

# Of whales and oil: Inuit resource governance and the Arctic Council

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**ABSTRACT.** This article takes a normative approach to explore what and how we might learn from existing indigenous governance arrangements in the Arctic and how they may contribute to the larger debates over Arctic governance and who decides. It begins with a brief exploration of the existing literature regarding co-management; particularly what some legal scholars have defined as post-Westphalian resource management as well as engaging ongoing discussions about co-management as it pertains to the Arctic. It then turns to the Alaska Eskimo Whaling Commission (AEWC) as a case study and possible starting point for governing newly emerging resource management issues in the Arctic. Specifically, this article will look at how the governance framework of the AEWC might be applicable for the current governance discussions regarding Arctic offshore oil and gas development. Lastly, this paper will offer preliminary reflections as to how a post-sovereign resource management approach could contribute to the broader theoretical debates concerning who owns the Arctic and who decides. Specifically it offers one possible way to envisage the future of a strengthened Arctic Council operating in a world where states are not the only actors participating in the governance of the Arctic.

## Who owns the Arctic?

In the 17th – 19th centuries North American Arctic resource development was an issue defined and determined by European and later North American political leaders and state supported financial endeavours such as the Hudson Bay and Muscovy Companies. Resource development in general was, in fact, part of the larger historical processes of the making of the Westphalian nation-state system. The Arctic, rather than a political region, was viewed as the final frontier of human endeavour and was very much a part of the national efforts for scientific exploration, expansion, colonisation and resource development. Likewise, the Arctic's indigenous peoples, while central to the narratives of Arctic adventure and exploration were merely subjects written and accounted for within the larger history of Westphalian politics. A stakeholder dialogue during this time would have been defined by meetings such as the Berlin Conference of 1884 or the Peary Arctic Club.

Since early European exploration the global political arena has vastly changed. In the most recent decades the Arctic has begun to acquire its own distinct political identity as a specific region within the global political landscape. Competing to define the Arctic are a host of new political actors, which have attained the capacity to steer and guide the ways in which the Arctic is represented and how it is governed. Such stakeholders, often representing more than one interest at the same time, use various types of knowledge (that is political, economic and scientific) to construct discourses, which define the role and meaning of the Arctic in the world.

Akin to the scramble for the Arctic's resources during earlier periods of history, the present interest in the Arctic is constitutive of the larger forces of global political change. This change includes a theoretical turn away

from traditional Westphalian inter-state politics towards governance frameworks which often includes stakeholder participation; a concept which has become central to discussions of resource governance and ecosystem management. Arctic resource development as such, has expanded beyond a dialogue reserved only for state actors and state financed companies. In recent decades, with the emergence of new non-state actors from NGOs and indigenous groups to the agency of nature (see Latour 2004), global politics is anyone's and everyone's arena.

Moreover, these new forms of political agency are being played within an expanding domain of international law. Under traditional international law the principle of territorial integrity bequeathed the state with the sovereign authority to control resource development. However, the growing importance of non-renewable resources use alongside a successful movement of indigenous internationalism (Jull 1998) augmented by global environmental changes has led to a host of new international policies and legal doctrines, which have further eroded the assumed power and authority of the state in global politics. In the Arctic it is this intersection between the continued prevalence of the state and new non-state powers with the power to decide the course of development that the debates over who owns the Arctic and who decides is being played out.

When Arthur Chilingarov planted a flag on the Arctic sea bed in August 2007, the media reported the act as a startling event. A region which had outgrown its fame for being the frontier between the east and west during the cold war and had transformed into a showcase for climate change was again suddenly re-cast as a region of possible confrontation. The media stories that covered the reaction to the Russian flag planting were accompanied by a host of issues being played out the Arctic from hydrocarbon and mineral development to the making of

new international maritime trade routes. And accompanying these factors, numerous think tanks and academics began to position themselves as the frontrunners for new Arctic policy making.

It has now become more commonly understood that rather than an uninhabited environmental preserve, the Arctic is actually a geo-political region comprising not only eight sovereign states and inhabited by several million people but additionally a wide diversity of indigenous peoples. Within this complex context of Arctic politics, one outstanding question remains. What will be the less than obvious political role that the Arctic's indigenous peoples will occupy in the future political architecture of Arctic governance? As a means to stake a claim in these discussions, in 2009, the Inuit Circumpolar Council (ICC), a transnational organisation representing approximately 160,000 Inuit living throughout Alaska, Canada, Russia and Greenland, released a declaration on Inuit sovereignty. In the declaration the ICC states:

The conduct of international relations in the Arctic and the resolution of international disputes in the Arctic are not the sole preserve of Arctic states or other states; they are also within the purview of the Arctic's indigenous peoples. The development of international institutions in the Arctic, such as multi-level governance systems and indigenous peoples' organizations, must transcend Arctic states' agendas on sovereignty and sovereign rights and the traditional monopoly claimed by states in the area of foreign affairs (ICC 2009).

While the ICC may claim that the Inuit have sovereignty what this actually means, however, in terms of Arctic governance is not so readily understood or put into practice. While not inhabiting their own sovereign states, the Arctic's indigenous peoples in many cases have the rights to, receive royalties from, and in some instances maintain outright ownership over considerable portions of the Arctic's land and marine resources. Nevertheless, as the international community continues to debate over what is best for the Arctic and how it should be governed too often the operational realities of indigenous governance and, further, what we might learn from these experiences, goes unacknowledged.

Rather than being stakeholders, the Arctic's indigenous communities point out that they have a much greater formal authority to decide the future course of Arctic resource development than the host of non-Arctic states and other stakeholders. Former ICC Chair, Patricia Cochran has gone as far as to argue that the Inuit are rights holders when it comes to Arctic governance and resource development (Cochran 2009). Yet, many think tanks, international maritime scholars, climate scientists turned policy advisors and even many political scientists continue to respond to a changing Arctic with solutions which (at least, recognises the Arctic as a political space) often continue to lack the nuance and the realisation that the Arctic does not necessarily fit nicely into the Westphalian political framework in which only states govern.

Arctic indigenous governance arrangements in particular consist of a myriad of local indigenous models from public governments such as local boroughs in Alaska and the government of Greenland, to indigenous corporations and resource management regimes. These institutions and governance arrangements operate out in tandem with Arctic regional politics through the Arctic Council (AC) which is governed by eight sovereign Arctic states and six indigenous permanent indigenous participants. Lastly, both local and regional Arctic governance falls under the rules of international law. Combined, this complex governance reality brings into question the efficacy of traditional international relations theory, which assumes that the state is the sole creator and enforcer of policy and that non-state actors are merely epistemic communities at best (for example see Young 1993), when it comes to the larger international discussions over the future of Arctic governance. How then should we approach the present circumstances where melting ice is vastly transforming the physical and political realities of the Arctic? Who owns the Arctic and who should decide?

This article is dedicated to these issues by taking a normative approach to explore what and how we might learn from existing indigenous governance arrangements in the Arctic and how they may contribute to the larger debates over Arctic governance and who decides. This article begins with a brief exploration of the existing literature regarding co-management; particularly what some legal scholars have defined as post-Westphalian resource management as well as engaging the ongoing discussions about co-management as it pertains to the Arctic. It then turns to the Alaska Eskimo Whaling Commission (AEWC) as a case study and possible starting point for governing various resource issues in the Arctic. Specifically, this article analyses how the governance framework of the AEWC might be applicable for the current governance discussions regarding Arctic offshore oil and gas development. Lastly, this article offers preliminary reflections as to how a post-sovereign resource management approach could contribute to the broader theoretical debates concerning who owns the Arctic and who decides. Specifically, it contributes to the aims of the AC's Bepomar project and offers one possible way to envisage the future of a strengthened AC operating in a world beyond traditional inter-state politics.

### **Post-sovereign resource management**

While the AC has, in recent years, begun to embark on creating legally binding policies for dealing with expanded interest in the Arctic's resources (both renewable and non-renewable) Arctic resource use is concurrently a local, regional and global issues. Fish, environmental pollution and animal migration patterns for example have a limited, if any, regard for state boundaries. Similarly, policies concerning the Arctic's resources cannot be put into place without taking into account existing local co-management policies, local indigenous resource rights

and local resource ownership. Further, regional Arctic policies need to be made in the context of international instruments (whether international environmental conventions, international rights of indigenous peoples or the International Maritime Organization (IMO)). At the same time, local resource development in the Arctic is directly tied to the global economy and the global market value of the Arctic's resources. As such, Arctic resource management requires models which can take into account all of these interrelated and co-existing levels of governance.

Recognising that the complex reality of resource management is common to many political regions around the world a group of legal experts have written about ways to reconceptualise the traditional practices of environmental regulation and natural resource management to meet the changing nature of resource rights, ownership and use. Rather than traditional top down regulatory models a growing number of legal scholars (Karkkainen 2004; Bulkeley 2005; Meinzen-Dick and others 2002) focus on the need to take into account the various scales and levels of governance that are implicated in regional resource development. Karkkainen calls this approach post-sovereign governance (Karkkainen 2004).

According to Karkkainen the traditional model of environmental protection which materialised in the 1960s 'assumes that an expert decision maker – the regulatory agency [which was] an arm of the state – would identify the most important environmental problems, gather sufficient expert information to specify effective solutions, express those solution[s] as a series of specific legally binding commands, and finally enforce those commands by employing the coercive sanctioning power of the state' (Karkkainen 2004: 120). Post-sovereign governance rather, is locally and/or regionally based, integrative, collaborative, adaptive and polyarchic governance arrangements that often aim to deal with entire ecosystems (Karkkainen 2004). It is also based on the principle that all post-management systems are dynamic and therefore continuously evolve to adapt to new scientific findings, improved information, changing conditions and reflection of previous management efforts (Karkkainen 2004). Post-sovereign governance also requires integrated management plans which address the multiple resources comprising the ecosystem being managed. It recognises that the competences of varying actors are multilayered among mission-specific agencies and are dispersed over various tiers of government.

Post-sovereign resource management also aims to deal with the point that resource management is frequently controlled equally by various non-state actors including private companies. Non-state actors in general under post sovereign governance regimes are not considered merely as stakeholders, or consultants, epistemic communities or lobbyists to the sovereign authority (for example a federal or city government). The state, as such, is often forced to engage 'in an open-ended effort at collaborative problem-solving' with non-state actors in order to utilise their expertise and resources

(Karkkainen 2004: 123). Post-sovereign governance also recognises that the necessary knowledge and science is often based in the local community as well as the scientific community and NGOs. Very often, according to Karkkainen, resources, land, economic decision making, power, knowledge and expertise are controlled by private, non-state actors (which include landowners, businesses, the scientific community and NGOs). In effect, post-sovereign resource management cannot and is often not only a state based (whether federal or local) effort (Karkkainen 2004) as the sovereign acting alone does not have the power to make the final policy decisions and legally binding laws. Instead, post-sovereign governance is a continuing collaborative 'hybrid public-private' (Karkkainen 2002: 3) process in which states, non-state actors, (whether local community members, private businesses, the scientific community or NGOs) work side by side as 'co-participants, co-authors, and co-executors of policy. Because the state relies on the information and collaboration with non-state actors they collaborate roughly as formal equals although certainly often of unequal capacity and resources. [As such, c]onventional distinctions between state and non-state, sovereign and subject, and command and compliance become blurred' (Karkkainen 2004: 124).

When it comes to the Arctic, there are existing practices of co-management that take into account many of the aims of post-sovereign resource management. For example, the Arctic Human Development Report (AHDR) discusses co-management in the Arctic by distinguishing between devolution and co-management. According to the authors: 'Devolution refers to the transfer of power to more local and regional jurisdictions and governments' whereas co-management 'typically involves a sharing of power between the state and resource-user communities' (Einarsson and others 2004: 129).

Co-management pertains more specifically to resource use and according to Caulfield and others (2004) co-management is a regime in which stakeholders share power in managing specific resources. In the North American context in particular, the authors state that co-management commonly refers to a 'shared decision-making process, formal or informal, between a government authority and a user group for managing a species of fish and wildlife, or other resources.' Co-management systems include a system of rights and obligations, rules that outline all shareholders responsibilities and collective decision making (Caulfield and others 2004: 131).

Much like Karkkainen's framework of post-sovereign resource management, when it comes to the Arctic, co-management offers a space for knowledge sharing between users and scientists as well as balancing the power between users and government officials. Furthermore, it provides a way for continual cooperation in research, education, and management as well as recognising cultural and linguistic differences as they impact effective understanding (Caulfield and others 2004: 131). Co-management, as such, is not merely about

consultation with indigenous communities after a project has been determined but working with the affected communities at the outset.

In Greenland for example, home rule (now self-rule) has been a process of state building rather than devolution through land claims agreements as have been the cases of Alaska and Canada. In Greenland the central government controls development and there is little discussion about co-management (Serjesen in Anderson and Nuttall 2004: 38). Instead citizens participate in resource management through associations which represent their constituents and lobby the central government to enact policies in their favour. When it comes specifically to non-renewable resources in Greenland local communities are involved through consultation processes in which the companies involved in developing particular resources visit the communities that will be affected to consult with the community members about the planned project and to receive feedback. Community frustrations with consultation processes includes feelings that the information being too technical, it fails to address the questions that are of importance to the community members, there is not enough time to learn about the project before the consultation and finally community members are not well enough informed beforehand for the meeting (Ilisimat-usarfik 2011). Post-sovereign resource management addresses these inefficiencies of consultation in that the communities affected are part of the project's planning from the outset.

Lastly, underlying all facets of co-management in the Arctic is the aim to create integrated systems approaches for sustainable resource management (Caulfield and others 2004: 131).

### **The global politics of local Arctic resource management**

Co-management practices that operate as described here have been in place in Inuit areas of the Arctic since the early 1970s. They were born from the Inuit land claims processes which began in Alaska and were followed by further land claims agreements in Canada and Greenland home rule which is now self-rule. While the land claims processes themselves are local governance arrangements and co-management of particular resources on Inuit inhabited areas are arrangements frequently made in collaboration with the federal governments the resources being managed and the revenues generated are often controlled by local indigenous corporations (which sometimes operate on the scale of some multinational corporations) relying directly on the forces of the global economy. Inuit corporations such as Makavik or the Ukpavik Inupiat (Inupiat is the term for the Alaskan Inuit) Corporation, for instance, earn over 300 million USD in annual revenues. The Kuukpik Corporation in Alaska earns close to 5 million USD per year (AHDR 2004: 133) and in 2010 the Arctic Slope Regional Corporation earned revenues exceeding 2.3 billion USD (Arctic Slope

Regional Corporation 2010). Inuit development and exportation of hydrocarbons and other non-renewable resources such as diamonds and shipping or flying them to markets around the world (with Inuit shipping, airline and other transportation companies) make Inuit and Inuit controlled resources a necessary and significant component of any resource management plan and therefore at the centre of the larger debates over who governs the Arctic and who should decide.

Inuit political leaders and organisations such as the ICC make similar arguments. For many Inuit communities and especially Greenland, resource development is viewed as a means to improve standards of living and gain further economic autonomy from the states of which they are citizens and on which they are often extremely dependent. In May 2011, the ICC released a Circumpolar Inuit Declaration on Resource Development Principles in Inuit Nunaat. The declaration argues that:

...responsible non-renewable resource development can also make an important and durable contribution to the well-being of current and future generations of Inuit. Managed under Inuit Nunaat governance structures, non-renewable resource development can contribute to Inuit economic and social development through both private sector channels (employment, incomes, businesses) and public sector channels (revenues from publicly owned lands, tax revenues, infrastructure)...Inuit welcome the opportunity to work in full partnership with resource developers, governments and local communities in the sustainable development of resources of Inuit Nunaat, including related policy-making, to the long-lasting benefit of Inuit and with respect for baseline environmental and social responsibilities (ICC 2009).

The ICC declaration compliments the underlying sentiment of post-sovereign resource management. The declaration calls on the use of the best available science and Inuit knowledge and that through varying channels such as land rights settlement legislation, land claims agreements and treaties, self-government arrangements, and intergovernmental and constitutional provisions the 'Inuit have acquired critical means and levels of control over the governance of Inuit Nunaat. Many of these mechanisms provide for direct Inuit participation in specialised resource management bodies, including planning, project review, and regulatory bodies' (ICC 2009).

The ICC declaration also directly connects international politics to local Inuit development. The declaration states that '[p]rivate sector resource developers, and governments and public bodies charged with the public management of resource development, must all conduct themselves in concert with the UN Declaration on the rights of indigenous peoples. Respect for the UN Declaration should be open and transparent, and be subject to independent and impartial review' (ICC 2009). The ICC declaration on resource development, in many ways, reaffirms the original concerns behind

the original Inuit land claims. While the autonomy that each indigenous community maintains varies extensively depending on the state, region or community of which they are a part, there is one commonality that links the vast majority of all indigenous peoples in the circumpolar region together. They were all internally colonised and the tide of land claims movements and aims for autonomy which began in the 1970s came to a head when issues of resource development became a driving force in indigenous inhabited areas (for example see ICC 2011).

In North America, while the land claims were quite often in reaction to proposed resource developments, in many circumstances the Inuit were not against resource development. The land claims rather, were focused on how the local indigenous populations could control and benefit from the development of resources on their land. In a number of these cases future oil and gas developments were at the heart of such debates (For example the North Slope Borough and the Northwest Territories). Forty years have passed since the first Inuit land claims and as we return to a new round of discussions over Arctic hydrocarbon and other non-renewable resource development the political architecture comprising the ownership and control over these resources is vastly different than it was in the past. As the international community debates over what is 'best' for the Arctic, new frameworks for doing Arctic governance which can accommodate for these new realities are necessary.

#### **Inuit resource management models: what can we learn from them?**

Inuit co-management operates differently depending on the region. Yet, one example which seems most relevant for the current discussion and might possibly serve as a tool guide for other areas of Arctic resource management is the Alaska Eskimo Whaling Commission (AEWC) which was set up to conserve bowhead stocks and control and regulate all aspects of the bowhead harvest. The reason for choosing the AEWC is based on the simple fact that it creatively bridges local Inuit governance structures to global policy making and as such offers an Arctic specific case for imagining how post-sovereign resource management might operate in the Arctic.

The Inupiat have hunted bowhead whales for subsistence since they have lived in Alaska, thousands of years. They used the entire whale (Francis 2011). Beginning in the early 16th century, subsistence whale hunting was transformed into commercial whaling for the global market by the French Basque. Since this time, whale populations have been threatened to the point of near extinction to making a part recovery. The Basque whaled in the Strait of Belle Isle between Labrador and Newfoundland. They would extract the whale oil and fat for export to Europe to satisfy the energy market and for industrial production. The fuel from the fat was used for lamps, soap, candles, to cure leather and to grease machinery in factories (Greenberg 2009). In 1613 the

British Muscovy Company set out to break the Basque monopoly by hunting whales off the coast of Spitsbergen (Greenberg 2009: 1347). The British successfully ousted the French as well as the Dutch whalers there. In response the Dutch set up the Noordsche Compagnie (North Company) which whaled off the coast of Greenland. This however soon found new competition from the British as well as the Danish and other Dutch companies. As a result, a truce was called between Holland, the English and the Danish governments which made the Arctic waters a commercial free zone for all – the idea was justified by *terra nullius* for the seas – *mare nullius* (Greenberg 2009).

By the 1780s, the Greenlandic bowhead whale was nearly extinct and by the mid 1800s, commercial whaling had made its way to Alaska. It began in 1826 when Frederick W. Beechey of the British Royal Navy brought back reports of whales in Alaskan Arctic waters. Twenty years later, in 1848, Captain Thomas Roys led a whaling procession of more than 200 whaling ships to Alaskan waters. Over the next seven decades American, French, German, Hawaiian, and Australian whaling companies carried out 2,700 annual whaling cruises and killed of over 20,000 bowhead whales (Bockstoce and others 1993). By the mid-nineteenth century bowhead whales in the Northwest and Arctic Alaskan waters had become whaled to the point that commercial companies turned to Canada in search of new hunting grounds (The Alaska History and Cultural Studies Curriculum Project 2004 – 2011).

Throughout this period the Inupiat in Alaska and Inuit in Canada (who, for centuries, relied on whaling for physical and cultural survival) began to trade whales for European goods and soon sought cash incomes to supplement their once subsistence only lifestyles. As a result, they often worked for the whaling companies on the boats, as guides, hunters or other manual labour. Dependency on non-subsistence commodities expanded and much like indigenous tales of colonisation throughout the world, many Inuit became dependent on foreign companies and eventually the federal governments under which they found themselves living. Yet, throughout its entirety subsistence whaling remained a central and critical piece of Inuit livelihoods.

In the 1920s and 1930s new factory based ship technologies renewed whaling off the coast of Alaska. However, by this time the possibility of commercial whaling driving several species into complete extinction (Sheldon and others 1995 in Albert 2001) amassed global attention and in 1946 the first International Whaling Agreement was signed. The International Convention for the Regulation of Whaling was established in order to conserve whale populations. The Convention consisted of 15 original signatories; all of which were whaling nations. Under the convention the International Whaling Commission (IWC) was created. The purpose of the IWC was to provide for the conservation, development, and optimum utilisation of whale resources. It was

agreed that all regulations would be based on scientific findings and that funding would be made available to ensure scientific studies would continuously be carried out. While whaling continued to play a central role in the cultural and economic life of the Alaskan Inupiat, they were not invited to take part in the making of the IWC or accompanying scientific research.

Since the founding of the IWC, the number of signatories has grown to 89 and the vast majority of these signatories are non-whaling countries. Beginning in the 1970s, with the onset of the environmental movement and calls for a ten-year moratorium on commercial whaling which was advocated at the UN Stockholm meeting on the environment (Gambell 1993), the atmosphere within the IWC began to change. Rather than conservation, which was the basis for the creation of the IWC, the majority, non-whaling countries began to seek a total ban. This included a ban on what many IWC members saw as the negative impacts of increased subsistence whaling. The IWC at this time did not have a formal definition of terms relating to indigenous subsistence whaling. In the 1946 International Convention for the Regulation of Whaling the term 'aborigine' was used in that it stated 'It is forbidden to take or kill gray or right whales, except when the meat and products of such whales are to be used exclusively for local consumption by the aborigines'. By the late 1970s, the IWC scientific committee began to raise questions regarding the management of aboriginal subsistence hunts of Alaskan bowhead whales (Gambell 1993: 102). According to their studies, the number of aboriginal catches had increased markedly as well as the number of struck whales which were lost (Gambell 1993: 102). In light of these factors, at the 1977 IWC convention the committee voted to delete the right whale part of the aboriginal exemption clause which, in effect, put a ban on all subsistence hunting of bowhead whales (IWC 1981).

Immediately following the IWC meeting, Inupiat subsistence whalers in Alaska organised to create the Alaska Eskimo Whaling Commission (AEWC) which would work to overturn the ban on their traditional subsistence hunt of the bowhead whale, disseminate information on the nutritional and cultural significance of bowhead whales for Inupiat subsistence whalers and promote research on bowhead whales (Gambell 102). Contrary to the findings of the IWC scientific committee, Inupiat elders found that the bowhead whale stock was healthy and had been steadily growing since commercial whaling had decreased beginning in the early 20th century (Aron 2000).

The newly formed AEWC lobbied the US government and after negotiations with the US National Marine Fisheries Service (NMFS) as well as legal proceedings the AEWC was able to convince the US government to call for a special IWC meeting. The special meeting took place the same year. During the meeting several resolutions were passed including a resolution to reinstate a 'modest take of

bowhead whales' to the US to 'satisfy [the] subsistence and cultural needs' of the Inupiat subsistence whalers (Gambell 1993: 102). It was also decided that an *ad hoc* technical committee working group would be created to examine the issues surrounding aboriginal subsistence whaling as well as the formation of a special panel meeting of experts on aboriginal subsistence whaling which would meet in 1979 (the final report was published in 1982) (IWC 1981).

At the 1980 convention, the US presented an interim report and in the lead up to the 1982 IWC convention, the technical committee released its report. The report formally defined aboriginal subsistence whaling as 'whaling for purposes of local aboriginal consumption carried out by or on behalf of aboriginal, indigenous, or native peoples who share strong community, familial, social, and cultural ties related to a continuing traditional dependence on whaling and on the use of whales' (IWC 1981: 3). The technical committee further determined that the 'definition of subsistence whaling does not prevent the use of modern technology, and there is good reason to recommend improvement in the weapons, powder and bombs currently employed to further reduce the struck but lost rate' (IWC 1981: 4).

The IWC concluded its discussions on aboriginal subsistence whaling with a proposal to create a dual system of management involving the US. The IWC would determine catch rates based on US documentation of the needs of Inupiat subsistence whalers. It was recommended that the US, as such, would develop a management plan that would determine catch limits and reporting and data requirements, allow for a reduction in the struck and lost rate and implement an appropriate research programme (Gambell 1993: 103; IWC 1981: 3).

Finally, as the 1982 IWC convention the resolution was adopted to institute an aboriginal subsistence whaling regime in order to achieve the objectives of the published (1982) report. The resolution recognised that 'full participation and cooperation of the affected aboriginal peoples are essential for effective whale management (Gambell 1993: 104). That same year the IWC also voted in favour of a moratorium on all commercial whaling (Aron 2000). Under the allotted quotas, whaling under scientific auspices was also still allowed as was indigenous subsistence whaling (see Hedley 2002) although the quota was, and remains, subject to continued renewal.

In response Canada withdrew from the IWC arguing that the moratorium was inconsistent with IWC measures allowing the harvesting of stocks at safe levels. Iceland and Norway also eventually withdrew from the IWC. Norway continues to hunt commercially. Countries against the commercial moratorium also argued that the IWC was only focusing on one type of whale while neglecting other serious threats to global whale populations such as ship strikes (collisions with ships), by catch as well as the more general impacts of climate change (Comstock 2010). These debates continue today and

continue to impact the ability of the IWC effectively to regulate commercial whaling.

#### **Alaska Eskimo Whaling Commission (AEWC): the Alaskan historical context**

Going back to the late 1960s, the Alaska Native land claims were brought to an apex with the discovery of the largest petroleum deposit in North America to date on the North Slope. The native land claims were finally resolved in 1972 with the passage of the Alaska Native Claims Settlements Act (ANCSA). ANCSA was followed by the creation of local governments. In order to accommodate the rights and control over resources awarded to indigenous groups through ANCSA, a corporate structure was established to handle the accompanying financial transfers. In total, ANCSA created 12 regional corporations and 200 village corporations. These corporations received title to surface and subsurface lands and seventy percent of the revenue from natural resources had to be redistributed equally among the 12 regional corporations. For the most part, the Alaska indigenous corporations were created out of the American corporate model.

Following the passage of ANCSA, the Inupiat of the North Slope filed a petition for a first-class borough and that same year the North Slope Borough was created. The North Slope Borough is a public borough that is majority Inupiat. In Barrow, the Ukpeagvik Inupiat Corporation (UIC – the Barrow Village Corporation) was also created. ANCSA did not create land use management structures, which has since become a source of major criticism regarding the US land claims agreement model. To rectify these shortcomings and address the problems this produced many of the local native communities and boroughs eventually created their own unique resource management bodies. The AEWC is one example.

The AEWC is a collaboration between eleven Inupiat subsistence whaling associations from St. Lawrence Island in the Bering Sea to Kaktovik in the Beaufort Sea (Aron 2000). The AEWC came into being as a consequence of the shifting direction of the IWC from the conservation of bowhead whales to eliminating all bowhead whaling. Yet, it was also established as an outcome of a growing concern regarding the increase of oil exploration and development in Alaska (Kelly and Brower 2001: 262). The aim of the AEWC is to protect the bowhead whale and to ensure the future of the subsistence hunt by representing the hunters in their negotiations with the National Marine Fisheries Service: Alaska Region (NMFS) and its parent organisation, the National Oceanic and Atmospheric Administration (NOAA) as well as the IWC at the international level (Albert 2001: 267). The AEWC consists of both voting and non-voting members. Voting members include whaling captains and non-voting members are members of the crew. The AEWC is directed by a board of commissioners who are responsible for the management of the commission's affairs. Since its origins, the AEWC has helped initiate some of the most advanced research on

the status of the bowhead stock. Hunters of the AEWC have also participated in AEWC programmes including a programme where subsistence whalers attach satellite tags for scientists to follow whale migration patterns (Comstock 2010).

Once established, one of the first items of the AEWC was to draw attention to what the members regarded as the inadequacies of the US government bowhead consensus carried out off of the coast of Barrow (Albert 2001: 267). By the end of the 1970s, the AEWC concluded that they actually had two specific issues to contend to (rather than merely a general whaling problem): an overall lack of data concerning the population of the bowhead whale and the divergent views between the Inupiat subsistence hunters and the scientists who travelled to the north to carry out the surveys (Albert 2001, 267).

By 1980, the AEWC had established its own management plan and a Science Advisory Committee (SAC). Due to its immediate expansion, in 1982 it was re-designated as the North Slope Borough Science Advisory Committee (Kelly and Brower 2001: 262). At this time the AEWC was able to convince NMFS to hand over the responsibility of consensus findings to the North Slope Borough's Department of Wildlife Management (Albert 2001: 268). The AEWC also entered into a co-operative agreement with NOAA. NOAA is the primary body in the US that is in charge of the management and enforcement for all programmes dealing with bowhead whales as well as US representation to the IWC. The cooperative agreement between the AEWC and NOAA was set up to protect the bowhead whale and Inupiat culture, promote scientific investigation of bowhead whales and to support the Marine Protection Act, the Whaling Convention and the Endangered Species Act as it relates to aboriginal whaling. The AEWC more broadly felt that impartial oversight on proposed research and impartial reviews of government and industrial analyses of plans affecting its activities was needed (Kelley and Brower 2001: 262).

The AEWC/NOAA agreement also sought to carry out further scientific research in response to growing petroleum exploration and development. Therefore, to complement its scientific work, in 1986, the AEWC created an Open Water Season Conflict Avoidance Agreement (CAA) to manage offshore oil and gas impacts. The CAA is a regional management tool that is based on sound science which is informed directly from the observations by Inupiat subsistence hunters (Brower 2009). CAA is an ecosystem-based management tool and in conjunction with CAA, the AEWC has created an insurance agreement which provides logistical support to subsistence hunters and compensation should an oil spill occur. NMFS relies on the CAA as does the Bureau of Ocean Energy Management, Regulation and Enforcement in order to meet requirements for its permits (Brower 2009.). The CAA provides equipment and procedures for communications between subsistence whalers and industry participants, avoidance guidelines,

measures to be taken in the case of an emergency and dispute resolution (AEWC and others 2012).

Whereas the IWC has become mired in a political rivalry over commercial whaling, affecting the Commission's scientific purpose, the AEWC in collaboration with NOAA has created a scientific process for documenting subsistence hunting for the IWC and which could be used for offshore oil and gas development in the North Slope. The AEWC has also undertaken a project to combine 19th century whaling tools with modern technology to make the process more humane. Whereas early on NOAA personnel monitored the whale hunts and the AEWC assisted personnel with the monitoring, the AEWC and the individual whaling captains now work directly with scientists from the North Slope Borough's Department of Wildlife Management to collect specimens from landed whales (Glenn Sheehan, founding Executive Director of the Barrow Arctic Science Consortium (BASC), personal communication, 6 April 2012).

The AEWC/NOAA agreement has also led to joint enforcement, inspection and conflict resolution. Through local revenues generated from taxes on oil industry infrastructure on the North Slope, the North Slope Borough has in the past been also able to hold biannual conferences on bowhead whales through the SAC. This also provides advice on an as-needed basis when the North Slope Borough and the AEWC has a science question that requires expert knowledge. Funded by NOAA and the North Slope Borough, the AEWC has, additionally, become a representative at the IWC meetings and therefore a source of negotiating power when it comes to subsistence whaling quotas. In this way the AEWC, a local Alaskan organisation, works directly with and is able to represent its constituents at the meetings of an international organisation (Nettheim and others 2002).

While the continuing politics of the IWC bring into question its future capacity to regulate commercial whaling at the international level, the particular management processes of the AEWC which bridges local resource use to international collaboration with the IWC is worthy of analysis when it comes to the current discussions concerning the management offshore oil and gas exploration in the Arctic.

### **The politics of Arctic oil and gas**

In April 2010, the largest oil spill in history occurred off the Gulf Coast of Mexico in the United States. The spill put an immediate damper on the growing excitement surrounding the potential oil and gas discoveries in a melting Arctic (for example *The Independent* (London) 6 September 2011). As a result, a number of environmental groups and policy makers, largely living outside the Arctic, began to call for a total moratorium on all Arctic oil and gas projects. For these groups, the oil spill became a tragic reminder that a major offshore oil spill is not only possible but moreover that systematic prevention

and response measures are either lacking or confined to domestic policy where they do exist. Transferring these possibilities to the Arctic, if an oil spill occurred, the ability to respond sufficiently would be exponentially more challenging (Beinecke 2011).

Recent debates over offshore oil and gas development in the Arctic, however, are only one part of a long standing history of offshore oil and gas development within the region itself. In North America, these debates reach back prior to the *Exxon Valdez* spill to at least the 1970s when an Alaskan Inupiak, Eben Hopson, founded the ICC to address the need to regulate possible offshore oil and gas development in Alaskan and the Canadian Beaufort Sea. At the first ICC meeting in 1976 Hopson speaking on the reasons why he was setting out to create a circumpolar Inuit organisation stated that '[w]e hope that our Inuit Circumpolar Conference will initiate dialogue between the five Arctic coastal nations necessary to lead to formal agreements for safe and responsible Arctic oil and gas development' (Hopson 1976).

Since this time, the debates over offshore oil and gas development have shifted from possibility to reality. Already existing projects include awarded leases off the coast of Greenland. Shell has spent over 3.4 billion USD in investments for developing offshore projects in the Chukchi and Beaufort Seas. Arctic oil and gas drilling has been underway off the coast of Labrador in Canada for over a decade. Beyond the Russian Shtokman project (the largest offshore gas deposit in the world) Russia and Norway resolved a 30 year border dispute in the Russian Barents Sea in September 2010. The Barents Sea is said to contain a vast amount of offshore hydrocarbon resources and new development projects are expected in the near future (The Guardian (London) 16 September 2010). Russia, in its Arctic strategy, has also made it public that its future economy lies in Arctic oil and gas exploration (Russian Federation 2009). This is coupled by Norway's already operational Snøhvit field in the Northern town of Hammerfest. As southern oil and gas fields dry up the Norwegian government has turned to its Arctic waters for securing future domestic revenues.

Accompanying these developments, in 2000 the United States Geological Survey (USGS) released an assessment of the potential for undiscovered and, in the event of an ice-free sea, technically recoverable oil and gas resources. This was followed by a joint Geological Survey by Denmark and Greenland (GEUS), and another USGS assessment in 2007 of potential Arctic oil, this time in the East Greenland Rift Basins Province. According to USGS Director Mark Myers, uncovering the potential for resource exploitation in the Arctic will be 'critical to our understanding of future energy supplies to the United States and the world' (USGS 2007).

In light of the USGS surveys, in June 2009 Greenlanders voted for a change from Greenland Home Rule to Self-Rule. One of the major aspects of the new government is that Greenland now not only has the right to develop surface and subsurface resources but outright



ownership of all resource developments. The revenues generated from hydrocarbon and mineral developments are to be expected to be used towards paying off the yearly block grant Greenland receives from the Danish government and thereby helping pave the way for formal secession from Denmark. Taking note of Norway's economic successes Greenland has chosen to adopt many of Norway's own offshore oil and gas policies and regulations and in 2011 Greenland and Norway signed a memorandum of understanding to cooperate on oil and gas development (*Offshore Energy Today* 2011). Realising full secession for Greenland largely comes down to non-renewable resource development.

While certain environmental and other interest groups continue to protest against Arctic offshore development, oil and gas companies are already working with governments to write up plans for future extraction if not to discuss what is already underway. Given this reality existing discussions of resource management theory and regimes such as the AEWEC become invaluable sources of knowledge when it comes to putting into place adequate processes and structures to manage the expected development. The AEWEC is a germane case study in that politics of oil and gas is a global issue with vast local consequences. Therefore, when determining who should be involved in these debates or who should be in charge of creating management regimes, efforts cannot come only from the local level, the domestic level or merely addressed at the intergovernmental level through the AC. The greatest challenge for establishing adequate management processes to govern Arctic oil and gas is how to create a governance structure that can connect the global geo-political reality of oil and gas development as well as international policies to the local communities and local government structures where the development is taking place. As indigenous peoples in the North American Arctic very often have rights to resource development if not ownership over the resources themselves, rather than arguing over who owns the Arctic, a much more central question is how to govern the Arctic when the critical focus is the interdependencies between the local, the domestic, regional, transnational and international levels of politics.

#### **Bridging local resources to global development: the role of the AC**

At the international level, the existing governance structure pertaining to Arctic oil and gas development lies within the United Nations Convention on the Law of the Sea (UNCLOS) under the International Seabed Authority. This authority organises and controls the activities of seabed and ocean floor and subsoil beyond the limits of national jurisdiction. At the regional intergovernmental level, the Arctic states and the permanent indigenous organisations, through the AC, have created an International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC). OPRC is a framework

for international cooperation in combating incidents or threats of marine oil pollution. All eight states are parties to the convention. The AC working groups also have a number of oil-related and emergency response-related projects. In response to the lack of a specific marine oil pollution response instrument in the Arctic, in 2011 the AC created a task force with the mandate to develop an international instrument on Arctic marine oil pollution preparedness and response. The results will be presented at the AC ministerial meeting in 2013 (Senior Arctic Officials (SAO) 2011: 6–7). The international instrument aims to speed up the process for clean-up and compensation payments including the possibility of an international liability and compensation instrument (Kollewe and others 2012). According to the Greenlandic government 'different national systems may lead to ambiguities and unnecessary delays in oil pollution responses and compensation payments' (Kollewe and others 2012.).

When it comes to offshore resource management, the AC set out to 'develop a strategic plan for the protection of the Arctic marine environment under the leadership of [The Protection of the Arctic Marine Environment Working Group] PAME'. The Arctic marine environment, it was decided, would be protected using an integrated ecosystem-based management approach. One aspect of the AC's plan was to promote pilot projects which would demonstrate the use of an ecosystem approach to management (AC 2006–2008: 1). The project's progress report defines an adequate pilot project as one which takes into consideration multiple scales, includes a long-term perspective, recognises that humans are an integral part of ecosystems, takes an adaptive management perspective, and has a concern for sustaining production and consumption potential for goods and services (AC 2006–2008: 2).

The AC's Sustainable Development Working Group (SDWG) and PAME then initiated a Best Practices in Ecosystems Based Oceans Management project (Bepomar). Bepomar was initiated by Norway in 2006 and adopted by the AC's bi-annual SAO meeting in April 2007. According to the report '[m]any Arctic communities and settlements are based on the sustainable use of natural resources, and see themselves as integrated parts of these ecosystems' (Hoel 2009: 111). The report goes on to state that the importance of non-renewable resources is growing and offshore petroleum developments are expanding to new areas of the Arctic (Hoel 2009: 111.). The purpose, as such, of the Bepomar project was to present the concepts and practices the Arctic countries have developed in order to apply an ecosystem-based approach to oceans management for the Arctic (Hoel 2009).

When it comes to the governance aspects of ecosystem management the report concludes that 'rule-based relationships between countries in oceans affairs, based on applicable international law and agreements, have to be promoted.' Likewise, 'cooperation in science and exchange of relevant information within and between

countries is important for understanding the cumulative impacts to the marine environment. . . various forms of scientific, traditional, and management knowledge need to be integrated to improve ecosystem-based management.' The report's conclusions call for a multi-sector approach, 'contributing to common understandings of challenges and thereby an increased trust between authorities with different sector responsibilities/interests' and that stakeholder and Arctic resident participation can be achieved through public participation such that enables stakeholders and members of the public who lack the capacity to prepare for and attend meetings 'to make their voices heard in a meaningful fashion' (Hoel 2009: 112). The following month the AC's SAO's concluded that the ministers will be tasked with creating an ecosystem-based management (EBM) expert group, which will report to the SAO's (AC 2011: 7). The purpose of the group is to develop a common understanding of ecosystem based management and to consider ecosystem based management principles for marine and terrestrial areas. They also recommended that the expert group should develop Arctic-specific guidelines for applying the ecosystem approach to all relevant areas of work in the AC (AC 2011: 7).

A central question from the AC's Bepomar project which remains is how to put into practice these recommendations. How can the AC create adequate processes of Arctic resource management which can accommodate the needs and existing governance institutions of the Arctic's communities while also taking into account international legal instruments? To begin, the Bepomar AC report emphasises that indigenous peoples aim to be involved in all aspects of resource management from identifying problems through the evaluation stage (Håkon 2009: 15). At the same time the report concedes that many indigenous communities are sparsely populated and that many companies or government agencies have more employees than an entire indigenous group's members. The report further points to the fact that many communities lack the resources and capacity to address the issues they see as priorities as very often indigenous leaders are already overextended (Hoel 2009: 15).

It is here that we can turn to the AEWG as a tangible example of how Inupiat whalers persistently work, through the AEWG, to acquire and maintain the capacity to represent themselves formally in local, state and international whaling discussions as well as local oil and gas development issues. The AEWG includes, from the outset, local involvement in sharing the responsibilities over resource development. The local Inupiat subsistence captains, through the AEWG, are responsible for local management of the bowhead whales. The AEWG works in collaboration with NOAA and the US delegation to the IWC to have quotas set by the IWC. The standards for setting the quotas are based on the health of the bowhead stock (this research is done by the North Slope Borough Department of Wildlife Management in collaboration with consulting scientists and whalers) and documented

subsistence need of bowhead whales (Jessica Lefevre, AEWG Legal Counsel, personal communication, 6 June 2012). The Department of Wildlife Management also leads the census of bowhead whales. The census' themselves are visual and acoustic methods which were developed based on hunters knowledge of where to find the whales (which is often under the ice) (Jessica Lefevre, personal communication, 6 June 2012). The AEWG also cooperates directly with the oil and gas industry and the US federal government to help manage offshore oil and gas related activities in the Beaufort and Chukchi Seas through the conflict avoidance agreements.

As financial capacity is a chief concern for many local communities involved in post-Westphalian resource management processes, the AEWG has a means to access funding relating to the management of subsistence whaling from the North Slope Borough tax base which includes North Slope oil development and related infrastructure. The AEWG also receives federal funding through NOAA and occasional grants and donations from private sources (Glenn Sheehan, personal communication, 6 April 2012). In terms of science, the AEWG collaborates on research projects through work with the department of Wildlife Management and other state and federal (for example NMFS and the National Science Foundation (NSF)) entities. The North Slope Borough additionally funds the Arctic Science Advisory Committee which, in the past, has funded the biannual conferences on bowhead whales (Glenn Sheehan, personal communication, 6 April 2012).

Finally, the AEWG provides a means for sharing best practices through its collaboration with the North Slope Borough Department of Wildlife Management (which often receives research grants from NMFS), federal agencies, namely NOAA, as well as the IWC (Jessica Lefevre, personal communication, 6 June 2012). Through the conflict avoidance agreements the AEWG also shares best practices with the operators carrying out hydrocarbon activities in the region. Having to live within a quota at the outset aside, thus far the AEWG has successfully lobbied to ensure the Inupiat hunters are able to continue to subsistence whale. Perhaps most significantly, the AEWG provides one example of post-sovereign resource management in that it bridges local, national, non-state and international legal instruments. When it comes to managing Arctic offshore oil and gas development the AEWG provides one example of an Arctic resource management regime which takes into account and makes use of the region's overlapping sectors. The AC, in its capacity as a regional regime, could build from its own recommendations put forward by the Bepomar project and learn from the manner in which the AEWG puts many of Bepomar's recommendations into practice.

The AC as a governing body could play a particularly significant and active role in an Arctic offshore oil and gas management regime in several capacities. At the outset, the AC can write the rules for development. The

Council could pass further binding laws to establish certain guidelines that all Arctic communities and states where offshore oil and gas development will take place must adhere to. In another capacity, once potential oil and gas projects are identified, the AC could be the host for bringing relevant stakeholders together to establish the basis and priorities for the accompanying management regime before any development even begins (exploratory or otherwise). The AC could also establish, as part of its guidelines for development, a revenue sharing scheme which would allow indigenous and non-indigenous communities lacking the resources and capacity to participate in the stakeholder dialogues and to become full partners in the management regime. Often this would require taking the stakeholder dialogues to the communities themselves.

As the rules for development include adhering to 'applicable international law', the AC, like the AEW, can also serve as the official bridge between established Arctic resource management processes and international bodies. The AC from its origins is a regional body which bridges the local to the regional through the direct representation of its six permanent indigenous organisations. The AC also collaborates at the international level through its work in the past for instance with the UN to pass the Convention on Persistent Organic Pollutants in 2001, the International Maritime Organization (IMO) to create a Polar Code for Arctic shipping as well as its lobbying efforts at the COP-15 to curb black carbon (U.S. Department of State Bureau of Oceans and International Environmental and Scientific Affairs 2009). The AC, as such, could strengthen its ties to the international community by working with legal bodies from the IMO to the UN Permanent Forum on indigenous issues (see specifically 27 and 32 of UN Declaration on the Rights of Indigenous Peoples (UN 2007)). to ensure that international organisations are representing the interests of the AC's members (and constituents). As one means for achieving this, the AC could work towards obtaining observer status on varying international bodies.

Lastly, the AC could serve as the meeting point for the scientific component of Arctic resource management regimes (and in certain cases the AC could link together projects of overlapping interests) as well as coordinate and lead new research projects of relevance (much the same as it already does). The scientific results would also contribute to the AC's own efforts to create legally binding policies and to lobby international institutions to make new regulations.

Much like the AEW which calls for impartial oversight on proposed research and impartial reviews of government and industrial analyses of plans affecting its activities, the AC, through its experiences of leading major research projects could act as a sound non-partisan venue for carrying out impartial research and reviews. The AC also has the critical capacity, through the indigenous permanent participants, to be sure that traditional

indigenous knowledge (often referred to as TEK) is taken seriously and brought together in a complimentary manner with 'western' science. As such, indigenous and other local communities would be co-authors in determining and writing up the problems and research questions to be addressed at the outset. Lastly, science projects, like the stakeholder dialogues, could be funded through an established revenue sharing programme which would include, at the least, state funding and the companies operating in the Arctic.

### Arctic governance revisited

One of the major lessons learned from the Deepwater Horizon oil spill in the Gulf of Mexico was the lack of a post-Westphalian resource management system such as the AEW. If a process had been put in place where the fisheries and the oil and gas industries had a joint plan for oil spill preparedness and response, the confusion and devastation which ensued could have been minimised. Monetary resources could have been generated through revenue sharing by the oil and gas industry as well as from the federal government. The money could have been allocated to the fishing industry and other local operators for attaining the proper equipment and training to immediately respond to an emergency. Rather than leaving the clean-up in the hands of BP and waiting for the White House to write up its own response plan, immediate action could have been on the ground by those who live and work directly on site. Likewise, a post-sovereign resource management system for the Gulf of Mexico would have not only created a clear predetermined channel between the proper federal authorities in charge, local authorities as well as industry and community members but the plan itself would have been co-authored by various levels of government and non-state actors from its origins. And, as scientists have found that the effects of the Gulf spill have reached the Arctic in terms of wildlife migration patterns, clearly international environmental policies should have already been put into place.

Beyond the focus of traditional sovereignty issues and particularly the media's focus on dividing up the physical borders of the Arctic sea bed, one could imagine a conflict arising from an instance in which defined and delineated borders have little meaning. One could imagine a conflict over oil and gas, rather than emanating from fighting over who owns the sea bed being created by an oil spill that would begin in Greenland and makes its way to Canada without any formal mechanisms in place to jointly address the spill. Who would oversee compensation when an oil spill on one side of a state border (e.g. Greenland/Denmark) destroys the local economy (e.g. St. John's, Newfoundland) of a community in the bordering country?

While the Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic is a positive start, concrete disaster plans need to be determined in advance (the agreement is an agreement to cooperate

rather than specific steps to deal with a disaster). The October 2011 AC conference on Arctic search and rescue co-operation in Whitehorse, Canada could be regarded as a first step, however, in this direction. According to Steve Waddell, a spokesperson for the Canadian Forces:

What we want to do is bring [states] all together, talk about how about how they do it in their own areas, but more importantly how can they collaborate, bring those resources to bear, in areas that are a little more challenging to get to, that we might need an international response (CBC News 2011).

At the same time the efforts to deal with a possible oil spill or other disaster cannot fail to take into account and include those who fish and live off of the resources in the same waters and inhabit its shores. An effective Arctic search-and-rescue plan would be co-authored and designed by all the affected parties; not least with the help of Arctic community leaders and resources would be allocated to these same communities to carry out rescue efforts. If a disaster should ensue those living closest to the disaster should be equipped as first responders.

The roadmap detailing the future course of Arctic governance is far from complete. Yet, what can be discerned is that while the Arctic states and their physical territorial boundaries clearly remain (if they are not in fact expanding) these same boundaries are shared with new layers of political authority acting below, above and across state boundaries. As the AC evolves towards a model which creates more enforceable policies its challenge becomes how to maintain and expand its already unique structure which includes a seat at the table for the six permanent indigenous participants. The AC, if expanded thoughtfully, could evolve into a globally unique regional political regime which bridges local, state, regional, transnational and international institutions to address the growing global geo-politics of the Arctic.

Karkkainen argues that it is time to rethink global governance agreements and global institutions altogether. Global governance agreements and institutions would be better served if they supported regional governance processes which situate governance at the appropriate eco-regional scale. These regional scales could then be nested within a larger set of global institutions that can monitor the various regional governance arrangements as well as provide technical assistance among other things (Karkkainen 2004: 141). Global governance, in this context, would become arenas for supporting adaptive ecosystem management at ecologically appropriate scales rather than the commanders of top down fixed rules and standard approaches (treaty making) (Karkkainen 2004,141). Learning how to strengthen the operational mechanisms of such policy initiatives is where Arctic resource management bodies such as the AEWK become relevant examples for how and where effective governance is possible and where it needs to be improved. Moreover, the AEWK serves as an effective starting point to move the debate from who owns the Arctic to how to govern in a post-state centred political world.

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## References

- AEWK. (Alaska Eskimo Whaling Commission). 2012. 2012 Open water season programmatic conflict avoidance agreement. March 2012. URL: [www.nmfs.noaa.gov/pr/pdfs/permits/bp\\_openwater\\_caa2012.pdf](http://www.nmfs.noaa.gov/pr/pdfs/permits/bp_openwater_caa2012.pdf) (accessed 19 September 2012).
- Alaska History and Cultural Studies Curriculum Project. 2004 – 2011. Northwest and Arctic 1732–1871 age of Arctic exploration and whaling. URL: <http://www.akhistorycourse.org/articles/article.php?artID=64> (accessed 19 September 2012).
- Alaska Home Page. URL: <http://www.alaska.gov/>.
- Albert, T.F. 2001. The Influence of Harry Brower, Sr., an Inupiaq Eskimo Hunter, on the Bowhead Whale Research Program conducted at the UIC-NARL Facility by the North Slope Borough. In: Norton, D.W. (editor). *Fifty more years below zero: tributes and meditations for the Naval Arctic Research Laboratory's first half century at Barrow, Alaska*. Calgary and Fairbanks: Arctic Institute of North America: 265–278.
- AC (Arctic Council). 2006. PAME progress report on the ecosystem approach to Arctic marine assessment and management 2006–2008. Tromso, Norway: Arctic Council (accessed 19 September 2012).
- AC (Arctic Council). 2011. Senior Arctic Officials (SAO) report to ministers, May 2011. Nuuk, Greenland: Arctic Council (accessed 19 September 2012).
- Arctic Slope Regional Corporation Home Page. URL: <http://www.asrc.com/Pages/We%20are%20ASRC.aspx>.
- Aron, W. 2000. The International Whaling Commission: a case of malignant neglect In: Johnston, R.S. (editor), Shriver, A.L. (compiler). *Microbehavior and macroresults*. Corvallis: International Institute of Fisheries Economics and Trade (IIFET) (Proceedings of the Tenth Biennial Conference of the International Institute of Fisheries Economics and Trade, 10–14 July 2000, Corvallis, Oregon, USA).
- Beinecke, F. 2011. Obama administration allows more offshore drilling without more safeguards for Arctic and Gulf. *Natural Resource Defense Council Staff Blog* 9 November 2011: URL: [http://switchboard.nrdc.org/blogs/fbeinecke/obama\\_administration\\_allows\\_mo.html](http://switchboard.nrdc.org/blogs/fbeinecke/obama_administration_allows_mo.html) (accessed 19 September 2012).
- Bockhorst, D. 2000. *Background on boroughs in Alaska*. Alaska Department of Community and Economic Development. URL: <http://www.commerce.state.ak.us/dca/logon/muni/muni-structure.htm> (accessed 19 September 2012).
- Bockstoce, J. and J. Burns. 1993. Chapter 14: Commercial whaling in the north Pacific sector. *The Bowhead Whale Special Publication 2: The Society for Marine Mammalogy*: USA: 563–567.
- Brower, H. 2009. Alaska Eskimo Whaling Commission presentation to the White House ocean policy task force Anchorage: *Alaska Eskimo Whaling Commission*. Anchorage. URL: <http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.whitehouse.gov%2Fassets%2Fforms-submissions%2F54%2F7b0421829d8a4c1e8508d876>

- aa40f61b.pdf&ei=6-JZUKaJH6Gk0QW4vIDoAw&usg=AFQjCNGLvwYEyDjKAmKHAxhC7AoltO4Tvw (accessed 19 September 2012).
- Bulkeley, H. 2005. Reconfiguring environmental governance: towards a politics of scales and networks *Political Geography*. 24: 875–902.
- Caulfield, R., S. Haley, A.H. Hoel, G. Hovelsrud-Broda, A. Jessen, C. Johnson and K. Klokov. 2004. Chapter 7: Resource Governance. In: Einarsson, N., J. Nymand, A. Nilsson and O. Young. *Arctic Human Development Report*. Akureyri, Iceland: 1366 Stefansson Arctic Institute.
- CBC News. 2011. Arctic nations talk search and rescue meeting in Whitehorse this week to build on agreement signed in May. 7 October 2011.
- Cochran, P. 2009. Arctic Council: Meeting of Ministers of Foreign Affairs: introductory remarks: chair, Inuit Circumpolar Council. Tromsø, Norway: Arctic Council. URL: <http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CB0QFjAA&url=http%3A%2F%2Fwww.arctic-council.org%2Findex.php%2Fen%2Fabout%2Fdocuments%2Fcategory%2F53-final-reports-and-statements%3Fdownload%3D216%3Astatement-form-icc&ei=WeZZUKaZJ87B0gWsr4CICA&usg=AFQjCNGhrlEsTXbOEydNhZKymaDeyAzuBw> (accessed 19 September 2012).
- Comstock, E. 2010. Testimony of Earl Comstock counsel for the Alaska Eskimo Whaling Commission before the Subcommittee on International Organizations, Human Rights and Oversight and the Subcommittee on Asia, the Pacific and the Global Environment on: *US Leadership in the International Whaling Commission and H.R. 2455, the International Whale Conservation and Protection Act of 2009 Joint Hearing Before the Subcommittee on International Organizations, Human Rights and Oversight and the Subcommittee on Asia, the Pacific and the Global Environment of the Committee on Foreign Affairs of the House of Representatives one hundred eleventh Congress Second session*, Serial No. 111–95. Washington DC: US Committee of Foreign Affairs. URL: <http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CB0QFjAA&url=http%3A%2F%2Fdemocrats.foreignaffairs.house.gov%2F111%2Fcom050610.pdf&ei=7OZZULn9Guan0AWAolHgAg&usg=AFQjCNGq3GH-4qELy8axn-QWA9TA-EBiBCg> (accessed 19 September 2012).
- Francis, D. 2011. Whaling. *The Canadian Encyclopaedia*. Canada: Historica Foundation. URL: <http://www.thecanadianencyclopedia.com> (accessed 19 September 2012).
- Gambell, R. 1993. International management of whales and whaling: an historical review of the regulation of commercial and aboriginal subsistence whaling. *Arctic* 46(2): 97–107.
- Greenberg, J. 2009. The Arctic in world environmental history. *Vanderbilt Journal of Transnational Law* 42 (1307–1392).
- Hedley, C. 2002. IWC 54: Analysis of selected issues: aboriginal subsistence whaling. *Reporter* 15. URL: <http://www.oceanlaw.net/people/profiles/hedley/pubs/ifb/2002-reporter-15.htm> (accessed 19 September 2012).
- Hoel, A.H (editor). 2009. Observed best practices in ecosystem-based oceans management in the Arctic countries. *Norsk Polarinstittutt* URL: <http://www.sdwg.org/content.php?doc=75> (accessed 19 September 2012).
- Hopson, E. 1976. Letter to J. Carter, 12 July 1976. URL: <http://www.ebenhopson.com/papers/1976/DemoConfab.html> (accessed 19 September 2012).
- ICC (Inuit Circumpolar Council). 2009. A circumpolar Inuit declaration on sovereignty in the Arctic. URL: <http://www.itk.ca/sites/default/files/20090428-en-Declaration11x17.pdf> (accessed 19 September 2012).
- ICC (Inuit Circumpolar Council). 2011. A circumpolar Inuit declaration on resource development principles in Inuit Nunanaaat. URL: [http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCAQFjAA&url=http%3A%2F%2Finuitcircumpolar.com%2Ffiles%2Fuploads%2Ficc-files%2FDeclaration\\_on\\_Resource\\_Development\\_A3\\_FINAL.pdf&ei=VvJZUPqBO9-Cr0AWT5IGwBA&usg=AFQjCNHFV56Cw14LvY0rr05SHB-tdd41XYw](http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCAQFjAA&url=http%3A%2F%2Finuitcircumpolar.com%2Ffiles%2Fuploads%2Ficc-files%2FDeclaration_on_Resource_Development_A3_FINAL.pdf&ei=VvJZUPqBO9-Cr0AWT5IGwBA&usg=AFQjCNHFV56Cw14LvY0rr05SHB-tdd41XYw) (accessed 19 September 2012).
- Ilisimatusarfik, University of Greenland and others. 2011. 2011 Arctic dialogue Greenland conference and workshop Nuuk, Greenland. Meeting Summary. Ilisimatusarfik, University of Greenland URL: <http://www.hcahome.com/> (accessed 24 September 2012).
- IWC (International Whaling Commission) Secretariat. 1981. Background information for the Commission's aboriginal subsistence whaling working group (ASWWG). Metropole Hotel, Brighton.
- Jull, P. 1998. First world indigenous internationalism after twenty five years. *Indigenous Law Bulletin* 15: 4(9).URL: <http://www.austlii.edu.au/au/journals/ILB/1998/15.html> (accessed 19 September 2012).
- Karkkainen, B. 2002. Collaborative ecosystem governance: scale, complexity, and dynamism. *Virginia Environmental Law Journal* 189 (21) 3
- Karkkainen, B. 2004. Marine ecosystem management and a 'post-sovereign' transboundary governance. *San Diego International Law Journal* 113(6): 113–142.
- Kelley, J.J. and A. Brower, Sr. 2001. The NARL and its transition to the local community in fifty more years below zero. In: Norton, D.W. (editor). *Tributes and meditations for the Naval Arctic Research Laboratory's first half century at Barrow, Alaska*. Calgary and Fairbanks: Arctic Institute of North America: 259–264.
- Kollewe, J. and T. Macalister. 2012. Arctic oil rush will ruin ecosystem, warns Lloyd's of London. *The Guardian* URL: <http://www.guardian.co.uk/world/2012/apr/12/lloyds-london-warns-risks-arctic-oil-drilling?newsfeed=true>.
- Latour, B. 1999. *Pandora's hope: essays on the reality of science studies*. Cambridge: Harvard University Press.
- McCarthy, M. 2011. Oil exploration under Arctic ice could cause 'uncontrollable' natural disaster. *The Independent*, 6 September.
- Meinzen-Dick, R. and R. Pradhan. 2002. Legal pluralism and dynamic property rights. *Capri Working Paper* 22. (Washington, D.C.: International Food Policy Research Institute URL: <http://www.capri.cgiar.org/pdf/CAPRIWP22.pdf> (accessed 19 September 2012)).
- Nettheim, G., G.D. Meyers and D. Craig. 2002. *Indigenous peoples and governance structures: a comparative analysis of land and resource management rights*. Australia: Aboriginal Studies Press: Australian Institute of Aboriginal and Torres Strait Islander Studies.
- Offshore Energy Today*. 2011. Norwegian Petroleum Directorate signs agreement with Greenland. URL: <http://www.offshoreenergytoday.com/norwegian-petroleum-directorate-signs-agreement-with-greenland/> (accessed 19 September 2012).
- Russian Federation. (2009). Основы государственной политики Российской Федерации в Арктике на период до 2020 года и дальнейшую перспективу [Fundamentals of the state policy of the Russian Federation in the Arctic for the period up to 2020 and beyond] URL: <http://www.rg.ru/2009/03/30/arktika-osnovy-dok.html>

- Serjesen, F. 2004. 3: local knowledge in Greenland: Arctic perspectives and contextual differences. In: Anderson, D. and M. Nuttall. (editors). 2004. *Cultivating Arctic landscapes: knowing and managing animals in the circumpolar north*. Oxford, New York: Berghahn Books.
- U.S. Department of State Bureau of Oceans and International Environmental and Scientific Affairs. 2009. Strategy to reduce black carbon emissions affecting the Arctic fact sheet. United Nations: UN climate change negotiations URL: <http://cop15.state.gov/pressroom/133771.htm> (accessed 19 September 2012).
- USGS (United States Geological Survey). 2007. USGS releases new oil and gas assessment of Northeastern Greenland URL: <http://209.85.229.132/search?q=cache:Ne7cexy-2D0J:www.usgs.gov/newsroom/article.asp%3FID%3D1750+the+first+systematic+and+comprehensive+analysis+of+the+undiscovered+petroleum+resources+of+the+Circum-Arctic+in+the+public+domain%E2%80%99&cd=3&hl=en&ct=clnk>. (accessed 23 July 2009).
- UN General Assembly. 2007. 61/295. United Nations Declaration on the Rights of Indigenous Peoples. United Nations: New York. URL: <http://www.un.org/esa/socdev/unpfii/en/drip.html>
- Young, O. 1993. *Creating regimes: Arctic accords and international governance*. Ithaca: Cornell University Press.