (HI) is one of the newer forms of institutionalist theory in comparative politics that first gained traction in the 1980s.¹⁴ HI looks at both formal institutions, such as states and organizations, and informal institutions, such as rules and processes. The goal of this research tradition is to enhance “understanding of the origins, evolution, and consequences of humanly created institutions across time and place.”¹⁵ Thus, two elements of HI best distinguish it from other institutional programs, such as rational choice or sociological institutionalism. The first is the element of temporal processes; HI examines how institutions change over time. The second element is context effects; three themes illustrate how context matters in HI. The first theme is that of ‘alternative’ rationalities, which holds that the rational interests of individuals and groups are shaped by the historical trajectories of their contexts (i.e., what is considered rational in one culture is not necessarily understood to be rational in another). The second theme is that of contextual causality, which states that a “constellation of variables”¹⁶ that proved causally significant for one event or time period may not be transferrable to a similar event or time period with a similar constellation of variables. The third theme invokes the contingencies of history, namely chance and quirks of fate, which have played a significant role in outcomes; such contingencies cannot be predicted, only

¹⁴ The most well-known volume introducing historical institutionalism is Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge University Press, 1985). However, two predecessors are also important: James G. March and Johan P. Olsen, “The New Institutionalism: Organizational Factors in Political Life,” *American Political Science Review* 78, no. 3 (1984): 734–749 and Eric A. Nordlinger, *On the Autonomy of the Democratic State*, (Cambridge: Harvard University Press, 1982).

¹⁵ Orfeo Fioretos, Tulia G. Falleti, and Adam Sheingate, “Historical Institutionalism in Political Science,” in *The Oxford Handbook of Historical Institutionalism*, eds. Orfeo Fioretos, Tulia G. Falleti, and Adam Sheingate (Oxford University Press, 2016); 3.

¹⁶ Ellen M. Immergut, “The Theoretical Core of the New Institutionalism,” *Politics & Society* 26, no. 1 (1998): 19.

understood in hindsight.¹⁷ The specific institutions under examination in this paper are indigenous rights, as well as land ownership and land rights.

There are multiple tools that scholars can employ to analyze phenomena from an HI perspective. This paper will employ the complementary tools of path dependence and critical junctures. These two concepts attempt to explain short periods of rapid change that occur between long periods of stable order over the lifespan of an institution. Path dependence is a concept used to understand why institutions persist over time, sometimes long after there is a real or perceived need for them.¹⁸ It holds that “once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice.”¹⁹

Despite entrenchment, history has shown that change still happens. Path dependence is useful for explaining institutional stasis, but not change. More recently, scholars attempting to understand what causes change in institutions have added the concept of critical junctures to help explain instances of divergence from entrenched paths. Akin to the evolutionary concept of “punctuated equilibrium,”²⁰ critical junctures are considered as potential turning points for divergence from a locked-in path. Defined as “*relatively* short periods of time during which there is a *substantially* heightened probability that agents’ choices will affect the outcome of

¹⁷ Immergut, 18-19.

¹⁸ See Fioretos, Falletti, and Sheingate, 2016; James Mahoney, “Path dependence in historical sociology,” *Theory and Society* 29, no. 4 (2000): 507-548; and Paul Pierson, *Politics in Time: History, Institutions, and Social Analysis*, (Princeton: Princeton University Press, 2004).

¹⁹ Margaret Levi, “A Model, a Method, and a Map: Rational Choice in Comparative and Historical Analysis” in *Comparative Politics: Rationality, Culture, and Structure*, eds. Mark Irving Lichbach and Alan S. Zuckerman (Cambridge University Press, 1997): 28.

²⁰ Stephen Jay Gould, *The Structure of Evolutionary Theory*, Cambridge: Belknap Press, 2002.

interest,”²¹ scholars emphasize the importance of agency during such periods. Critical junctures “generate legacies”²² and are often considered the starting point for subsequent path dependence in institutions. But what causes a critical juncture and what does it look like? Slater and Simmons have articulated that there is usually a critical antecedent that allows a critical juncture to emerge. Critical antecedents are defined as “factors or conditions preceding a critical juncture that combine with causal forces during a critical juncture to produce long-term divergence in outcomes.”²³ Critical antecedents are necessary, but insufficient, to produce change. Their purpose is to amplify the effect of a causal force during a critical juncture (be it an independent variable, a causal mechanism, or a transformative event) by predisposing cases towards divergence. They utilize the analogy of a stone shattering a glass bottle: some observers might say that the stone hitting the glass bottle caused it to break (causal force); others would claim that the brittleness of the glass was the cause (critical antecedent). In the end, it was the combination of both the glass’s brittleness and the stone hitting it that caused the bottle to break.²⁴

Critical junctures emerge during periods when there is a loosening of constraints within an institution. Soifer unpacks the black box of the critical juncture to show that there are two “temporally nested but logically distinct”²⁵ conditions that constitute a critical juncture: the permissive conditions and the productive conditions. Permissive conditions are the factors that

²¹ Giovanni Capoccia and R. Daniel Kelemen, “The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism,” *World Politics* 59 (2007): 348; emphasis in original.

²² Fioretos, Falleti, and Sheingate, 11.

²³ Dan Slater and Erica Simmons, “Informative regress: Critical antecedents in comparative politics,” *Comparative Political Studies* 43, no. 7 (2010): 889.

²⁴ Slater and Simmons, 891.

²⁵ Hillel David Soifer, “The Causal Logic of Critical Junctures,” *Comparative Political Studies* 45, no. 12 (2012): 1579.

loosen the constraints of an institution’s structure. Productive conditions are the factors that shape the initial outcomes of the juncture. In other words, “[t]he permissive conditions shape the context, whereas the productive conditions cause the outcome.”²⁶ Both must be present in order to meet the necessary and sufficient threshold to constitute a critical juncture. During a critical juncture, a varying number of possible new paths present themselves. The productive conditions cause the outcome that initiates the new path (see figure 1).

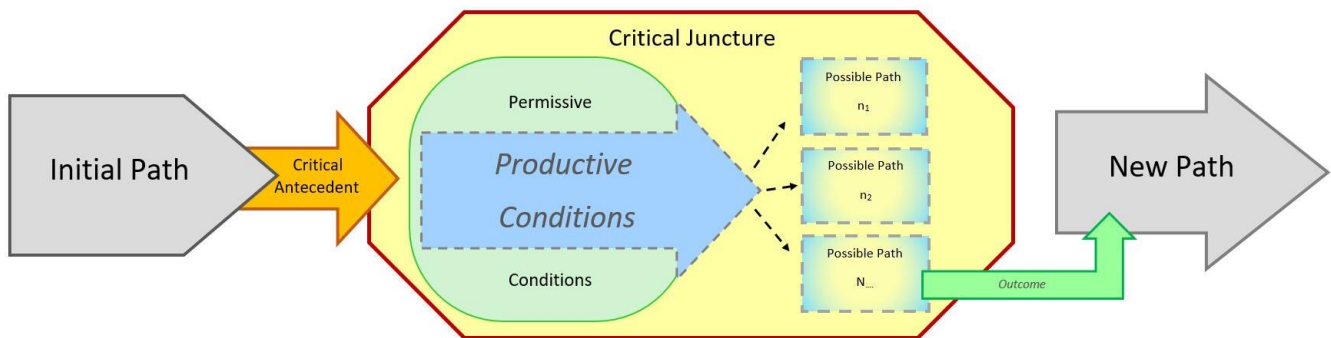


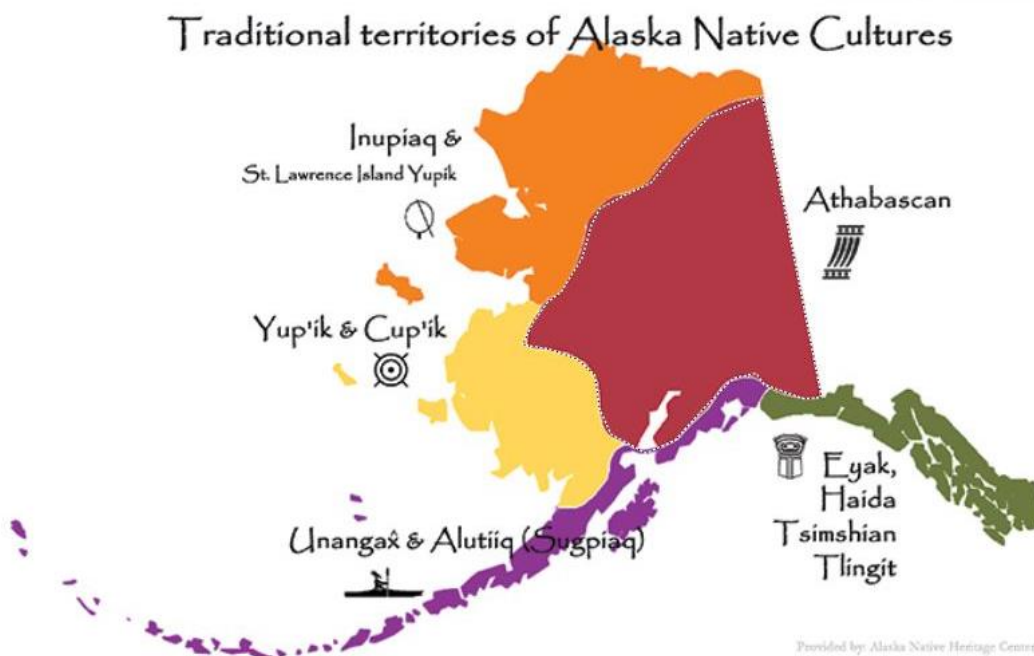
Figure 1: Visual representation of the Path Dependence – Critical Juncture framework.

The following sections will illustrate the varying paths of indigenous incorporation into the socio-political institutions in their respective countries, utilizing the framework of path dependence and critical junctures as articulated in the historical institutionalist research program.

²⁶ Soifer, 1594.

UNITED STATES - THE INUPIAT OF ALASKA

In the United States, indigenous peoples are divided into two overarching categories: American Indians and Alaska Natives. Amongst the Alaska Natives, there are seven main groups: Athabaskan, Aleut, Tsimshian, Eyak, Tlingit, Haida, and Eskimo (see map 1).²⁷ There are two sub-groups of Eskimo – Yupik and Iñupiat. Of the two, only the Iñupiat are Inuit.²⁸ Overall, the scholarly literature examining the Iñupiat and traditional Iñupiat lands is sparse.²⁹



Map 1: The traditional territories of Alaska Native Cultures. The Iñupiat territory is displayed in orange at the top of the map. Source: Alaska Native Heritage Center, www.alaskanative.net/en/main-nav/education-and-programs/cultures-of-alaska/

²⁷ Although the term 'Eskimo' has a controversial past and is considered derogatory by Inuit peoples outside of the U.S., it is still a commonly accepted term by the Iñupiat and the Yupik peoples.

²⁸ Inuit, meaning 'the people,' is the collective term for the transnational group of indigenous people that has traditionally occupied the Arctic lands of Canada and Alaska, as well as the northeastern-most area of Siberian Russia, and along the coastal areas of much of Greenland. The singular of 'Inuit' is Inuk.

²⁹ There exists one modern anthropological monograph by Norman A. Chance, *The Iñupiat and Arctic Alaska: An Ethnography of Development*, Mason: Cengage Learning, 2002. There is also one public policy piece examining regional governmental institutions vis-à-vis the resource curse by Lee Huskey, "An Arctic development strategy? The North Slope Inupiat and the resource curse," *Canadian Journal of Development Studies/Revue canadienne d'études du développement* (2017): 1-12.

Traditionally, the Iñupiat have occupied the northernmost and northwestern-most areas of Alaska. They are estimated to have crossed the Bering Land Bridge 2000-4000 years ago and have occupied the northernmost region of the current state of Alaska ever since. The traditional lifestyle of the Iñupiat people is that of hunter-gatherer semi-nomadism; they migrate with the animals that make up the traditional Iñupiat diet: whale, walrus, seal, and even polar bear. The current-day Iñupiat population is approximately 13,500, half of whom live in Barrow, the capital city of the North Slope Borough.³⁰

Initial Path: Settler Colonialism and Assimilation

The first direct contact between Europeans and Alaska Natives came in the mid-eighteenth century, when explorers sailing for the Russian Empire discovered that the south central and southeastern portions of Alaska were rich in furs that Russian and European markets coveted. Alaska was subsequently claimed by the tsar as Russian territory and Russian traders and businessmen proceeded to colonize its south central and southeastern portions. Their effect on the coastal Natives with whom they came in contact was devastating, especially for the Aleut whose population decreased by 80 percent by the conclusion of Russian America.³¹ However, because Alaska was primarily seen by the Russian colonizers as a source for raw materials, most Russians came to acquire the materials and return home. Few Russians settled in Alaska, so their influence did not extend far beyond the south central and southeastern coastal areas. Thus, the Iñupiat were almost completely unaffected by the period of Russian colonization because they lived far away from Russian settlements and Russian

³⁰ Deanna M. Kingston, "Iñupiat," in *Encyclopedia of the Arctic*, ed. Mark Nuttall (Routledge: New York, 2012): 1005-1007.

³¹ Fae L. Korsmo, "The Alaska Natives," in *Polar Peoples: self-determination and development*, ed. Minority Rights Group (London: Minority Rights Group, 1994): 83.

traders remained largely unaware of their existence. This situation changed when commercial whaling intensified during the mid-nineteenth century. First contact between Euro-Americans and Iñupiat effectively occurred during the mid-nineteenth century, when ships from the continental U.S. came north, following the bowhead whale that spends its summers in Arctic waters.³²

In 1867, the Russian Empire sold the territory of Alaska to the United States with the signing of the Treaty of Cession. Throughout this transfer-of-ownership process, the Alaska Native population was neither consulted nor considered. In fact, Alaska Natives are referred to in the treaty only once, as “uncivilized tribes.”³³ Shortly afterward, gold was discovered in the Yukon territory of Canada, beginning the Klondike Gold Rush. This rush brought the first wave of Euro-American newcomers into Alaska’s interior - prospectors who sought to strike it rich and suppliers who sought to become rich off the prospectors. It also initiated the first period of settler colonialism, wherein “settlers imagine native land and sovereignty to dissolve through the assimilation of native people into the body politic of the nation through citizenship and capitalist economic engagement.”³⁴ Thus began the assimilationist period in Alaska. Euro-Americans were convinced that, in order to become American citizens, Alaska Natives needed to assimilate into the Euro-American culture and lifestyle.

³² Chance, 33-35.

³³ Reference made in Article III. “Text of Treaty with Russia,” *Alaska Historical Society*, last accessed March 26, 2018; <https://alaskahistoricalsociety.org/about-ahs/150treaty/150th-resource-library/primary-source-documents/text-of-treaty-with-russia/>

³⁴ Jessica Leslie Arnett, “Unsettled Rights in Territorial Alaska: Native Land, Sovereignty, and Citizenship from the Indian Reorganization Act to Termination,” *The Western Historical Quarterly* 48, no. 3 (2017): 237.

The acquisition of Alaska and its indigenous populations came at a tumultuous time for U.S.-Indian relations in the continental United States. It was at the end of the period of the Indian Removal Act (when many Indian tribes were forcibly removed from their traditional lands and made to relocate west of the Mississippi River, sparking some of the country's more famous massacres) and at the beginning of the assimilationist era in U.S.-Indian relations. A factor of significance at a later time was that, due to the timing of Alaska's acquisition by the U.S., none of the Alaska Native groups ever signed a treaty with the federal government. Nevertheless, they were enveloped into the many of the laws that governed American Indian groups down south, laws that were intended to assimilate, segregate, individualize, and atomize indigenous people.³⁵ The General Allotment Act of 1887 (commonly known as the Dawes Severalty Act) created reservations for American Indian groups in the continental U.S. and forced nomadic Alaska Natives into settlement by dividing their communal lands into individual family allotments.³⁶ The Indian Reorganization Act (IRA) of 1934 was intended to reverse this and other previous assimilationist policies. It was extended to include Alaska Natives in 1936, with the intention to create a system of reservations similar to those down south and to have those Native groups encapsulated within the reservation adopt their own constitutions for local self-government. The federal government preferred these solutions because Alaska Natives organized themselves in villages, not tribes, and their ancestral lands did not have established boundaries. The solution, as they saw it, was to conform Alaska Natives' social structure to a system the federal government was familiar with – tribes and reservations. Reservations as a

³⁵ Chance, 55; Korsmo, 87.

³⁶ Shadian (2014), 43.

solution largely failed for a variety of reasons. The Iñupiat, for example, voted against establishing reservations for themselves due to a concern that the boundaries would not be expansive enough for their hunting and fishing needs.³⁷ However, many Native groups did organize themselves into tribal communities, based on ancestral lineage and quantifiable by IRA standards. The Iñupiat created their own tribal government called the Inupiat Community of the Arctic Slope (ICAS).³⁸

Critical Antecedent: Events of World War II and the Cold War

The next wave of newcomers to Alaska arrived during World War II. Alaska was considered to be a strategically significant location for national defense purposes, so a sizeable number of military personnel were shipped north. This second influx of outsiders served as a catalyst to heighten racial tensions. Despite the fact that, in 1945, the Alaska Territorial Legislature passed the Alaska Anti-Discrimination Act, which prohibited discrimination in public accommodation in Alaska on account of race, there were still a great number of policies advocating segregation and exclusion for those Alaska Natives who had not adopted to Euro-American ways. Native leaders observed that the “war fought abroad for freedom and democracy was not reflected in the realities at home.”³⁹ These experiences facilitated a raising of consciousness about the unequal status of Alaska Natives as Americans, whereupon leaders began organizing and agitating for Native civil rights. For the Iñupiat specifically, the continued disregard for their traditional way of life, indeed their humanity, is best illustrated with the case of Project Chariot.

³⁷ Korsmo, 90.

³⁸ “About Us,” *Inupiat Community of the Arctic Slope*, last accessed March 29, 2018; http://www.inupiatgov.com/?page_id=63. Although the word “Iñupiat” is commonly spelled with the ‘~’ symbol over the letter ‘n’, ICAS spells it without the symbol.

³⁹ Arnett, 239.

In 1958, the U.S. Atomic Energy Commission (AEC) devised a plan to detonate a 2.4-megaton atomic device (100 times more powerful than the bomb dropped on Hiroshima), on an area of Iñupiat ancestral lands, for the purpose of creating a potentially commercially-viable deep-water harbor. This project was part of a larger AEC program called “Operation Plowshare,” the purpose of which was to experiment with nuclear devices for purportedly peaceful purposes. AEC officials sought support for the project from the Alaska state legislature and financial community. Such an ambitious project also caught the attention of the state’s scientific and environmentalist communities, who registered their concerns about potential negative effects. The only groups who were unaware of the project were the Iñupiat communities who would be most directly affected by the project. They were only made aware of it a year after the project’s inauguration, incidentally, when a passing missionary informed them of the AEC’s intentions. Two years after Project Chariot’s launch, in 1960, the AEC sent a staffer to the villages to explain the project and, according to accounts, outright lied to the villagers by saying that there would be no negative effects from the nuclear blast. The villagers were suspicious of such claims and took action. In 1961, leaders from Iñupiat and Yupik communities convened in Barrow to discuss their opposition to Project Chariot. There were two significant outcomes to this conference. The first was the creation of the *Tundra Times*, Alaska’s first Native newspaper, whose purpose was to collect and disseminate local news between people from isolated villages across the state, to ensure that a threat such as Project Chariot could never happen again. Ultimately, the newspaper “helped set the Native population of Alaska on a course of activism and political clout pre-dating the more well-known activities of the American Indian

Movement by nearly a decade."⁴⁰ The second was the establishment of the first Eskimo political organization that advocated for Native land rights, *Iñupiat Paitot*, or People's Heritage. They added their collective voice to other organizations protesting the project. Within a year, the AEC tabled the now widely unpopular project.⁴¹

Critical Juncture: Statehood and the Discovery of Oil

Permissive Conditions: When Alaska officially became the U.S.'s forty-ninth state in 1959, the federal government granted 104 million acres of land to the state; the state was allowed to pick which specific acres of land it wanted to claim. This caused disputes between the state and Alaska's Native populations when the former selected lands that the latter claimed as theirs by ancestral right.⁴² The rationale behind such claims was that Alaska Natives had never voluntarily signed a treaty or sold the lands in their possession to the federal government, nor had they lost it to the U.S. in a war. Therefore, they still had rights to the lands.⁴³ Native groups throughout the state organized into local and regional associations to submit formal claims to their ancestral lands to the U.S. Department of the Interior. Iñupiat leaders filed a claim to 58 million acres for the Iñupiat. With this act, they began the process that ultimately culminated in

⁴⁰ Elizabeth James, "Toward Alaska Native Political Organization: The Origins of *Tundra Times*," *Western Historical Quarterly* 41, no. 3 (2010): 287.

⁴¹ Chance, 142-147.

⁴² The 1884 Organic Act established that Alaska's Natives had the right to be left in peace on lands they occupied and used. This right was upheld in the 1958 Statehood Act. Thus, Natives had a legal foundation for making claims to their ancestral lands. For more information, see Gerald A. McBeath and Thomas A. Morehouse, *The Dynamics of Alaska Native Self-Government* (Lanham, MD: University Press of America, 1980).

⁴³ In particular, see the transcript of a speech delivered by AFN's first president, Emil Notti, in 1970: "Emil Notti's Speech at Tacoma, Before Small Tribes of Western Washington, Delivered February 7, 1970," last accessed April 10, 2018, http://www.alaskool.org/projects/anca/articles/tundra_times/TT19_GenI_Agreement_ENotti.htm#EMIL NOTTI'S SPEECH AT TACOMA

the Alaska Native Land Claims Settlement Act.⁴⁴ Because it was a case of first impression, the existence of competing land claims between a state actor and Native groups opened the window of opportunity for a new form of agency to occur. In 1966, all of the regional Alaska Native associations banded together to establish the Alaska Federation of Natives (AFN). Such a feat of unity was significant as there was a long history of distrust amongst the various Alaska Native peoples, but they overcame it to unanimously recommend that a freeze be put on the transfer and/or permitting of all federal lands in Alaska until the disputed claims between the state and the Natives were settled.⁴⁵

Productive Condition: On December 26, 1967, an Exxon geologist discovered oil in Prudhoe Bay, an area on the eastern-central coastline of Alaska's northern slope, within the traditional territory of the Iñupiat. 9.6 billion barrels of recoverable oil were estimated to be lying in wait under the surface, making Prudhoe Bay the largest oil field in North America, containing twice as much petroleum as the second-largest field, the East Texas oil field. Oil companies realized that a pipeline would need to be built in order to transport the oil from field to market. The route of the suggested pipeline traversed the entire state, from Prudhoe Bay in the north to Valdez in the south. Native groups had already filed land claims to much of the area through which the pipeline would need to cross. Because the Alaska Native groups were successful in obtaining a land freeze until competing land claims were settled, the discovery of Prudhoe Bay

⁴⁴ "The First 50 Years: Looking Back," *Arctic Slope Native Association*, last accessed April 15, 2018, www.arcticslope.org/about/history/

⁴⁵ Chance, 149.

oil provided a necessary and time-sensitive impetus for the State of Alaska and the U.S. government to, once and for all, settle the claims so that oil production could commence.⁴⁶

Possible Paths: There were three viable options for Alaska Natives at the time of the critical juncture. The first possible path involved passive acceptance of the status quo. The second path involved the creation of a separate and sovereign “Native Nation.” In 1970, the AFN’s president, Emil Notti threatened such a separation:

“If Congress cannot pass a bill that we think is fair, then I will recommend...that we petition Congress and the United States to set up a separate Indian Nation in the western half of Alaska. That area is 90 per cent native anyway, and will not get any non-native settlers until there is something discovered that can be exploited...”⁴⁷

A third possible path provided moderation between the two extremes – negotiation. Over the next few years, the AFN negotiated with the U.S. Department of the Interior and with the U.S. Congress for a deal that would satisfy all parties.⁴⁸

Outcome: Alaska Native Claims Settlement Act

Land claims by all Alaska Native groups were extinguished with the passing of the Alaska Native Claims Settlement Act (ANCSA) by the U.S. Congress in 1971. Much scholarly attention has been devoted to the legal aspects of ANCSA.⁴⁹ However, there also exist historical pieces⁵⁰

⁴⁶ Natalie Landreth and Erin Dougherty, "The Use of the Alaskan Native Claims Settlement Act to Justify Disparate Treatment of Alaska's Tribes," *American Indian Law Review* 36, no. 2 (2011): 322-323.

⁴⁷ “Emil Notti’s Speech at Tacoma, Before Small Tribes of Western Washington, Delivered February 7, 1970.”

⁴⁸ Claus-M. Naske and Herman E. Slotnick, *Alaska: a History of the 49th State*, second edition (Norman: University of Oklahoma Press, 1994): 201-205.

⁴⁹ For a comprehensive examination of the legal relationship between Alaska Natives and the federal and state legislative systems, see David S. Case and David A. Voluck, *Alaska Natives and American Laws*, Fairbanks: University of Alaska Press, 2012. For an overview of the general benefits and drawbacks of ANCSA, see Eric C. Chaffee, "Business organizations and tribal self-determination: A critical reexamination of the Alaska Native Claims Settlement Act," *Alaska Law Review* 25 (2008): 107. There are also legal pieces that discuss issues of discrimination arising from the Act, such as Landreth and Dougherty, 2011.

⁵⁰ Arnett, 233-254.

and pieces analyzing the changes to Native societies after ANCSA.⁵¹ The Act can be considered a model for indigenous economic incorporation because it effectively constituted a ‘sale’ of aboriginal title to land in Alaska for the price of \$962.5 million and the retention by Native groups of 44 million acres (approximately 11 percent of the lands for which they had submitted claims).⁵² The payment and the land were transferred to thirteen separate for-profit corporations, which were to be established for this specific purpose and to be owned by the various Alaska Native groups. The corporate model was a new form of transfer in U.S.-Indian/Native relations. It was seen as preferable to the establishment of reservations by both Natives and non-Natives. Representatives from a number of non-native commercial interests in Alaska expressed concern that the establishment of reservations would render areas with lucrative natural resources (timber, fish, mining) off-limits to non-natives and under the exclusive control of Alaska Natives.⁵³ For their part, Alaska Natives did not want to have their lands held in trust by the federal government, as was the case with American Indian reservations. Reservation carried a stigma of “powerlessness, poverty and subsistence.”⁵⁴ They wanted their land under their own control.⁵⁵ In fact, it was the Alaska Federation of Natives that suggested the creation of corporations.

While ANCSA was a marked improvement over the U.S. federal government’s previous treatment of indigenous peoples, it still contained flaws. The Act specifically and intentionally

⁵¹ Roy M. Huhndorf and Shari M. Huhndorf, “Alaska Native Politics since the Alaska Native Claims Settlement Act,” *South Atlantic Quarterly* 110, no. 2 (2011): 385-401.

⁵² Shadian (2014), 62.

⁵³ Arnett, 2017.

⁵⁴ Korsmo, 90.

⁵⁵ Huhndorf and Huhndorf, 385.

ignored aspirations of Native governance or sovereignty.⁵⁶ It also extinguished aboriginal rights to subsistence hunting and fishing because there was an “implicit assumption that subsistence practices would decline as Natives moved into the modern cash economy.”⁵⁷ Lesser issues include lands still not having been transferred to Native corporations and corporations having filed for bankruptcy.⁵⁸ However, because ANCSA was a federal act of legislation, as opposed to a treaty, it offered the flexibility of amendment. As soon as ANCSA was passed, Native groups began working to amend these oversights.⁵⁹

New Path: Business-Friendly Incorporation

With the signing of ANCSA, it is possible to say that Alaska Natives were incorporated by the U.S. federal state in a *business-friendly* manner. The Act was purely economic in nature, constituting for all intents and purposes a massive real estate deal that compelled all of the Alaska Native groups to engage in the economic mainstream of Euro-American society through its creation of collective Native for-profit corporations. The year following the Act’s passing saw the founding of the Arctic Slope Regional Corporation (ASRC), the for-profit corporation that was to receive the title to 5 million acres of land and a proportionate amount of the settlement funds for its Iñupiat shareholders. Currently, ASRC is the largest Alaskan-owned company with 13,000 Iñupiat shareholders and 12,000 employees.⁶⁰ In 2017, it brought in \$2.4 billion in revenues and was ranked as the 196th largest private company in the U.S.⁶¹

⁵⁶ Landreth and Dougherty, 324.

⁵⁷ Korsmo, 92.

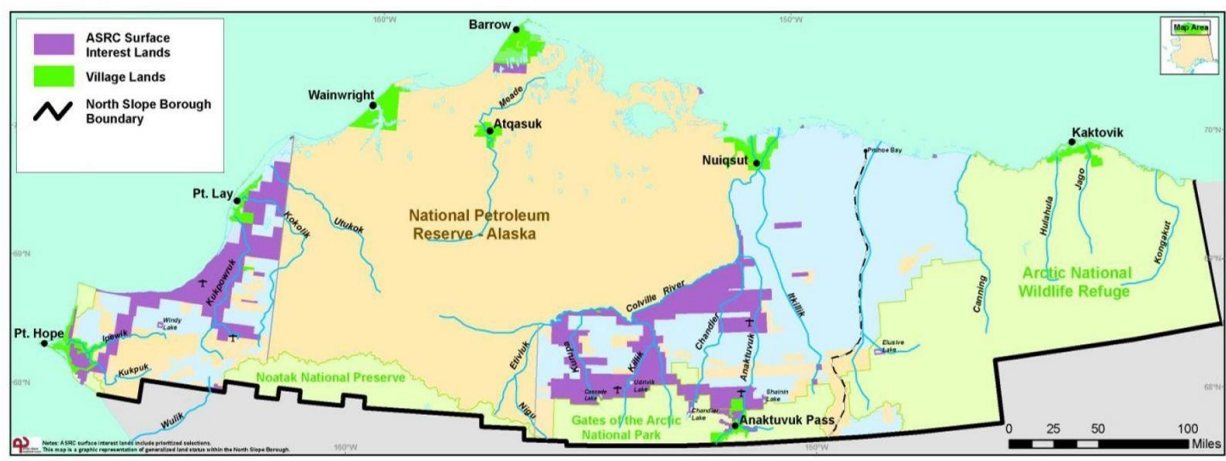
⁵⁸ Kingston, 1007.

⁵⁹ Huhndorf and Huhndorf, 387.

⁶⁰ “About Us,” *Arctic Slope Regional Corporation*, last accessed April 15, 2018, www.asrc.com/About/Pages/Corporate.aspx

⁶¹ “America’s Largest Private Companies: #196 Arctic Slope Regional Corporation,” *Forbes*, last accessed April 15, 2018, www.forbes.com/companies/arctic-slope-regional-corporation/

However, 1972 also brought a dramatic political change to Alaska’s northern slope with the incorporation of the North Slope Borough (NSB) as a municipal-level administrative unit. Encompassing an area of almost 95,000 square miles, the NSB is the largest county-level political subdivision in the U.S. and is larger than 39 of the 50 states (see map 2).⁶²



Map 2: Alaska’s North Slope Borough, displaying the distribution of land holdings between federal, state, ASRC corporate, and village lands. Prudhoe Bay and the Trans-Alaska Pipeline are also visible at center-right.
 Source: Arctic Slope Regional Corporation, www.asrc.com/Lands/Pages/LandsToday.aspx

The State of Alaska allows local governments to have powers over taxation and regulation so the NSB promptly established a tax on petroleum property that has consistently generated an overwhelming majority of the Borough’s revenue.⁶³ Though incorporated as a standard public American governmental structure, many Iñupiat see the NSB as representing “the first time Native Americans had taken control of their destiny through the use of municipal government”⁶⁴ because the majority of residents living in the borough are Iñupiat.

⁶² “Quick Facts: North Slope Borough, Alaska; UNITED STATES,” last accessed April 15, 2018, www.census.gov/quickfacts/fact/table/northslopeboroughalaska,US/PST045216

⁶³ Huskey, 93.

⁶⁴ “Your Government,” *Official Website of the North Slope Borough*, last accessed April 15, 2018, www.north-slope.org/your-government

The area of Prudhoe Bay and its oilfield became the property of the State of Alaska. It leased the land to BP, which serves as the oilfield’s operator. ConocoPhillips, ExxonMobil, and Chevron are working partners on the oilfield. Since production began in 1977, over 12.5 billion barrels of the estimated 28 million total known reserves of oil have been unearthed.⁶⁵ The State of Alaska has \$141 billion in revenues from this windfall. Prudhoe Bay currently supplies 55 percent of all of Alaska’s oil production.⁶⁶

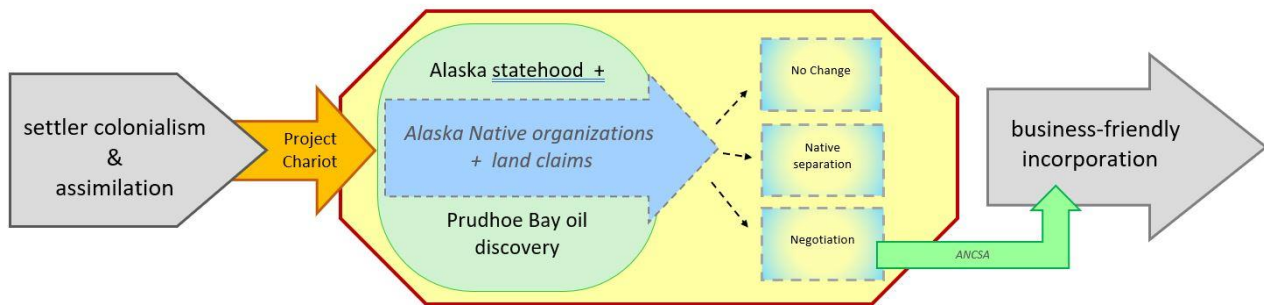


Figure 2: Visual representation of the Path Dependence – Critical Juncture framework applied to the case of the Iñupiat.

As Figure 2 illustrates, the case of the Iñupiat demonstrates how agency during a critical juncture can overcome the entrenchment of a path-dependent institutional structure. The initial path of Euro-American-Alaska Native relations before the middle of the twentieth century was one of colonialism and paternalism by first the Russian Empire, then by the United States, upon the Alaska Natives. Heightened awareness of discrimination and disregard, combined with increasing organization of Native groups on behalf of their civil rights, provided the critical antecedent during the World War II and Cold War periods. The critical juncture came

⁶⁵ D.W. Houseknecht, K.J. Bird, and C.P. Garrity, 2012, *Assessment of undiscovered petroleum resources of the Arctic Alaska Petroleum Province: U.S. Geological Survey Scientific Investigations Report 2012–5147*, (Reston: U.S. Geological Survey, 2012); 1.

⁶⁶ “BP celebrates 40 years of production at Prudhoe Bay,” *BP p.l.c.* Last updated June 19, 2017, last accessed April 8, 2018, www.bp.com/en/global/corporate/media/press-releases/bp-celebrates-40-years-production-prudhoe-bay.html

about as a result of Alaskan statehood in 1959. This event provided the permissive conditions for a conflict over land ownership to emerge. The productive condition, or what shaped the outcome, was the discovery of oil in Prudhoe Bay. This singularity provided the necessary impetus for action on the land claims dilemma. Of the three possible paths – maintenance of the status quo, secession, or negotiation – the last was the chosen outcome. The negotiations resulted in a new path whereupon Natives were incorporated into the mainstream Euro-American economy via their corporations and, for the Iñupiat specifically, into the mainstream political structure, through the establishment of the NSB.

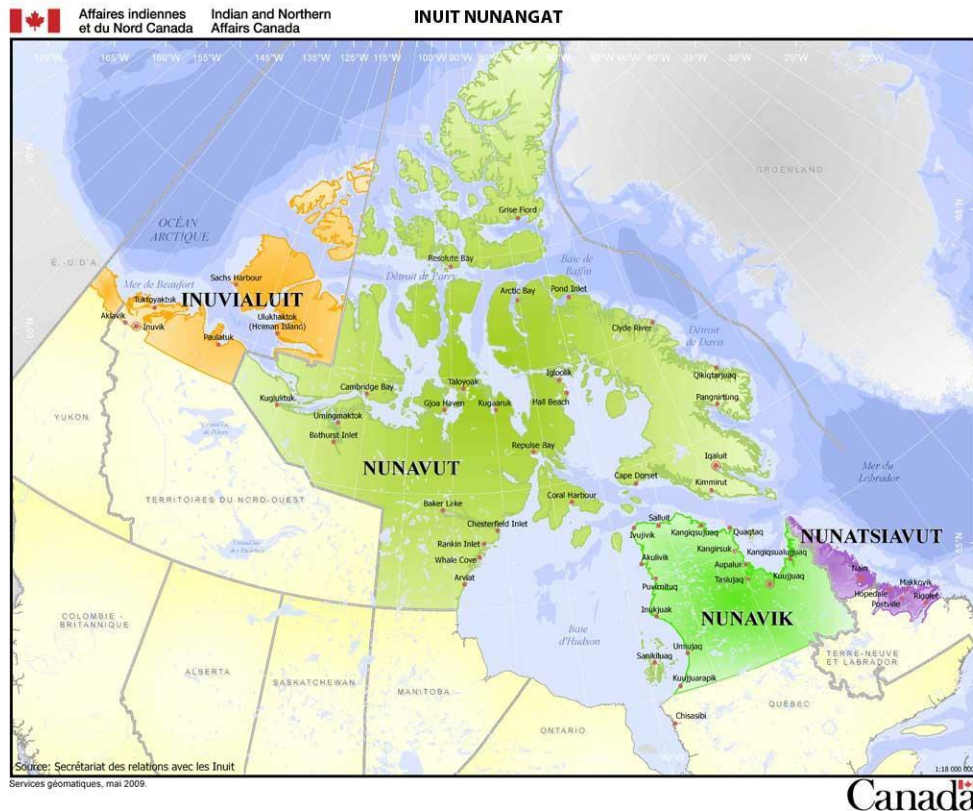
CANADA - THE NUNAVUT INUIT⁶⁷

Canada divides its Aboriginal population into three groups: First Nations people, Métis, and Inuit.⁶⁸ The Inuit are the indigenous people of Arctic Canada. Approximately 65,000 Inuit live in four general regions of the Canadian Arctic: the Inuvialuit region spreads throughout the Northwest Territories and the Yukon Territory; Nunavik is a region in northern Quebec; the Nunatsiavut region is located in Labrador; and finally, there is the Territory of Nunavut. The Inuit call the four regions that comprise their ancestral territory *Inuit Nunangat*, meaning “the place where Inuit live,” or Inuit Homeland (see map 3).⁶⁹ Of the four Inuit regions, only Nunavut has Westphalian-style territorial integrity and a Canadian-style territorial government.

⁶⁷ A note on terminology: The Inuit living in the Territory of Nunavut are referred to as the Nunavut Inuit, whereas all residents of Nunavut, indigenous and non-indigenous alike, are referred to as Nunavimmiut.

⁶⁸ In Canada, the terms “indigenous” and “Aboriginal” are used interchangeably and both are considered politically correct.

⁶⁹ “Inuit,” *Indigenous and Northern Affairs Canada*, last updated March 22, 2018, last accessed April 12, 2018, www.aadnc-aandc.gc.ca/eng/1100100014187/1100100014191



Map 3: The four regions of Inuit territory in Arctic Canada, called “Inuit Nunangat” in Inuktitut. Nunavut is in the center and is the largest territory.

Initial Path: Negligence and Assimilation

The history of the Nunavut Inuit and their historical encounters with European colonial groups is similar to that of their western cousins, the Iñupiat. The Nunavut Inuit have occupied the northeastern-most section of Canada for millennia; the earliest historical estimates indicate at least 4000 years of continuous occupation. The traditional Canadian Inuit lifestyle has been semi-nomadic, based around the hunting of seals and whales on the coast and caribou in the interior.⁷⁰ The Nunavut Inuit retained their traditional institutions and ancestral land for significantly longer than other Aboriginal peoples in Canada for two reasons. The geographic

⁷⁰ Ian Creery, “The Inuit (Eskimo) of Canada,” In *Polar Peoples: self-determination and development*, ed. Minority Rights Group (London: Minority Rights Group, 1994): 106.

location of the Arctic rendered it less accessible to European colonizers and the region lacked an abundance of resources that European markets desired, such as fur and gold. While there was European-Inuit contact throughout the centuries, interaction between the two groups increased only during the nineteenth century, when European ships came seeking both whales for the commercial market and a potential shipping route over the North American continent, called the Northwest Passage.

In 1870, Canadian Inuit lands came under the jurisdiction of the Northwest Territories, an administrative unit of the newly independent Dominion of Canada. From the beginning, Canada was a “reluctant guardian”⁷¹ for the Inuit. Government officials decided that it was in the best interests of the Inuit to leave them alone and limit their exposure to Euro-Canadians as much as possible.⁷² Ottawa only concerned itself with its northernmost natives whenever it coincided with the state’s priority project – ensuring Canadian sovereignty over the Arctic archipelago. The extent of the Canadian state’s disregard for its northernmost natives is exemplified by the case of the Eastern Arctic Patrol. The Patrol was an annual ship expedition that began in 1922. Its purpose was to bolster Canada’s claims to sovereignty of Canada’s Arctic archipelago for the purpose of establishing and maintaining police posts on the islands. As a residual benefit, once a year the Inuit of the eastern Arctic region received some of the services that the personnel on board the ships could provide while in port, such as medical services and mail delivery. Beyond this, the care and administering of Canada’s Inuit was left to missionaries,

⁷¹ Shadian (2014), 21.

⁷² Creery, 112.

traders, and policemen.⁷³

Despite official negligence, Euro-Canadian interactions with, and treatment toward, its Inuit populations resulted in existential changes to Inuit's lives, through means such as the introduction of diseases and firearms, conversion to Christianity, and the imposition of non-Inuit leaders in positions of authority.⁷⁴ In addition to all of the social changes, a Westphalian political system was "grafted on to [the Inuit's] own social trunk. The new state-level political structure – its legal system, land tenure, resource ownership regulations, communications networks, military organization, and system of individual rights and privileges – was Euro-Canadian and not in the least Inuit." (Duffy, 197). Nevertheless, the Inuit had to learn how to navigate through these new and ontologically-foreign institutions.

Also similar to their western counterparts, the Inuit never signed any treaties with the Canadian federal government, therefore they never extinguished their rights to their traditional territories. In fact, their status as citizens vis-à-vis the Canadian state remained ambiguous until 1939, when a Supreme Court ruling confirmed that the category of 'Indians' included Inuit, which conferred upon them citizenship rights.⁷⁵ Nevertheless, they were subjected to the same laws as other Aboriginal groups who had become wards of the state via treaty.⁷⁶ One particularly damaging policy that the Canadian government enacted toward the Inuit was its "disk" policy. Government bureaucrats had difficulty understanding the Inuit naming systems, so in 1941 a policy was enacted that assigned each Inuk a 4-digit identification number that was

⁷³ C.S. Mackinnon, "Canada's Eastern Arctic Patrol 1922–68," *Polar Record* 27, no. 161 (1991): 93–101.

⁷⁴ Shadian (2014), 24.

⁷⁵ Loukacheva, 20.

⁷⁶ Shadian (2014), 40.

to be used, in lieu of their names, when dealing with the government. This number, known as 'Eskimo numbers', was engraved on a disk that was worn around the neck. One externality of this policy was that it created last names, a custom previously unknown in Inuit society.⁷⁷

Critical Antecedent: World War II, the Cold War, and Threats to Canadian Sovereignty

World War II provided a catalyst for the federal government to finally take an interest in its northern regions. The Canadian Arctic was included in the theater of war and this created the need for increased military activity in the region. Both Canadian and American service personnel were tasked with jointly constructing northern defense projects, such as the Alaskan Highway and a number of air bases throughout Inuit Nunangat. The Inuit were not consulted about these projects or the influx of outsiders into their homelands, which brought with it increased interaction between Inuit and non-Inuit. It was the American military personnel stationed in the Canadian Arctic who were the ones to point out the Canadian government's "perceived neglect of Inuit, including their inadequate living conditions, healthcare and education."⁷⁸ The Canadian federal government was shamed into action and obligingly followed up on the Americans' concerns.

After World War II concluded, the Canadian state had a variety of reasons for maintaining its interest in its northern region. There was a sincere concern with the situational realities that the Inuit were suffering and a feeling of obligation to do something about it. Unfortunately for the Inuit, the state's solution was to continue pursuing assimilationist policies

⁷⁷ Shadian (2014), 40-42. See also Jack Hicks and Graham White, "Nunavut: Inuit self-determination through a land claim and public government," in *Nunavut: Inuit Regain Control of Their Lands and Their Lives*, eds. Jens Dahl, Jack Hicks and Peter Jull (Copenhagen: International Work Group for Indigenous Affairs, 2000): 50.

⁷⁸ Sarah Bonesteel and Erik Anderson, *Canada's Relationship with Inuit: A History of Policy and Program Development*, (Ottawa: Indian and Northern Affairs Canada, 2008), 10.

with its Aboriginal populations, which it called “acculturation.” But what can arguably be considered its primary motivations were the desire to introduce large-scale exploitation of the Arctic’s natural resources and the continuous need to respond to threats to its sovereignty over the islands of the Arctic archipelago.⁷⁹ Canada considered the waters of the archipelago to be its internal waters; the Americans insisted that they were international waters, for which the U.S. did not require Canadian permission to sail through. This last factor became a preoccupation that lingers to the present. Thanks to the Distant Early Warning (DEW) Line that the U.S. government was constructing across the Arctic from Alaska to Baffin Island in the 1950s, the American military continued to be a visible and active presence in the Canadian north. Although the DEW Line was undertaken in Canada as a joint defense project, the federal government nevertheless felt that its sovereignty was being threatened.

One program the federal government undertook to bolster its sovereignty claims was to coerce Inuit families into relocating to more and more remote areas with promises of better hunting and the opportunity to return to a more traditional lifestyle. One of the most controversial relocation campaigns involved the “High Arctic Exiles.” From 1953 to 1955, a group of 87 Inuit living in northern Quebec were persuaded to move almost 1250 miles to the north, to remote islands surrounding Baffin Bay. The group was promised the option of returning home after two years, but the federal government never made good on that promise. The 87 Inuit had no choice but to stay.⁸⁰ Although they eventually created the extreme northern communities of

⁷⁹ Hicks and White (2000), 47.

⁸⁰ Jane Sponagle, “We called it 'Prison Island': Inuk man remembers forced relocation to Grise Fiord,” *CBC News*, last updated July 18, 2017, last accessed April 10, 2018, www.cbc.ca/news/canada/north/forced-relocation-high-arctic-inuit-1.4182600. See also Hicks and White (2000), 47.

Grise Fiord and Resolute Bay, they were “essentially treated as flag poles” to bolster Canadian sovereignty.⁸¹

Critical Juncture: Oil Speculation, the *Calder* Case, and Inuit Political Organization

Permissive Conditions: Two developments of the late 1960s and early 1970s provided the permissive conditions of the critical juncture toward Inuit incorporation in Canada. The first was the spillover effects from the petroleum discovery at Prudhoe Bay. The second was a legal decision that validated the Aboriginal tradition of communal land rights.

When petroleum was discovered in Prudhoe Bay, oil companies became encouraged to explore other potentially viable locations in nearby Yukon and the Northwest Territories. In 1968, the Prime Minister created the Task Force on Northern Oil Development to assess the feasibility of a pipeline that would run from Alaska to the continental U.S. via Canada. The projected pipeline would cross the Yukon Territory, the Northwest Territories and Alberta, where oil extracted from Canadian fields could be added along the way.⁸² A particular location of contention for the pipeline plan was the Mackenzie Valley in the Northwest Territories, where lucrative deposits of oil lay but which was also a vital area of caribou migration.⁸³ Caribou continued to be a staple subsistence food source for Aboriginal people living in the region. In 1970, the Mackenzie Valley Inuit formed the first grassroots Inuit political organization, the Committee for Original People’s Entitlement (COPE), to “provide a united voice for all the original people of the Northwest Territories [and] to work for the establishment

⁸¹ Michael Byers, *Who Owns the Arctic? Understanding Sovereignty Disputes in the North* (Vancouver: Douglas & McIntyre, 2009) 109.

⁸² Nathan Baker and James H. Marsh, “Mackenzie Valley Pipeline Proposals,” *The Canadian Encyclopedia*, last updated March 21, 2018, last accessed April 10, 2018, www.thecanadianencyclopedia.ca/en/article/mackenzie-valley-pipeline/

⁸³ Creery, 115.

and the realization of native rights.”⁸⁴ Due to their close proximity, both socially and geographically, COPE received advisory and financial support from the North Slope Iñupiat in their pursuit of rights.

The pipeline proposal raised concerns about potential environmental, cultural, social and economic impacts. In 1974, the federal government commissioned an official inquiry to investigate the potential impacts. COPE provided fieldworkers to aid the commission in its collection of scientific and traditional knowledge.⁸⁵ Three years and over 40,000 pages later, the commission released its findings and recommended that no pipeline be built through the northern Yukon because it would threaten the wildlife upon which the regional indigenous groups depended for subsistence. It also recommended that a pipeline through the Mackenzie Valley should be delayed for 10 years, so that land claims could be settled. The federal government accepted the commission’s recommendations.⁸⁶

The second permissive condition came about in 1973, as a result of the Supreme Court of Canada’s decision on the case of *Calder et al. v. Attorney General of British Columbia*. Frank Calder, the leader of a First Nations group, brought suit against the province for forcing his people onto reservations without treaty. They sought reclamation of their ancestral lands. Although the court ultimately ruled in favor of the province, the significance of the case lay in

⁸⁴ “COPE: An Original Voice for Inuvialuit Rights,” *Inuvialuit Regional Corporation*, last accessed August 16, 2018, 26, <https://www.irc.inuvialuit.com/sites/default/files/COPE-Original%20Voice%20for%20Inuvialuit%20Rights.pdf>

⁸⁵ *Ibid*, 29.

⁸⁶ Baker and Marsh.

the Court's recognition of the validity of Aboriginal title based on occupation of traditional territories.⁸⁷

Productive Condition: The Calder case decision encouraged the Inuit to submit land claims. The Inuit had never engaged in treaty-making with Euro-Canadians, thus their territorial rights had never been extinguished. In 1971, the *Inuit Tapirisat of Canada* (ITC), which translates into English as, the Inuit Brotherhood of Canada, was founded in response to concerns regarding the industrial projects in both the east and west sides of Inuit Nunangat, for which the Inuit had not been consulted. It sought to represent all of Canada's Inuit population and its initial objective was to lobby the federal government for claims to northern land.

Initially, COPE and ITC worked together on pursuing land claims. In 1976, COPE split off to focus on an agreement for the western Arctic, so ITC carried forward the efforts for the creation of Nunavut and an eastern Arctic land claims agreement. From the beginning, ITC aspired to create an Inuit territory to be called Nunavut, which would encompass all of the Canadian Arctic north of the treeline. This idea proved unrealistic and ITC later modified its ambition to include only the three eastern Arctic regions of Baffin, Keewatin and Kitikmeot.⁸⁸ With this, the ITC delegated responsibility for negotiating the Nunavut land claim to the representative organizations of the three regions that then joined efforts as one overarching negotiation organization, the Tungavik Federation of Nunavut (TFN).⁸⁹

⁸⁷ David A. Cruickshank, "Calder Case," *The Canadian Encyclopedia*, last updated June 1, 2017, last accessed April 10, 2018, www.thecanadianencyclopedia.ca/en/article/calder-case/

⁸⁸ Creery, 138.

⁸⁹ Bonesteel, 56.

Possible Paths: In 1976, the Inuit, through the ITC, proposed to the federal government the creation of a separate territory to be called Nunavut with its own territorial government.⁹⁰ Once the Inuit submitted land claims, there were only two realistic paths that emerged. The first was that the federal government could deny the claims and the Inuit-Canadian state relationship would continue as it had before. The second was that the federal government could respond to the claims and negotiate a form of Inuit incorporation into Canadian political life. Thanks to the blueprint for negotiation provided by their western cousins in Alaska, the Canadian Inuit never felt the need to threaten separation or insurrection. Utilizing ANCSA as a case example, the Canadian Inuit sought to learn from Alaska's experience in order to avoid some of their mistakes, the biggest of which being the omission of any definition or establishment of indigenous political rights.⁹¹ Inuit organizations were intentional from the outset that any Nunavut agreement must "embrace and give expression to Inuit self-determination."⁹² They were also determined to have control over, and management of, natural resource development so that they could build up a strong regional economy that would benefit the Inuit population.⁹³

Both parties chose the latter path. It was motivated by a variety of factors: the Supreme Court's decision in the 1973 *Calder* case, increased non-Inuit settlement into northern areas, and a desire to develop the Arctic's natural resources, which "required clear regulations

⁹⁰ Loukacheva, 28.

⁹¹ Shadian (2014), 70.

⁹² Alastair Campbell, Terry Fenge, and Udloriak Hanson, "Implementing the 1993 Nunavut Land Claims Agreement," *Arctic Review* 2, no. 1 (2011): 32-33.

⁹³ Kim Van Dam, *A Place Called Nunavut: Multiple Identities for a New Region*, (Groningen: University of Groningen, Arctic Centre, 2012), 216.

regarding the stewardship and ownership of northern land and resources.”⁹⁴

Outcome: The Nunavut ‘Package’

The negotiation period lasted seventeen years, from the first proposal submission in 1976 until the final agreement was signed in 1993. The resultant Nunavut ‘Package’ was a deal made between the Inuit of the Nunavut settlement area and the Queen of England, in right of Canada. It consisted of two parts, the Nunavut Land Claims Agreement (NLCA) and the Nunavut Act.⁹⁵ Due to its uniqueness, the Nunavut Package has received a considerable amount of scholarly attention from a variety of perspectives, particularly from those of indigenous rights and self-determination,⁹⁶ geography,⁹⁷ and political science,⁹⁸ but also from the business⁹⁹ and engineering sectors.¹⁰⁰

The first part, the NLCA, was similar to ANCSA insofar as it provided official acknowledgement of property rights for the Inuit, which put them on a path to economic self-sufficiency. The terms of NLCA resulted in cash payments to the Nunavut Inuit, as well as outright control of 135,000 square miles of land. Because the terms included both surface and sub-surface rights, the Inuit of Nunavut were also given control over the mineral rights on

⁹⁴ Bonesteel, 52.

⁹⁵ Land claims agreements are considered to be “modern treaties” (Loukacheva, 2007; 46).

⁹⁶ See *Nunavut: Inuit Regain Control of Their Lands and Their Lives*, edited by Jens Dahl, Jack Hicks and Peter Jull (Copenhagen: International Work Group for Indigenous Affairs, 2000); Heather Nicol, "Nunavut, Sovereignty, and the Future for Arctic Peoples' Involvement in Regional Self-Determination," *Northern Review* 37 (2013): 127-142; and Roger Ritsema, Jackie Dawson, Miriam Jorgensen, and Brenda Macdougall "'Steering Our Own Ship?' An Assessment of Self-Determination and Self-Governance for Community Development in Nunavut." *Northern Review* 41 (2015): 157-180.

⁹⁷ Van Dam, 2012.

⁹⁸ Jack Hicks and Graham White, *Made in Nunavut: An Experiment in Decentralized Government*, (Vancouver: UBC Press, 2015).

⁹⁹ Laura Bowman, "Sealing the deal: Environmental and indigenous justice and mining in Nunavut," *Review of European, Comparative & International Environmental Law* 20, no. 1 (2011): 19-28.

¹⁰⁰ Michael Hitch, Michael Tost, Susanne Feiel, and Peter Moser, "Emergence of Differential Social License: A Case of Impact and Benefit Agreements in Nunavut, Canada," *Geo-Resources Environment and Engineering* 2 (2017): 242-247.

almost 22,000 miles of their land. A unique and progressive feature of the NLCA provided for a specific form of indigenous political rights through joint Inuit-government resource management boards. Joint participation and decision-making on bodies such as the Nunavut Wildlife Management Board, Nunavut Water Board, and Surface Rights Tribunal, gave the Nunavut Inuit significant oversight advantages. In exchange, the Inuit extinguished the right to any claims, rights, title, and interests based on their assertion of an Aboriginal title to both land and water anywhere within Canada.¹⁰¹

Because the language of the NLCA explicitly states that the Nunavut Inuit have autonomy over “all marine areas adjacent to the coastlines of the islands of the Arctic Archipelago, including the waters of the Northwest Passage,”¹⁰² skeptics have countered that the motivation for this ‘package’ had less to do with acknowledgement of Canada’s Inuit as partners with the Canadian state in decision-making and more to do with the Canadian state’s desire to solidify its claim to resource-rich Arctic territory and the contested status of the Northwest Passage sea route.¹⁰³ Others hold that the politicians of the federal government were simply seeking good public relations before an election cycle.¹⁰⁴ Regardless of motivation, the Nunavut Inuit have still ultimately benefited from the arrangement as “the power relations have been fundamentally altered” in their favor.¹⁰⁵

¹⁰¹ Loukacheva, 41.

¹⁰² Shadian (2014), 76.

¹⁰³ See Byers, 2011; Nicol, 2013.

¹⁰⁴ See Jose Kusugak, "The Tide Has Shifted: Nunavut Works for Us, and It Offers a Lesson to the Broader Global Community," in *Nunavut: Inuit Regain Control of Their Lands and Their Lives*, eds. Jens Dahl, Jack Hicks and Peter Jull (Copenhagen: International Work Group for Indigenous Affairs, 2000) 20-28.

¹⁰⁵ Van Dam, 217.

The second part, the Nunavut Act, established the Territory and Government of Nunavut, which officially became Canada's newest territory on April 1, 1999.¹⁰⁶ Massive in size, Nunavut encompasses 808,185 square miles; if it were a sovereign state, it would be the twelfth largest by area.¹⁰⁷ Despite being Canada's single largest territorial unit, it has the country's second smallest population. In 2016, Nunavut's total population was 35,944, 85% of whom identify as Inuit.¹⁰⁸

At the time of its founding, Inuit leaders established Nunavut as a public government, as opposed to an Aboriginal self-government. A public government model ensures that all residents of Nunavut, Inuit and non-Inuit alike, have the same rights and responsibilities. The leaders chose this type of political structure because it was considered "more palatable to the Canadian system."¹⁰⁹ However, such a model still guaranteed constitutional protection for Inuit ways and afforded them internal self-determination¹¹⁰ and they still wanted to infuse the public government model with Inuit values. For example, in 2008, the Legislative Assembly of Nunavut passed the Official Languages Act with made the Inuit language a co-equal official language for conducting business within the territory, alongside the federally recognized English and French languages.¹¹¹ This is embodied in the fact that the Inuit population is so dominant and that a

¹⁰⁶ Kenneth John Rea, "Nunavut," *Encyclopedia Britannica*, Accessed May 6, 2016, www.britannica.com/place/Nunavut

¹⁰⁷ Byers, 114.

¹⁰⁸ "Census Profile, 2016 Census: Nunavut [Territory] and Canada [Country]," *Statistics Canada*, last updated November 16, 2017, last accessed February 6, 2018, www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/Page.cfm?Lang=E&Geo1=PR&Code1=62&Geo2=&Code2=&Data=Count&SearchText=Nunavut&SearchType=Begins&SearchPR=01&B1=All&GeoLevel=PR&GeoCode=62

¹⁰⁹ Loukacheva, 51.

¹¹⁰ Kusugak, 25-26.

¹¹¹ "Consolidation of Official Languages Act," *The Government of Nunavut*, last accessed April 15, 2018, www.gov.nu.ca/sites/default/files/2015-07-28-official_language_act-conssnu2008c10_0.pdf

majority of the territorial government's personnel identify as Inuit. Thus, the Government of Nunavut operates as a *de facto* form of Aboriginal self-government.¹¹²

New Path: Mutually-Beneficial Incorporation

The Nunavut 'package' represented a major victory for indigenous rights in Canada and served as a model worldwide:

"Here was a small, marginalized Indigenous people who had succeeded against long odds and through entirely peaceful means in establishing a government they controlled within the Canadian state in order to gain control over their lives, their land, and their resources – and, ultimately, their destiny."¹¹⁸

Once the NLCA was settled, TFN reformed itself from a negotiating body into an implementation organization and renamed itself Nunavut Tunngavik Incorporated (NTI). Up to the present, NTI has operated as a nonprofit organization whose mission is to oversee the exchange of responsibilities and obligations between the Inuit and the federal and territorial governments "coordinate and manage Inuit responsibilities set out in the Nunavut Agreement and ensure that the federal and territorial governments fulfill their obligations."¹¹⁹

The locus for major petroleum interests from the time of the critical juncture to the present has been in the Northwest Territories in western Canada. The current hydrocarbon development landscape for Nunavut's natural resources can best be described as aspirational. Nunavut has 181 trillion cubic feet of technically recoverable natural gas and 18.25 billion barrels of technically recoverable crude oil,¹²⁰ but they are currently considered non-viable due

¹¹² Loukacheva, 66.

¹¹⁸ Hicks and White (2015), 3.

¹¹⁹ "About NTI," *Nunavut Tunngavik Incorporated*, last accessed April 15, 2018, www.tunngavik.com/about/

¹²⁰ "Nunavut's Shale and Tight Resources," *Natural Resources Canada*, last updated July 25, 2017, last accessed April 15, 2018, www.nrcan.gc.ca/energy/sources/shale-tight-resources/17706

to the lack of technology and infrastructure. Rather, Nunavut's main extractive industry is mining. The Territory is rich in natural resources, from diamonds and gold to iron and uranium. In the context of mining, the Nunavut Impact Review Board, one of the joint management boards negotiated under NLCA, provides a crucial function – it alone can approve environmental assessments. Because the Board consists of representatives from the federal and territorial governments, as well as representatives from the Inuit organizations, it ensures that sustainable practices are upheld.¹²¹ The high environmental standard combined with the relative inaccessibility of resources has resulted in only one gold mine being active in Nunavut, but it produces the most gold of any territory in the Canadian north.¹²² There is also only one operational iron mine. It currently extracts 18 million tons of iron ore per year, but is projected to be the fifth largest iron mine in the world.¹²³

Thus, it can be said that the Inuit of Nunavut were incorporated in a manner that benefitted both the Inuit people and the Canadian federal state. The Inuit gained a 'homeland' with formal collective political and territorial recognition through the Nunavut Package while the Canadian state bolstered its claim to sovereignty over the Arctic archipelago. As demonstrated in figure 3, from an initial path of neglect and assimilation, Canada's Inuit have progressed comparatively far along the path to self-determination. They have managed to acquire a designated home that includes both land rights and political power. The critical antecedent for transformation of Canadian-Inuit relations came when the federal government

¹²¹ Van Dam, 216.

¹²² Statistics Norway, *The Economy of the North 2015* (Oslo–Kongsvinger: Statistics Norway, 2017), 45.

¹²³ *Ibid*, 98.

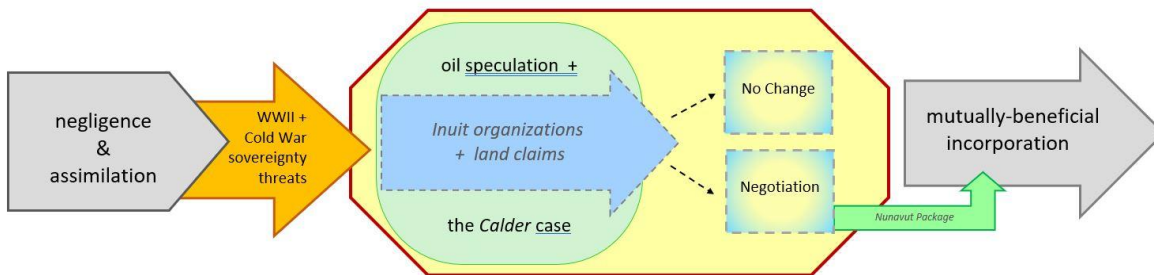


Figure 3: Visual representation of the Path Dependence – Critical Juncture framework applied to the case of the Nunavut Inuit.

switched from being a neglectful guardian to one actively - and strategically - interested in Inuit welfare. However, the critical juncture came as a result of the state's attempts to prioritize natural resource development over Aboriginal rights. Because the Supreme Court acknowledged that Aboriginal peoples have communal land rights, the Inuit embarked on an extensive period of negotiations with the federal government to secure these rights. Their incorporation can be considered as mutually beneficial to both the Canadian state and the Inuit themselves. While the argument can be made that Nunavut would not have been created if the federal government had not felt the need to bolster its sovereignty claims in the Arctic, the Inuit nevertheless were able to leverage the situation to their advantage by persisting in their pursuit of the establishment of Nunavut, in addition to land claims.

RUSSIAN FEDERATION – THE NENETS PEOPLE



Arctic Network for the Support of the Indigenous Peoples of the Russian Arctic: <http://ansipra.npolar.no/image/Arctic05.jpg>

Map 4: Indigenous Groups of the Russian Federation. The approximate location of the Yamalo-Nenets Autonomous Region is circled in red.

Russia divides its indigenous groups into two main categories: titular nations, which have larger population sizes, and a catch-all category called “the indigenous small-numbered peoples of the North, Siberia and the Far East” (hereafter, the small-numbered peoples), which by law can have no more than 50,000 people in their groups in order to qualify.¹²⁴ There are currently 21 titular nations and 40 federally recognized small-numbered peoples in the Russian Federation (see map 4).¹²⁵ The Nenets are the most populous group of the indigenous small-

¹²⁴ Article 1 of the 1999 federal law, "On Guarantees of the Rights of Indigenous Peoples" (No. 82-FZ), English translation provided in Maksim Zadorin, Olga Klisheva, Ksenia Vezhlytseva, and Daria Antufieva, *Russian Laws on Indigenous Issues: Guarantees, Communities, Territories of Traditional Land Use: Translated and Commented* (Rovaniemi: University of Lapland, 2017): 4.

¹²⁵ In 2000, the Russian federal government passed decree N. 255, “On a single list of small-numbered indigenous peoples of the Russian Federation.” This document is the national register that officially states which small-numbered groups the

numbered peoples in Russia, with approximately 45,000 members.¹²⁶ Unlike the previous two groups examined, the Nenets are not an Inuit group and do not have transnational kinship ties. Rather, they are a Uralic people whose nationhood lies solely within the territorial boundaries of the Russian Federation.¹²⁷ Their homeland is currently spread across two administrative units in the Russian Federation, the Nenets Autonomous Region and the Yamalo-Nenets Autonomous Region (YNAR). The majority of Nenets, approximately 30,000, live in the YNAR and it is the Nenets of the Yamal peninsula specifically who will be examined here because their ancestral lands have become the most recent hotspot for extractive development.¹²⁸ Another trait that distinguishes the Nenets from the Inuit peoples examined above is that, in addition to subsistence activities such as hunting, fishing, and berry picking, the Nenets have engaged in large-scale reindeer herding and breeding for centuries. This occupation brought with it economic connotations of property rights in three specific forms: commodity (reindeer), infrastructure (migration routes and meat production), and land (pasture).¹²⁹ Since the twentieth century, some Nenets have become urbanized and urbanization is increasing rapidly due to the modern influences of the industrial lifestyle brought about by oil and gas

government recognizes as such at the federal level. It is not exhaustive, as there are other small-numbered groups, such as the Izhma Komi, are still seeking such recognition.

¹²⁶ According to the 2010 census – see Federal State Statistics Service, “Naseleniye natsional’nosti i vladeniye russkim yazykom po sub’yektam Rossiyskoy Federatsii [Population by nationality and acquisition of Russian language, by subjects of the Russian Federation],” in *Vsyerossiyskaya perepis’ naseleniya 2010 [All-Russian Federation Census 2010]*, 29-141, last accessed July 31, 2018, www.gks.ru/free_doc/new_site/perepis2010/croc/Documents/Vol4/pub-04-04.pdf.

¹²⁷ There is one Inuit group in the Russian Federation’s boundaries – the Chukotka Inuit, who live in northeastern-most Siberia. The Chukotka Inuit can be considered fortunate amongst the small-numbered peoples of Russia, because they have kinship ties to the Inuit in Alaska, Canada, and Greenland, which allows them to access resources from the West. I have chosen to not examine the Chukotka Inuit because they do not have any potential or viable natural resource interests that would cause them to come into conflict with the federal government.

¹²⁸ Federal State Statistics Service, 111.

¹²⁹ Gail Osherenko, “Property Rights and Transformation in Russia: Institutional Change in the Far North,” *Europe-Asia Studies* 47, no. 7 (1995): 1078.

development in the region. However, the majority of tundra Nenets continue to live the rural, traditionally nomadic lifestyle centered around reindeer herding.¹³⁰

Initial Path: Colonization and Paternalism

The Nenets people have occupied their ancestral lands since the first millennium AD and have been under Russian control since the seventeenth century.¹³¹ During the time of the Russian Empire, all indigenous peoples were considered “aliens.” Nenets-Russian governmental relations bore a striking similarity to those of pre-twentieth century Inuit-Canadian and American-Alaska Native relations. Russians have historically viewed indigenous peoples as “primitive, backward, yet, exotic,”¹³² a mindset that manifested in a predominantly derogatory and chauvinistic approach to their interactions with indigenous peoples. An example of this attitude is demonstrated by the name Russians gave to the Nenets during the sixteenth century. The Russians called the Nenets ‘Samoyed,’ meaning ‘self-eater,’ or cannibal. “Nenets,” meaning “man,” is the name by which this people called themselves. The moniker ‘Samoyed’ remained standard until 1930, when the official name for the group became Nenets.¹³³

Only once the Soviets took over in the early 1920s did indigenous peoples attain full legal equality as citizens. This was done by decree from the “vanguard of the proletariat,” not by organic demand from the indigenous groups.¹³⁴ Despite this new legal parity, indigenous

¹³⁰ In 2005, 17% of Nenets lived in large settlements and cities. In 2010, 21% did. While a 3% increase in five years is significant, the 79% majority maintain traditional ways. See Alexey Zen’ko, “Nenets,” in *Encyclopedia of the Arctic*, ed. Mark Nuttall (Routledge: New York, 2012): 1418, and Johannes Rohr, *IWGIA Report 18: Indigenous Peoples in the Russian Federation*, eds. Diana Vinding and Kathrin Wessendorf (Copenhagen: International Work Group for Indigenous Affairs, 2014): 69.

¹³¹ Zen’ko, 1417-1418.

¹³² Sardana N. Nikolaeva, “Post-Soviet Melancholia and Impossibility of Indigenous Politics in the Russian North,” *Arktika 21st Century Humanitarian Sciences* 2, no. 12 (2017): 15.

¹³³ Zen’ko, 1417.

¹³⁴ Yuri Slezkine, *Arctic Mirrors: Russia and the Small Peoples of the North*, (Cornell University Press, 1994); 133-134.

peoples, national minorities, and ethnic Russians occupied different socio-political strata of development. Ethnic Russians were considered ready for the great socialist experiment. Both Lenin and Stalin decreed that national minorities, such as Ukrainians and Tatars, should have their own ethnoterritorial autonomous areas.¹³⁵ This was considered an acceptable compromise to help liberate backward nationals from their pasts so they could progress on the cosmopolitan path to communism. This gift from the Soviets was seen as a gesture of repentance on behalf of ethnic Russians, for the purpose of eventually eliminating national differences altogether.¹³⁶ Indigenous peoples were not considered national minorities because they were considered to still be “too classless and ‘cultureless’ to be real nationalities,” thus they were excluded from this nationality policy.¹³⁷

Nevertheless, other Soviet policies were still applied to indigenous communities. Marxist logic stated that the path to communism necessitated a society to first be industrialized and that all private property be abolished. Thus, during the pre-war Stalinist era, the Soviet Union underwent an intensive, brutal, and traumatizing period of collectivization and industrialization. Collectivization began in 1928, calling for the consolidation of individual farms into large, state-owned and state-run farms. The first collective farm on the Yamal peninsula was established in 1929.¹³⁸ This program also called for the sedentarization of nomadic and semi-nomadic indigenous groups and for all their individual assets needed to be transformed into collective,

¹³⁵ According to Slezkine (1994, 154), the Leninist nationality policy “assumed that the Soviet federation consisted of ethnic groups, that all ethnic groups were entitled to their own duly demarcated territories, that all national territories should have political and cultural autonomy, and that the vigorous development of such autonomy was the only precondition for future unity.”

¹³⁶ Slezkine, 142.

¹³⁷ Slezkine, 134-138.

¹³⁸ Andrei V. Golovnev and Gail Osherenko, *Siberian Survival: The Nenets and Their Story*, (Ithaca: Cornell University Press, 1999): 80.

state-owned assets. Herders were compelled to relocate into villages and urban areas to live in pre-fabricated apartment blocs while their previously free-roaming herds were now corralled into state-owned collective pastures, in the style of domesticated cattle. Their fish and fur stocks and supplies were likewise seized and communalized.¹³⁹ Hunters, fishers, and gatherers were rendered unable to engage in their traditional activities, causing a subsequent loss of knowledge and skill transferal to next generations.¹⁴⁰ This complete upheaval of traditional lifestyle was considered as progress toward the socialist utopian ideal to civilizing the cultureless and classless small-numbered peoples.

A number of Nenets disagreed with the collectivization policy and retreated further north, into the tundra of the Yamal peninsula, in an attempt to avoid such a fate. In 1934, a *mandalada* (the Nenets term for “war assemblage”) developed to resist the encroaching Soviet policies. It ended later in the year when the rebellion leaders became convinced of the futility of resisting the Soviets. However, the rebellious spirit flared again during World War II, when Soviet authorities ordered Nenets herders to deliver all of their reindeer to collective farms. This time, the rebellion resulted in the death of seven people and the arrest of fifty people more.¹⁴¹ After that, there were no more rebellions, but the spirit of nomadic Nenets herders was not crushed. On the outside, herders settled to state-run farms and relinquished their deer to the collective. But they also figured out a way to trick the system by mixing in their private herds with the collective herds; Nenets herders were still able to distinguish their own deer in

¹³⁹ Slezkine, 197.

¹⁴⁰ Nikolai Vakhtin, “Native Peoples of the Russian Far North,” in *Polar Peoples: self-determination and development*, ed. Minority Rights Group (London: Minority Rights Group, 1994): 57.

¹⁴¹ Golovnev and Osherenko, 81-93.

the pack. Authorities knew about the situation but were unable to do anything about it because they were unable to distinguish which deer were collectively-held and which were privately-held.¹⁴²

Stalin's industrialization program also commenced in 1928. The northern regions and the Arctic were specifically targeted as priority development areas because of the vast natural resources that they contained. Industrialization of the north necessitated the importation of labor from southern parts of the Union, which resulted in an influx of non-indigenous migrant workers, who lived in industrial 'monotowns' that had been built for them. Indigenous people throughout the country were largely ignored by the industrial enterprises because they were considered to be unqualified as laborers. Thus, interactions between imported workers and the local populations were virtually nonexistent. Furthermore, the relationship between the migrant laborers and the local environment was one of command and control. The spirit of the times held that nature needed to be subordinated and channeled toward the realization of an industrialized communist society. A popular slogan amongst Soviet planners was, "We cannot wait for favors from nature; our task is to take from her."¹⁴⁴ These two factors combined to result in a flagrant dismissal of local indigenous populations and their ancestral territories throughout the remainder of the Soviet era and into the present day.

The Nenets in YNAR were impacted by industrial development, with all its impositions, relatively late, in comparison with indigenous peoples' fates elsewhere in the Union. When oil

¹⁴² Golovnev and Osherenko, 97-98.

¹⁴⁴ Demosthenes James Peterson, "Troubled Lands: The Legacy of Soviet Environmental Destruction," (Boulder: Westview Press, 1993), 12.

and gas were discovered in the Yamal peninsula in the early 1980s, authorities in the central Soviet Ministry of Oil and Gas and the Ministry of Energy and Transport decided that immediate development needed to commence. The development plan did not take the local environment or population's needs into consideration and thus resulted in destruction of the tundra by vehicles as well as the loss of 24,000 reindeer from a local state reindeer farm, due to the destruction of the reindeers' food source of tundra vegetation. "The indigenous people had no legal rights of redress. All they could do was look in despair as their land, their way of life and their future were quickly and ruthlessly being destroyed."¹⁴⁵

Critical Antecedent: Gorbachev's Reforms

When Mikhail Gorbachev came to power in 1985, he inherited a monolithic state that had been experiencing economic stagnation and political repression for almost two decades. The Soviet Union during this time has been compared to a feudal society complete with patronage networks and arbitrary rule by the leader.¹⁴⁶ Gorbachev thus enacted two policies to reform the state. *Perestroika*, meaning "reconstruction," was the first policy and it was intended to jump-start the moribund Soviet economy. The other policy was called *glasnost*, or "openness." This policy created a form of freedom of speech where Soviet citizens could debate and even criticize government policies. It extended to official governmental administrations as well and in 1987, the YNAR took advantage of the opportunity to openly oppose the Ministry of Oil and Gas and the Ministry of Energy and Transport for "their singleminded concern with oil and gas, for ignoring the peoples of the targeted areas and for violating the few laws that were

¹⁴⁵ Vakhtin, 65.

¹⁴⁶ Anders Åslund, *How Capitalism Was Built: The Transformation of Central and Eastern Europe, Russia, the Caucasus, and Central Asia*, (Cambridge University Press, 2012); 37.

supposed to guard their interests.”¹⁴⁷ Another facet of *glasnost*’ was that it allowed people to organize in groups and protest. In 1989, the regional civil society association, “*Yamal – potomkam!*” (“Yamal for our Descendants!”), was established. Its main goals were to protect the rights and interests of the indigenous small-numbered peoples of the North, to help find solutions to economic and social issues, and to promote ecology, culture, education, and traditional lifestyles.¹⁴⁸ During the same year of its founding, “*Yamal – potomkam!*” also realized its first victory. It banded together with various other environmental state and non-state groups and successfully pressured the government to stop development on the Yamal gas fields until impact studies were completed.¹⁴⁹

Critical Juncture: The Fall of the Soviet Union, Flirtation with Democracy and the Wild East of Capitalism

Permissive Conditions: On December 25, 1991, Gorbachev was compelled to resign as president whereupon power over Russia was transferred to Boris Yeltsin. This singular, almost anticlimactic, event marked the end of the Union of Soviet Socialist Republics. The October Revolution of 1917 promised the joyous destruction of an old way of organizing society and its replacement with a new way, which was promoted as more equitable and more satisfying for the masses. The collapse of the Soviet Union in 1991 was simply the end of an era. However, life still needed to go on, so citizens and leaders had to scramble to reassemble some

¹⁴⁷ Vakhtin, 66.

¹⁴⁸ Translation from Russian by author. “Информация о региональном общественном движении «Ассоциация коренных малочисленных народов Севера Ямало-Ненецкого автономного округа «Ямал-потомкам!»” [Information about the regional social movement, “Association of the indigenous small-numbered peoples of the North of the Yamalo-Nenets Autonomous Region, “Yamal for our Descendants!”] *Department of Affairs for the Indigenous Small-Numbered Peoples of the North of the Yamalo-Nenets Autonomous Region*, last accessed April 15, 2018, <http://www.dkmns.ru/nko/regionalnoe-obshchestvennoe-dvizhenie-assotsiatsiya-korennykh-malochislennykh-narodov-severa-yanao/>

¹⁴⁹ Golovnev and Osherenko, 104.

semblance of structure after the simultaneous and complete implosion of both their political and economic systems. Because there was no clearly-defined replacement order as there had been during the 1917 Revolution, the 1990s were a turbulent decade for Russia. Foreign governments, financial institutions and non-governmental organizations flooded the country with attention, funding, and personnel in the hopes of transforming it into a Western-style liberal democracy, complete with a robust civil society and a capitalist economic structure. Western economists, policy makers, and institutions called for a radical, as opposed to gradual, reform of Russia's economy. This "shock therapy" program called for rapid macroeconomic stabilization, deregulation, privatization, and reinforcement of the social safety net.¹⁵⁰ The Yeltsin administration obligingly instituted these policies which resulted in, arguably, the wholesale robbery of Russia's most valuable industries, to the enormous benefit of a handful of oligarchs, rich and savvy businessmen-turned-criminals, and to the near-complete demise of the majority of the Russian citizenry.¹⁵¹

Productive Conditions: At the beginning of the time of turbulence, the lack of constraints on the political structure allowed for opportunities for greater political autonomy by the sub-national administrative units, called subjects, of the newly formed Russian Federation. In 1993, President Yeltsin, recognizing the cumbersome size of the federation and the central government's relative lack of control over the entirety of its territory, made his famous remark that Russia's subjects should "take as much autonomy as you can swallow."¹⁵²

¹⁵⁰ Åslund, 40.

¹⁵¹For an in-depth analysis of this process, see Chrystia Freeland, *Sale of the Century: Russia's Wild Ride from Communism to Capitalism*, (New York: Crown Publishers, 2000).

¹⁵² Freeland, 266.

Russia's indigenous peoples were also encouraged to take on more independence. In March of 1992, the federal government issued a decree calling for a law to be made regarding the establishment of *obshchiny*, or specially designated indigenous communities. The purpose of these *obshchiny* was to encourage self-government and self-sufficiency by dedicating land rights to indigenous peoples who engaged in a traditional occupations and lifestyles on those territories. The following month, President Yeltsin issued an edict on the same subject to facilitate the ability of indigenous peoples to receive land while the new federal law was being drafted.¹⁵³ Part of the inspiration for these actions can be traced to the zeitgeist of democratization and privatization that swept the country during that decade. However, there were also pragmatic and enduringly paternalistic motivations. Economically speaking, the new Russian state was not fiscally stable and sought to lower its burden for providing subsidies. The creation of specially designated indigenous communities could allow small-numbered peoples to become more economically self-sustaining "and, if not a contributor to the market economy, at least less of a burden on state coffers."¹⁵⁴ These actions also revealed the patronizing streak still thriving in political relations between the Russian state and indigenous peoples. Even though the governmental structure of Soviet-indigenous relations had collapsed, the cultural structure carried through into the new Russian state. It still considered its indigenous populations to be in need of cultural preservation and protection, not as peoples with an intrinsic right to self-determination.

¹⁵³ Gail Fondahl, Olga Lazebnik, Greg Poelzer, and Vasily Robbek, "Native 'land claims', Russian style," *Canadian Geographer/Le Géographe canadien* 45, no. 4 (2001): 551.

¹⁵⁴ *Ibid*, 550.

Finally, after eight years of drafting, in 2000 the federal government passed the law, “On General Principles of Organization of the Indigenous Small-numbered Peoples’ Communities of the North, Siberia and Far East of the Russian Federation” (hereafter, “On Communities”). The law outlined the scope and processes for the creation and administration of *obshchiny*. The law enshrined two of the three original intentions of the 1992 decrees by articulating that the purpose of the indigenous community would be to provide for local self-government and economic self-sufficiency of community members. The criteria for what constituted these indigenous communities resembled those of the “tribal communities” of Alaska Natives insofar as the organizational unit was allowed to exist as a social, not territorial, unit. It further specified that communities may only engage in traditional and not-for-profit types of activities.¹⁵⁵ One issue the law specifically avoided mentioning was that of land. Despite the original intentions of helping indigenous peoples secure land for their traditional activities, the topic proved too contentious and therefore was dropped during the drafting process.¹⁵⁶

However, once an *obshchina* was established, it could petition the land committee for a parcel of the community’s traditional territories to use for its traditional activities. This process was outlined in a federal law passed in 2001 entitled, “On Territories of Traditional Nature Use of the Numerically-Small Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation,” (hereafter, “On Territories”). The law is distinctly different from those in Canada and the U.S. in two important aspects. The first is that the law permits indigenous groups and communities to *use* the land, not own it. Ownership would remain with the local,

¹⁵⁵ Zadorin et al., 19-31.

¹⁵⁶ Patty A. Gray, “The Obshchina in Chukotka: Land, Property and Local Autonomy.” *Max Planck Institute for Social Anthropology working paper* 29 (2001): 18.

regional, or federal government. Because of this, lands designated as a Territory of Traditional Nature Use (TTNU) could be rescinded and replaced with a different parcel of land.¹⁵⁷ The second is that, whereas the indigenous peoples in North America have collectively negotiated comprehensive settlements with their respective governments, land use rights for Russia's small-numbered peoples are granted to individual persons, families, or communities. The resultant patchwork of TTNUs is neither comprehensive nor cohesive, which means that the lands are more vulnerable to external threats, particularly by interests of the extractive industries. An additional, lesser criticism of the concept of TTNUs is that the designated land may still be insufficient, such as in the cases of reindeer herders on the Yamal peninsula, who require vast expanses of land for migratory purposes.¹⁵⁸ One upside, however, is that indigenous communities do not need to extinguish potential future claims in exchange for TTNU land. Thus, in theory at least, those in need of larger territories retain the right to petition for additional lands.¹⁵⁹

Possible Paths: Two realistic paths presented themselves to the YNAR Nenets at the turn of the millennium. They had received the blessing of President Yeltsin to become more autonomous and thus the first path was to doing so was to establish their own *obshchiny*, then request to establish a TTNU. The second path was to decline to take action, thereby maintaining the status quo. Negotiations for land and rights on their own terms was not a viable option; despite the existence of civil society organizations, "no clear vision of civil society or of non-governmental

¹⁵⁷ See Article 12 of "On Territories," in Zadorin et al., 35.

¹⁵⁸ Anna A. Sirina, "Oil and Gas Development in Russia and Northern Indigenous Peoples," in *Russia and the North*, ed. Elana Wilson Rowe (Ottawa: University of Ottawa Press, 2009), 193.

¹⁵⁹ Fondahl et al., 554.

organizations yet existed, and no rules of the game had been worked out or approved for any sector of society. We were aware of the vital necessity to change the tragic situation prevailing among indigenous peoples but were unaware of how it could or should be done..."¹⁶⁰

Outcome: Archipelagoes of Limited Autonomy

The concept of *obshchiny* did not originate with Russia's indigenous peoples; rather it is a distinctly Russian concept that originated with the peasantry in the middle ages.¹⁶¹ Despite this fact, and with the recognition that the ideas and laws regarding *obshchiny* and TTNUs were a top-down solution provided by the state, Russia's indigenous populations nevertheless took advantage of the opportunities. Similar to the case of the Nunavut Inuit, who adopted the public government format as an instrument through which they could harness some degree of self-determination over their lands and future, so too have the small-numbered peoples of YNAR utilized these instruments in pursuit of their goals. During the ensuing eight-year-long drafting process of "On Communities," indigenous communities in only two regional administrative units utilized the interim decrees to create their own *obshchiny*. The remaining subjects, YNAR included, declined to take action until a federal law was passed. However, once "On Communities" was enacted, indigenous communities took action. In YNAR specifically, sixty-four *obshchiny* have been registered.¹⁶² YNAR residents have started the process of creating regional-level TTNUs, but due to conflicting laws and jurisdictions, no fully-fledged

¹⁶⁰ Pavel Sulyandziga, "Ten Years On," in *Towards a New Millennium: Ten Years of the Indigenous Movement in Russia*, eds. Thomas Køhler and Kathrin Wessendorf (Copenhagen: International Work Group for Indigenous Affairs, 2002): 51.

¹⁶¹ Florian Stammer, "The Obschina Movement in Yamal: Defending territories to build identities?" in *Rebuilding identities: pathways to reform in post-Soviet Siberia*, ed. Erich Kasten (Berlin: Reimer, 2005): 111-112.

¹⁶² "На Ямале начинается работа Союз общин коренных народов Севера" [On Yamal, work begins on the Union of *Obshchiny* of the indigenous peoples of the North], *Official website of the government of the Yamalo-Nenets Autonomous Region*, last updated June 4, 2018, last accessed August 13, 2018, http://xn--80aealotwbjpid2k.xn--80aze9d.xn--p1ai/news/lenta/radical_people/detail/129882/?sphrase_id=212844

territories have yet been established.¹⁶³ In fact, in other regions of the country, TTNU lands have been revoked in areas where oil and gas have been discovered, without proper reparation. The ambiguous legal status and rights of Russia's indigenous peoples have attracted scholarly and activist attention,¹⁶⁴ particularly in situations where extractive industries have interests in developing operations on indigenous lands.¹⁶⁵

New Path: Atomized Incorporation

When Vladimir Putin came into power in 2000, he brought into office his "bias toward governmental actions and a notion of society as subservient to the interests of the state. He belongs to a long tradition of Russian statesmen who have sought to mold society through autocratic action from above."¹⁶⁶ To him, and to many in Russia who had just experienced the previous chaotic decade, democracy was synonymous with turmoil and criminal activity. Many of the populace in post-Soviet Russia expressed a preference for stability with a firm hand over democratic ideals. Thus, it was with popular support that Putin began a gradual process of consolidating power back toward the vertical structure in which it manifested during the Soviet era. Increasingly restrictive laws were passed and democratic policies were curtailed or revoked. For example, regional governors were no longer elected by the residents of their regions; they were appointed by the president. Also, restrictions were placed on political

¹⁶³ Alexandra Tomaselli and Anna Koch, "Implementation of Indigenous Rights in Russia: Shortcomings and Recent Developments," *The International Indigenous Policy Journal* 5, no. 4 (2014): DOI: 10.18584/iipj.2014.5.4.3; 9.

¹⁶⁴ See Rohr, 2014; Tomaselli and Koch, 2014.

¹⁶⁵ See Sirina, 2009; Ruslan Garipov, "Extractive Industries and Indigenous Minority Peoples' Rights in Russia" *Nordisk Miljörättslig Tidskrift/Nordic Environmental Law Journal* 1 (2014): 67-75; Svetlana Tulaeva, "Oil Companies, Reindeer-Herding Communities, and Local Authorities: Rights to Land from the Perspective of Various Stakeholders," *The International Indigenous Policy Journal* 5, no. 4 (2014): 2; and Minna Pappila, "The Interplay of Russian Law, Indigenous People and the Oil and Gas Industry—A Need for Non-Governmental Regulation?" *The Yearbook of Polar Law Online* 6, no. 1 (2014): 120-141.

¹⁶⁶ Dale Roy Herspring, *Putin's Russia: Past Imperfect, Future Uncertain* (Rowman & Littlefield, 2007), 4-5.

parties so that the thresholds for eligibility to nominate a candidate for the federal Duma were so high that only the most established parties with the farthest reach (such as Putin's United Russia party and the Communist Party of the Russian Federation) were able to qualify.

The argument has been made that the people of the Russian Federation are suffering from "post-Soviet melancholia," a condition that combines nostalgia for the power and prestige of the Soviet era with a simultaneous repression of mourning for the loss of it. This backward-looking hope for resurrection has prevented the Russian Federation from developing a new identity and new modes of political discourse. One of the consequences of such a mindset has been that the dominant ethnic Russian narrative on indigeneity has preserved the idea that indigenous peoples are primitive and backward, while simultaneously romanticizing them as exotic. Such a narrative has perpetuated the prioritization of extractive industrial development at the expense of indigenous peoples' rights.¹⁶⁷ However, post-Soviet melancholia is ubiquitous across ethnic groups. For their part, indigenous groups "prefer distancing themselves from politicization of indigeneity, emphasizing its cultural-only recognition, therefore conforming to the state norms and expectations as well as hierarchical social and political relationships."¹⁶⁸

The current reality for indigenous land rights in Russia is not encouraging. For the Yamalo-Nenets specifically, the biggest threat to their traditional territories and livelihoods came with the commencement of Gazprom's Yamal Megaproject in 2012 (see map 5). During the Soviet era, Gazprom was the state's natural gas monopoly. After the collapse, Gazprom was re-branded as a joint stock company and became privatized in 1994. In the first decade of the

¹⁶⁷ Nikolaeva, 15.

¹⁶⁸ Nikolaeva, 19.

twenty-first century, it was partially nationalized; from December 2005 to the present, the Russian government owns 50.23% of the stock in Gazprom.¹⁶⁹ It is currently Russia’s largest corporation and still maintains a monopoly on Russia’s natural gas industry. The YNAR region holds substantial oil and gas reserves¹⁷⁰ and Gazprom has had active operations there since Soviet times. The company intensified its operations in the region after the Russian federal government published the “Russian Federation’s Policy for the Arctic to 2020,” in 2008. The policy identified economic development in the Arctic zone, particularly the expansion of hydrocarbon resources, as a national priority.¹⁷¹



Map 5: The fields and pipelines of Gazprom’s Yamal Megaproject, which is considered a power centre of oil and gas industrial development.

Source: “Yamal megaproject,” *Gazprom*, www.gazprom.com/f/posts/25/697739/map-bovanenkovo-2016-10-21-en.png

¹⁶⁹ “Company history in brief,” *Gazprom*, last accessed August 15, 2018, www.gazprom.com/about/history/company/

¹⁷⁰ “Country Analysis Brief: Russia,” *United States Energy Information Administration*, last updated October 31, 2017, last accessed July 31, 2018, www.eia.gov/beta/international/analysis.php?iso=RUS

¹⁷¹ Article III, section 6(a) of “Russian Federation’s Policy for the Arctic to 2020,” *ARCTIS Database*, last accessed April 15, 2018, www.arctis-search.com/Russian%2BFederation%2BPolicy%2Bfor%2Bthe%2BArctic%2Bto%2B2020

Later that year, the Yamal megaproject was launched (see map 5). The total reserves of all the fields on the Yamal Peninsula are currently estimated to be 26.5 trillion cubic meters of gas, 1.6 billion tons of gas condensate, and 300 million tons of oil.¹⁷² Yamal's largest gas field, Bovanenkovskoye, is optimistically estimated to be able to deliver 115 billion cubic meters of natural gas each year for the next one hundred years or more.¹⁷³ The large amount of recoverable hydrocarbons means that the peninsula is considered to be strategically important for Russia's energy security.¹⁷⁴

Where Russia differs drastically from the United States and Canada regarding its relationship with its indigenous people is that the Russian government has never engaged in any negotiations with indigenous groups as a nation of people. Thus, while it can be said that the Nenets have been incorporated, in the sense that the Russian federal state constructed new institutions for its small-numbered peoples, there is a decided lack of recognition of any collective rights, such as those enjoyed by Alaska Natives or the Canadian Inuit people over territory and or the natural resources contained within. There is an atomized form of incorporation that is willing to register sixty-four individual *obshchiny* in YNAR, but unwilling to consider its indigenous populations as self-determining nations.

Despite the existence of a constellation of constitutional and statutory laws that guarantee the cultural rights of Russia's indigenous population, including rights to land, there is

¹⁷² "Yamal Megaproject," *Gazprom*, last accessed April 8, 2018, www.gazprom.com/about/production/projects/mega-yamal/

¹⁷³ Atle Staalesen, "Biggest Arctic gas field now in full production," *The Barents Observer*, last updated December 8, 2018, last accessed December 8, 2018, <https://thebarentsobserver.com/en/industry-and-energy/2018/12/biggest-arctic-gas-field-now-full-production>

¹⁷⁴ "Workshop on Yamal fields development held in Salekhard," *Gazprom*, last updated July 5, 2010, last accessed April 15, 2018, www.gazprom.com/press/news/2010/july/article100733/

a lack of both institutional mechanisms and a necessary political will from the center to enforce the laws, resulting in a system that largely exists only on paper.¹⁷⁵ Since they have been unable to rely on the state for protection, Russia's indigenous groups have turned more pragmatically to the natural resource extraction companies themselves for restitution to land and livelihood conflicts. A system of individually negotiated benefit sharing arrangements, defined as "an exchange between actors granting access to a particular resource and actors providing compensation or reward for its use, as well as the distribution of the monetary and non-monetary benefits produced by a resource-based project,"¹⁷⁷ have become commonplace between indigenous groups and natural resource companies throughout Russia.

However, benefit sharing is not power sharing. Most arrangements between Russian extractive companies and indigenous groups are considered as corporate philanthropy, most often in the form of one-time gifts, such as snowmobiles, or sponsorships of children's events. This has resulted in an imbalance of sharing that has favored the companies.¹⁷⁸ A number of scholars have pointed out that extractive industry "relations with communities have to be framed in terms of help and charity, not in terms of participation and equal partnership."¹⁷⁹ They add that such benefit-sharing arrangements are patterns of path-dependent behavior from the Soviet era where the state, through the industrial enterprise, provided all social and

¹⁷⁵ Elena Gladun and Kseniya Ivanova, "Preservation of Territories and Traditional Activities of the Northern Indigenous Peoples in the Period of the Arctic Industrial Development," in *The Interconnected Arctic — UArctic Congress 2016*, eds. Kirsi Latola and Hannele Savela (Springer Polar Sciences, 2017): 142.

¹⁷⁷ Maria S. Tysiachniouk and Andrey N. Petrov, "Benefit sharing in the Arctic energy sector: Perspectives on corporate policies and practices in Northern Russia and Alaska," *Energy Research & Social Science* 39 (2018): 29.

¹⁷⁸ Tysiachniouk and Petrov, 30-32. This article examined two autonomous regions nearby YNAR, and thus inferences could be drawn about a benefit-sharing arrangement between the Yamalo-Nenets people and Gazprom, but unfortunately, there was no specific data available to analyze.

¹⁷⁹ Florian Stammer and Aitalina Ivanova, "Resources, Rights and Communities: Extractive Mega-Projects and Local People in the Russian Arctic." *Europe-Asia Studies* 68, no. 7 (2016): 1227.

cultural benefits to workers. Observers have commented on the need for greater attention and regulation to benefit-sharing arrangements to ensure a standardized minimum threshold so that indigenous groups are not dependent on the magnanimity of corporation or the negotiation capabilities of their local leaders, however, here too, there has been a decided lack of political will to strengthen laws and procedures.¹⁸⁰

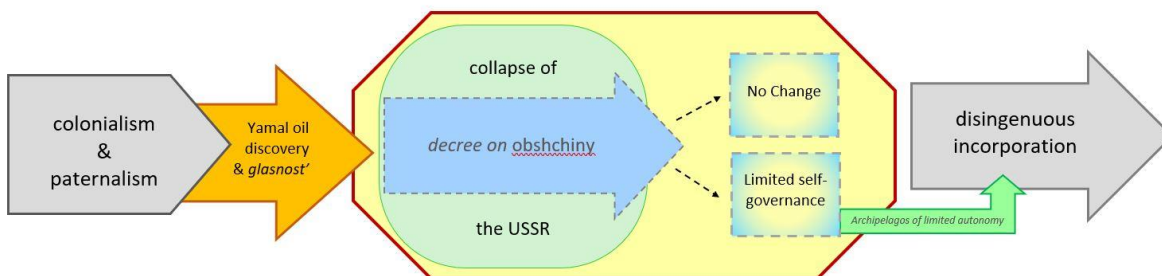


Figure 4: Visual representation of the Path Dependence – Critical Juncture framework applied to the case of the Yamalo-Nenets.

In sum, as illustrated in figure 4, the initial path of Nenets-Russian relations was one of colonization and paternalism. Despite a complete upheaval of regime type after the Bolshevik Revolution, this pattern of relations continued throughout the Soviet era. The critical antecedent that provided the backdrop for change in this relationship pattern was Gorbachev's reform policy of *glasnost*. The critical juncture consisted of the collapse of the USSR in 1991, which permitted a period of chaotic transitions toward capitalism and a democratic regime type. The productive conditions manifested first in the form of interim decrees, then in federal laws, that allowed indigenous groups to form local semi-self-governing and self-sustaining *obshchiny* and request specially designated TTNU land to be set aside for their traditional

¹⁸⁰ Pappila, 138.

activities. The outcome was a patchwork of small indigenous communities throughout the federation, sixty-four of which are located in YNAR, and precious few TTNU's, none of which are in YNAR. Despite forward momentum on these two fronts, the overall system of relations has not changed since the initial path of imperial/Soviet relations and does not seem likely to do so until Russia can shake off its national melancholia.

COMPARISON

Similarities

In each of the cases described above, the seat of power was far south of the resident indigenous populations and thus the governments conceived of their Arctic territories as primarily barren resource frontiers. Thus, the initial path for each of the three groups of indigenous peoples was similarly characterized by colonization by an outside power that imposed its own sets of institutions upon them. For the Iñupiat and the Nunavut Inuit, the dominant ethnicity was that of the British and the institutions imposed were those of Westphalian sovereignty and constitutional rule of law. For the Nenets, it was that of the Russians who imposed, first, imperial institutions, then Soviet socialist systems. Each was treated as inferior to their respective dominant ethnicities and was both despised and treated paternalistically for their perceived inferiority.

The critical antecedent that began each group on their individual divergent paths came during the second half of the twentieth century, as the result of a federal-level policy or project that stirred a political awakening in each group, which then caused the group to organize

politically. For the Iñupiat, Project Chariot that caused them to convene and create the *Iñupiat Paitot*. For the Canadian Inuit, the proposed pipeline project from Alaska to the continental US caused the Mackenzie Valley Inuit to create COPE. For the Yamalo-Nenets, it was the *glasnost* policy that allowed them to create “*Yamal-potomkam!*” A loosely common thread between all three cases is their experiences as a result of the Cold War. The permissive conditions of the critical juncture in each case came from exogenous events. There is no indication that Alaska Native groups were involved in the push for statehood; rather, statehood and the federal-to-state land transfer were imposed upon them. Likewise, the Canadian Inuit were put in a position of needing to react to the spillover effects from the oil discovery in Alaska and the Canadian state’s perception of threats to its sovereignty. The Nenets, like all citizens of the Soviet Union, were left to pick up the pieces of a political and economic implosion that took the world by surprise.

Table 1: elements of the path dependence-critical juncture framework applied to each case.

		<i>U.S.</i>	<i>Canada</i>	<i>Russia</i>
Initial Path		colonialism & assimilation	negligence & assimilation	colonialism & paternalism
Critical Antecedent		Project Chariot	WWII & Cold War sovereignty threats	Yamal oil discovery and <i>Glasnost</i>
Critical Juncture	Permissive condition(s)	Alaska statehood & Prudhoe Bay oil discovery	oil speculation & the <i>Calder</i> case	collapse of the USSR
	Productive condition	Native organizations & land claims	Inuit organizations & land claims	decree on <i>obshchiny</i>
	Possible paths	1) No change 2) Native separation 3) Negotiation	1) No change 2) negotiation	1) no change 2) limited self-governance
Outcome		ANCSA	Nunavut Package	<i>obshchiny</i> & TTNUs
New path		business-friendly incorporation	“mutually beneficial” incorporation	atomized incorporation

Differences

Despite similarities in their initial contexts, the paths of the three groups of indigenous peoples diverged in the manifestations of the critical juncture's productive conditions. Because Alaska Natives had never experienced the era of treaty-making with the U.S. federal government, and because the negative consequences of the assimilation era in federal-Indian relations had been learned, the discovery of oil at Prudhoe Bay allowed a case of first impression to emerge. The Alaska Natives had the legal ability to file claims for land, claims that had to be taken seriously by the state and federal governments. Due to the remoteness of their location, the Iñupiat could also threaten separation if their claims were disregarded. The federal government's intense desire to exploit Prudhoe Bay's resources, to help secure some degree of energy independence for the country, provided the necessary motivation to bring the parties together in negotiation.

Because there was already a precedent set by the Alaska Natives, Inuit separation never needed to manifest as a possible path once the Canadian state took action to develop the natural resources in their ancestral lands. Therefore, the two viable options for a new path in the case of the Inuit were to either to maintain the status quo in Canadian-Inuit relations or to negotiate an agreement between them. The perceived threat to Canada's sovereignty in the Arctic archipelago provided the necessary motivation for the federal government to create a new form of power-sharing agreement with the Inuit.

Contrary to the previous two cases, a government-to-government style of negotiation for land was never a viable option for the Nenets. However, a limited degree of separation was available, in the forms of *obshchiny* and TTNUs. Conditions at the time of the critical juncture

provided an incentive for the Nenets, as well as all other small-numbered peoples, to become more autonomous from the central government.¹⁸¹ For its own part, the Russian state was motivated to offer such solutions due to its imperative need to lessen the amount of subsidies and welfare benefits the populace needed from federal coffers.

Each of the indigenous groups was incorporated in different ways. The Iñupiat were incorporated in 1971 in a business-friendly manner that gave them a degree of economic parity with non-indigenous businesses and industries. However, any issues of internal sovereignty or formalized political incorporation were specifically avoided. That the Iñupiat gained a degree of political power through the establishment of the NSB was purely circumstantial. The Nunavut Inuit were incorporated economically in 1993 with the passing of NLCA and politically in 1999 with the founding of the Territory and Government of Nunavut in a manner that could be considered mutually beneficial to both the Inuit and the Canadian state. The Nenets were, for all intents and purposes, disingenuously incorporated. Although the central government made arrangements for indigenous peoples to secure usage rights to their ancestral lands, there is no recognition by the Russian state of collective rights and none of the small-numbered peoples is able to claim ownership over their ancestral lands. Their status vis-à-vis the state is that of Russian citizens, not discrete nations with whom to negotiate. To date, neither the Yamalo-Nenets nor any other indigenous group has been functionally incorporated as collectivities into the Russian Federation. Of the three cases presented, the Canadian Inuit have received the most compensation and greatest means for self-determination, not due to any benevolence or

¹⁸¹ As of October 2017, the World Bank considered the protection of property rights in Russia to be one of its priority policy objectives. See “The World Bank in the Russian Federation: Country Snapshot,” *World Bank*, last updated October 2017, last accessed April 15, 2018. <http://pubdocs.worldbank.org/en/128091507194529690/Russian-Federation-Snapshot-Fall-2017.pdf>

ideal of restitution, but because the Canadian state's sovereignty in the Arctic archipelago was in question and the federal government wanted to solidify its borders. The northern borders of Russia and the U.S. in Alaska were solidified and thus their governments did not need to grant as much compensation to their indigenous populations.

The federal governments of Canada, the United States, and the Russian Federation view Arctic resource development as a means to support the national economy. However, particularly in the cases of Nunavut and Alaska Natives, resource development has been approached by the federal governments from more of a power-sharing approach, with varying degrees of economic and political empowerment for indigenous communities. Contrastingly, In Russia, resource development is considered a national priority and any benefits to be shared from the process must be individually negotiated between the extractive companies and the local communities. More often than not, there is a decided imbalance in favor of the companies.

The argument has been made that, in both the Soviet Union and the current Russian Federation, the regime type has been *de facto* authoritarian, thus citizens have not enjoyed the same political freedoms as their Western counterparts. To a certain degree, there is validity in this argument. Both the Soviet Union and the current Russian Federation have constitutions as their legal foundations and both systems operate more in the style of *para-constitutionalism*, which is "a style of governance that remains true to the formal institutional rules but devises various strategies based on technocratic (rather than democratic) rationality to achieve desired

political goals.”¹⁸² But it neither detracts from, nor undercuts the historical institutionalist examination of how such authoritarian institutions evolved over time in Russia and how they managed to reproduce themselves in spite of a critical juncture where the opportunity for divergence appeared.

The historical institutionalist theme of “alternative rationalities,” or that which is considered rational in one culture is not necessarily considered rational in another, can be best exemplified with the case of Russia. Despite the fact that three different political regime types existed in Russia over the course of the century (imperial, socialist, and transitional), the Russian conceptions of land ownership and rule of law have remained consistent throughout all three eras. Russia has consistently been ruled from the center by the elite on a system of patronage. Although the imposition of the socialist experiment during the Soviet era was drastically different than tsarist rule, notions of land ownership effectively remained the same. Rather than all land being the tsar’s property to grant as he wished, land was seen as common property of the Soviet Union. Private property rights, as established in the western tradition, did not exist until after the USSR collapsed. The current government of the Russian Federation has adopted the institution of private property rights and has mechanisms for establishing claims over land, as evidenced by the federal law, “On Territories,” but the institutions needed to enforce them, such as an independent judiciary, are underdeveloped as yet. This legacy has manifested in complicated, sometimes even contradictory, laws regarding leasing and ownership of land that disadvantages indigenous groups.

¹⁸² Richard Sakwa, “Political Leadership,” in *Putin’s Russia: Past Imperfect, Future Uncertain*, sixth edition, ed. Stephen K. Wegren (Lanham: Rowman and Littlefield, 2016); 24-25.

In the Russian context, the separate yet connected concept of “rule of law” is conceived as “an instrument of power...not a foundation on which to build (and constrain) government.”¹⁸³ A para-constitutionalist style of rule combined with a mindset of law as an instrument of power have created a dissonance between laws on paper and everyday practices. Scholars have noted that, while Russia has relatively sufficient legislation surrounding indigenous rights, the laws are either inadequately implemented or unenforced altogether, thereby rendering laws “decorative”¹⁸⁴ or “dead letter.”¹⁸⁵ This has been particularly evident in the manner with which the Russian federal government regards its obligations toward its indigenous populations vis-à-vis natural resource exploitation, as exemplified in the case of the Yamalo-Nenets. Putin once stated that his goal was to have the state operate as a ‘dictatorship of law,’ meaning “the power of the state to rule *through* law, not a state empowered, paradoxically, by the constraining force of the rule of law.”¹⁸⁶ The para-constitutionalist regime that he resurrected from the Soviet model follows the letter of the law while simultaneously working to destroy the spirit of their origin.¹⁸⁷

Contrastingly, the U.S. and Canadian governments were modeled after the British tradition of rationality, which had established land rights customs and laws through centuries of organic domestic development. The English-based system of individual land ownership and the legitimacy attached to claims of land ownership provides the systemic foundation through

¹⁸³ Jeffrey Kahn, "The Law Is a Causeway: Metaphor and the Rule of Law in Russia," in *The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat)*, eds. James R. Silkenat, James E. Hickey Jr., and Peter D. Barenboim (Springer International Publishing, 2014): 231.

¹⁸⁴ Pappila, 2014.

¹⁸⁵ Mazza, 332.

¹⁸⁶ Kahn, 231; emphasis in original.

¹⁸⁷ Sakwa, 25.

which indigenous populations were eventually able to seek ownership over their ancestral territories and some degree of control over the resources contained within. Because the U.S. and Canada possess democratic regime types, their citizens have outlets to make their voices heard. Though certainly not easy or expedient, indigenous populations in both the U.S. and Canada were able to utilize social movements, as well as political and legal channels to receive their rights.

CONCLUSION

State incorporation is a strategy that has been popularly attributed to governments in developing countries. However, developed countries also employ this tactic and this paper sought to fill a gap in the research by analyzing how the developed states of the Arctic region have employed it on their own citizens. In particular, it sought to illustrate how the three federal Arctic states of the United States, Canada, and the Russian Federation have simultaneously legitimated, depoliticized, and instituted control over their indigenous populations in situations of conflict over land rights. The first research question inquired about the ways have indigenous peoples been incorporated and how have their rights to their ancestral lands been recognized in different Arctic countries, particularly in situations where there are conflicting interests over the land usage. This paper provided three case studies, of the Iñupiat people in Alaska (United States), the Nunavut Inuit people in Canada, and the Yamalo-Nenets people in the Russian Federation. To answer the second research question, of why countries vary in their approaches to indigenous rights to land and natural resources, the

paper applied a historical institutionalist framework to analyzing the three cases. By highlighting the unique paths, path dependencies, and critical junctures within each context, this paper provided insight into how, even in situations where the initial paths were similar, the results can nevertheless be different in each case.

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ABBREVIATIONS

AEC	Atomic Energy Commission (United States)
AFN	Alaska Federation of Natives (United States)
ANCSA	Alaska Native Claims Settlement Act (United States)
ASRC	Arctic Slope Regional Corporation (United States)
COPE	Committee for Original People's Entitlement (Canada)
DEW	Distant Early Warning Line
HI	historical institutionalism
ICAS	Inupiat Community of the Arctic Slope (United States)
IRA	Indian Reorganization Act (United States)
ITC	Inuit Tapirisat of Canada
NLCA	Nunavut Land Claims Agreement (Canada)
NSB	North Slope Borough (United States)
NTI	Nunavut Tunngavik Incorporated (Canada)
TFN	Tungavik Federation of Nunavut (Canada)
TTNU	Territory of Traditional Nature Use (Russia)
YNAR	Yamalo-Nenets Autonomous Region (Russia)