

ESTABLISHING THE ROLE OF PERMANENT PARTICIPANTS ON THE ARCTIC COUNCIL

How Arctic Indigenous groups gained recognition on the
Arctic Council

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Abstract

Rising temperatures due to climate change disproportionately impact the Arctic, opening up the Arctic Ocean to mineral exploitation and increased shipping, resulting in increased global attention on the area. The Arctic Council is one of the few organizations with political clout in the region, representing the interests of the eight Arctic states, Canada, Iceland, Denmark (Greenland), Norway, Sweden, Finland, the United States, and the Russian Federation. Also on the Council are six groups representing various Indigenous peoples of the Arctic known as Permanent Participants, who are able to speak and provide input at meetings, though they cannot vote in Ministerial meetings. The establishment of this novel role is due to three key things; Mikhail Gorbachev's Murmansk speech, Indigenous activism, and the non-legally binding structure of the Arctic Council.

Gorbachev's Murmansk speech in 1987 both provided the impetus to create the Arctic Council's precursor organization, the Arctic Environmental Protection Strategy, and identified the importance of Arctic Indigenous peoples and cultures to the region. Building off of the larger Indigenous rights movement, Arctic Indigenous activists within and outside the Soviet Union took the principles established in Gorbachev's speech and applied them to the Indigenous context. Activists within the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North, and the Saami Council worked to both establish and strengthen the role of Permanent Participants as actors within the newly-formed Arctic Council. These efforts were bolstered by the Arctic Council's non-legally binding structure, which encouraged Arctic states to join by lowering the stakes of participation, as they would not be held legally accountable to the Council's regulations and declarations. Together, these three elements allowed for the creation of the Permanent Participant position within an international decision-making body of the Arctic Council.

Introduction

Once considered a frozen wasteland, the Arctic is now seen as a valuable asset by both Arctic and non-Arctic states, especially as increasing global temperatures impact the region. Awareness about the consequences of large carbon emissions have recently risen to the forefront of international news, as climate change sparks extreme weather events across the globe, and a report from the United Nations-backed Intergovernmental Panel on Climate Change (IPCC) issues a dire warning about the negative impacts of increased and unmitigated warming.¹ The global rise in temperature disproportionately impacts the Polar regions, and already warming is “two to three times higher in the Arctic”, leading to summer sea ice loss in the Arctic ocean.² As summer sea ice retreats, an estimated “13% of the world’s oil and as much as 30% of its gas” could be accessed,³ and the Arctic ocean could be used for shipping,⁴ all of which would come at the cost of biodiversity and leave a large carbon footprint in this ecologically delicate area. These ventures would provide a large boost to the economies of countries within the Arctic, especially Russia, whose Northern Sea Route would connect Asian and European markets.⁵

Given the rising tensions between Russia and Western powers,⁶ the Arctic remains a place of collaboration through the revolutionary Arctic Council, which seeks to both address the issues of climate change and provide a peaceful forum for intergovernmental relations. The

¹ Coral Davenport, “Major Climate Report Describes a Strong Risk of Crisis as Early as 2040,” *The New York Times*, October 15, 2018, sec. Climate, <https://www.nytimes.com/2018/10/07/climate/ipcc-climate-report-2040.html>.

² Valerie Masson-Delmotte et al., eds., “IPCC, 2018: Summary for Policymakers” (World Meteorological Organization, October 2018).

³ Samantha Joule Fow, “The Arctic Sustainability Principle,” *Vermont Journal of Environmental Law* 13, no. 3 (2012): 537–51, <https://doi.org/doi:10.2307/vermjenvilaw.13.3.537>.

⁴ Eva Ingenfeld, “‘Just in Case’ Policy in the Arctic,” *Arctic* 62, no. 2 (June 2010): 257–59.

⁵ Dmitry Medvedev, “Basics of the State Policy of the Russian Federation in the Arctic for the Period till 2020 and For a Further Perspective” (2008), <http://www.arctis-search.com/Russian+Federation+Policy+for+the+Arctic+to+2020>.

⁶ Antonio Guterres, “UN Secretary-General’s Remarks to the Security Council | United Nations Secretary-General,” United Nations, United Nations Secretary-General, April 13, 2018, <https://www.un.org/sg/en/content/sg/statement/2018-04-13/un-secretary-generals-remarks-security-council>.

Arctic Council, founded September 19, 1996, is one of the few organizations with a political presence in the Arctic, bringing together nation-states, Indigenous groups, and various other stakeholders within the region.⁷ Member states, also known as ‘Arctic states’, include Sweden, Norway, Denmark, Iceland, Canada, Finland, the United States of America, and the Russian Federation.⁸ Six Arctic Indigenous groups representing various cultures across the Arctic have been granted the status of ‘Permanent Participant’.⁹ Permanent Participant status grants these Indigenous groups special rights not afforded to other non-Arctic state actors, including the right to “active participation and full consultation... within the Arctic Council.”¹⁰ While Permanent Participants cannot vote when the Arctic Council is in session, because the Council decides on issues via group consensus, the Permanent Participants have a *de facto* veto whereby their rejection of a proposal before the session could influence the outcome of the vote.¹¹ The ability of Indigenous peoples to have a ‘seat at the table’ is important in the context of climate change, given that Arctic Indigenous peoples are among those most heavily impacted by increased global temperatures,¹² and that several Arctic states, including the U.S., are among the largest carbon polluters.¹³ In practice, this means that the Arctic Council provides a space for communication between these Arctic states and their most vulnerable Arctic constituents in a venue that fosters cooperation.

⁷ “Ottawa Declaration on the Establishment of the Arctic Council” (Arctic Council Secretariat, September 19, 1996).

⁸ “Arctic Council Rules of Procedure: As Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting” (Arctic Council Secretariat, September 17, 1998), Arctic Council Procedural Documents.

⁹ “Arctic Council Rules of Procedure: As Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting” (Arctic Council Secretariat, September 17, 1998).

¹⁰ “Ottawa Declaration on the Establishment of the Arctic Council” (Arctic Council Secretariat, September 19, 1996).

¹¹ Timo Koivurova and Leena Heinämäki, “The Participation of Indigenous Peoples in International Norm-Making in the Arctic,” *Polar Record* 42, no. 221 (2006): 101–9.

¹² Valerie Masson-Delmotte et al., eds., “IPCC, 2018: Summary for Policymakers”.

¹³ Davenport, “Major Climate Report Describes a Strong Risk of Crisis as Early as 2040,”

While this inclusion of Indigenous peoples as Permanent Participants on the Arctic Council is deemed revolutionary, it is quite puzzling when taken in context of the relationship between these Indigenous peoples and Arctic countries. Arctic states have routinely suppressed the language rights and cultural identities of their Indigenous peoples, and while efforts have been made in the recent past to remediate some of these assimilation practices, systemic problems persist.¹⁴ Furthermore, when the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted in 2007, the United States and Canada outright voted against it, while the Russian Federation abstained from voting on the matter.¹⁵ UNDRIP established a theoretical framework for respecting Indigenous rights on an international stage,¹⁶ and embodied many of the same principles of Indigenous representation that are present in the Permanent Participant position on the Arctic Council.¹⁷ Therefore, it seems strange that the Arctic states would support giving Indigenous groups the role of Permanent Participant on the Arctic Council in the late 1990's, when they refused to afford them similar rights in 2007. Why, then, did the Arctic States decide to incorporate Indigenous peoples as Permanent Participants on the Arctic Council? In this paper, I propose that Arctic states incorporated Indigenous peoples as Permanent Participants on the Arctic Council for three interrelated concepts; the foundational principles established in Mikhail Gorbachev's Murmansk speech, Indigenous activism in the Arctic, and the non-binding legal structure of the Arctic Council.

Gorbachev's Murmansk Speech

¹⁴ Birger Poppel, ed., *SLiCA: Arctic Living Conditions - Living Conditions and Quality of Life among Inuit, Saami and Indigenous Peoples of Chukotka and the Kola Peninsula* (Copenhagen, Denmark: Nordic Council of Ministers, 2015).

¹⁵ "OHCHR | Declaration on the Rights of Indigenous Peoples," United Nations Human Rights Office of the High Commissioner, September 13, 2007.

¹⁶ "OHCHR | Declaration on the Rights of Indigenous Peoples,"

¹⁷ "Arctic Council Rules of Procedure: As Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting" (Arctic Council Secretariat, September 17, 1998).

October 1, 1987, Mikhail Gorbachev delivered what became known as the Murmansk speech in the northern Soviet city of Murmansk, reigniting global interest in the Arctic. At this time, Gorbachev was the General Secretary of the Communist Party, and therefore the leader of the Soviet Union, which included present-day Russia and its Arctic territory. Gorbachev wanted to revive his country through policies aimed to address issues plaguing the Soviet Union, primarily the stagnation of its economy, declining productivity, and extensive hostilities with Western powers.¹⁸ Through the two-pronged strategy of *perestroika* and *glasnost*, Gorbachev aimed to reform his country politically and economically,¹⁹ and he hoped that the Arctic could be yet another area for regional development and broader international cooperation.²⁰ Indeed, it was Gorbachev's *glasnost* policies that enabled Arctic Indigenous activists to communicate with their Western counterparts beyond the Iron Curtain.²¹ While ultimately these policies failed and contributed to the fall of the Soviet Union,²² this spirit of openness and cross-cultural communication facilitated the rise of these Russian Indigenous groups,²³ allowing for the spread of ideas and concepts that would prove critical to establishing the role of Permanent Participants on the Arctic Council

Gorbachev's Murmansk speech highlighted the Arctic as a key area for cooperation, outlining a six-point framework that established many of the ideals which helped create the Arctic Council. Gorbachev's points addressed some security concerns, including the desire to

¹⁸ Peter Kenez, *A History of the Soviet Union from the Beginning to the End*, 2nd ed. (New York: Cambridge University Press, 2006).

¹⁹ Kenez, *A History of the Soviet Union from the Beginning to the End*.

²⁰ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 39, no. 40 (November 4, 1987): 1–20.

²¹ Patty A. Gray, "Chukotka's Indigenous Intellectuals and Subversion of Indigenous Activism in the 1990s," *Études/Inuit/Studies* 31, no. 1/2 (2007): 143–61.

²² Thomas Axworthy and Ryan Dean, "Changing the Arctic Paradigm from Cold War to Cooperation: How Canada's Indigenous Leaders Shaped the Arctic Council," *The Yearbook of Polar Law* V (2013): 7–43.

²³ Gray, "Chukotka's Indigenous Intellectuals and Subversion of Indigenous Activism in the 1990s," 143–61.

limit nuclear and naval activities in the Arctic Sea to diffuse international militaristic tensions.²⁴ He proposed opening the Northern Sea Route to international trade with the Soviet navy playing a key role in increasing its accessibility for shipping vessels.²⁵ Furthermore, Gorbachev called for cooperation and exchange of international knowledge surrounding both Arctic resource exploitation, and the preservation of the Arctic's delicate ecosystem.²⁶ Gorbachev called for a conference to coordinate scientific research in the Arctic, and to discuss the possibility of a joint Arctic research council.²⁷ These ideas were eventually taken up by the Finnish government, who partnered with Canada to create the Arctic Environmental Protection Strategy (AEPS) in the early 1990's,²⁸ bringing together the Arctic states to address core issues central to the Arctic through programs including the Arctic Monitoring and Assessment Program (AMAP); the Protection of the Marine Environment in the Arctic; Emergency Prevention, Preparedness and Response; and the Conservation of Arctic Flora and Fauna (CAFF) working groups.²⁹ The AEPS served as a direct precursor to the Arctic Council, and initially focused primarily on the scientific and environmental issues identified in Gorbachev's Murmansk speech.³⁰ Indigenous peoples issues, however, were not included in the AEPS's initial establishment documentation, the Rovaniemi Declaration,³¹ despite the fact that they were mentioned during this pivotal speech given in Murmansk.

²⁴ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1–20.

²⁵ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1–20.

²⁶ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1–20.

²⁷ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1–20.

²⁸ Thomas Axworthy and Ryan Dean, "Changing the Arctic Paradigm from Cold War to Cooperation: How Canada's Indigenous Leaders Shaped the Arctic Council," *The Yearbook of Polar Law* V (2013): 7–43.

²⁹ "The Arctic Environmental Protection Strategy (The Rovaneimi Declaration and the Nuuk Declaration)," *Northern Perspectives, Canadian Arctic Resources Committee* 21, no. 4 (1994): 4–7.

³⁰ Axworthy and Dean, "Changing the Arctic Paradigm from Cold War to Cooperation: How Canada's Indigenous Leaders Shaped the Arctic Council," 7–43.

³¹ "The Arctic Environmental Protection Strategy (The Rovaneimi Declaration and the Nuuk Declaration)," 4–7.

When examining Gorbachev's Murmansk speech as the motivational doctrine for the Arctic Council, point four of his framework is most consequential for the eventual inclusion of Indigenous peoples as Permanent Participants on the Arctic Council. Point four highlights the significance of scientific study in the Arctic, and how its importance to mankind makes it an ideal avenue for international cooperation in scientific research.³² Building off of this point, Gorbachev states that "questions involving the interests of the North's Indigenous population and the study of its ethnic characteristics and the development of cultural links among northern peoples require special attention."³³ On one hand, some of this language is problematic because Gorbachev portrays Indigenous cultures as avenues for research that should be studied for their scientific value, in the same way that scientists might study marine life or flora of the Arctic. Despite this, Gorbachev's recognition of Indigenous peoples' knowledge and culture is still noteworthy, as he correctly identifies Indigenous cultures as a crucial element of the Arctic, and acknowledges the unique nature of their groups. In the ensuing years, this recognition would serve as the proverbial 'foot in the door' for Indigenous concerns in the Arctic as they built off of this recognition and eventually became Permanent Participants on the Arctic Council. Much like the Finns seized upon certain ideas in Gorbachev's Murmansk speech to create the AEPS, Arctic Indigenous activists at the time took this particular piece of Gorbachev's speech to expand and incorporate Indigenous rights into the AEPS, eventually leveraging this into the role of Permanent Participants on the Arctic Council.

Indigenous Activism

Gorbachev's Murmansk speech proved so pivotal to the establishment of the Permanent Participant role in part because his mentions of the Arctic Indigenous peoples and cultures

³² "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1-20.

³³ "Speech by Comrade M. S. Gorbachev," *The Current Digest of the Russian Press* 1-20.

tapped into a growing movement of Indigenous activism that was especially noteworthy above the Arctic Circle. Within the Soviet Union, Indigenous groups utilized the structures of the Communist Party to develop their language and cultural identities, tapping into Leninist ideology surrounding the promotion of ethnic minorities within the U.S.S.R.³⁴ Consequentially, when Gorbachev's *glasnost* policies enabled more open political communication between Soviet Indigenous groups and the outside world, Russian Indigenous activists emerged as crucial allies for the growing global Indigenous peoples movement.³⁵ These emboldened activists met in 1990 to establish the 'Association of Small Peoples of the Soviet North', an umbrella organization to represent the interests of Arctic Indigenous people in Russia.³⁶ Following the fall of the Soviet Union, the organization now operates as the Russian Association of Indigenous Peoples of the North (RAIPON), and participated both in the AEPS and is one of the Indigenous groups represented as Permanent Participants on the Arctic Council.³⁷

Similar activist awakenings had occurred decades earlier in Scandinavian countries, Canada, and the United States, resulting in the formation of the Saami Council and the Inuit Circumpolar Council. The Saami Council, first established in 1956, sought to connect Saami peoples from Finland, Norway, and Sweden to gain increased rights and visibility from the governments in their respective nations.³⁸ Saami activists and organizers worked to establish parliamentary channels of influence within Nordic countries throughout the 1970's and 80's, and their considerable regional presence contributed to the overall rise of other Arctic Indigenous

³⁴ Gray, "Chukotka's Indigenous Intellectuals and Subversion of Indigenous Activism in the 1990s," 143–61.

³⁵ Gray, "Chukotka's Indigenous Intellectuals and Subversion of Indigenous Activism in the 1990s," 143–61.

³⁶ Johannes Rohr, "IWGIA Report 18: Indigenous Peoples in the Russian Federation" (Copenhagen, Denmark: International Working Group for Indigenous Affairs, 2014).

³⁷ Evan Bloom, "Establishment of the Arctic Council," *The American Journal of International Law* 93, no. 3 (July 1999): 712–22.

³⁸ Eva Josefsen, "The Saami and the National Parliaments: Channels for Political Influence," Case Study (Mexico: Inter-Parliamentary Union; United Nations Development Programme, 2010).

movements.³⁹ The Inuit Circumpolar Council (ICC) also sought to unite culturally similar peoples across borders in 1977, following a decade of Indigenous political activism throughout Canada, the U.S. state of Alaska, and Greenland.⁴⁰ Greenlandic Inuit, for example, were in the process of petitioning for greater autonomy from the Kingdom of Denmark, eventually achieving increased sovereignty through Home Rule in 1979.⁴¹ Primary demands across borders included self-determination, political autonomy, and increased opportunities for economic development, with the ICC seeking to both promote these interests and strengthen Inuit unity.⁴² This legacy of Indigenous activism led the ICC to involve itself within the AEPS, and eventually with the Arctic Council as one of the first Permanent Participant groups.⁴³ Both the Saami Council and the ICC incorporated the Saami and Inuit Russian peoples into their organizations following the fall of the Soviet Union in 1992, which removed many of the institutional barriers these Indigenous groups had come up against under Communist rule.⁴⁴

Building off of this activism, individuals including ICC President Mary Simon pushed for the inclusion of Indigenous peoples on the Arctic Council, pressuring politicians to include them as Permanent Participants and not simply grant them ‘observer’ status. Though Mary Simon was not the only Indigenous leader responsible for creating the Permanent Participant role, she was among the most dedicated and influential.⁴⁵ She responded to Gorbachev’s Murmansk speech by bringing an ICC delegation to the Soviet Union, used her position within the ICC to encourage the AEPS to address Indigenous concerns, promoted the Arctic Council’s agenda within and

³⁹ Josefsen, “The Saami and the National Parliaments: Channels for Political Influence.”

⁴⁰ Gary N. Wilson and Heather A Smith, “The Inuit Circumpolar Council in an Era of Global and Local Change,” *International Journal*, The Arctic is hot, part II, 66, no. 4 (Autumn 2011): 909–21.

⁴¹ Wilson and Smith, “The Inuit Circumpolar Council in an Era of Global and Local Change,” 909–21.

⁴² Wilson and Smith, “The Inuit Circumpolar Council in an Era of Global and Local Change,” 909–21.

⁴³ “Ottawa Declaration on the Establishment of the Arctic Council” (Arctic Council Secretariat, September 19, 1996).

⁴⁴ Gray, “Chukotka’s Indigenous Intellectuals and Subversion of Indigenous Activism in the 1990s,” 143–61.

⁴⁵ Axworthy and Dean, “Changing the Arctic Paradigm from Cold War to Cooperation: How Canada’s Indigenous Leaders Shaped the Arctic Council,” 7–43.

outside of Canada, and ultimately was a key figure in securing the position of Permanent Participant.⁴⁶ The ICC, Saami Council, and RAIPON lobbied the AEPS to include ‘sustainable development’ for Arctic peoples, and for the organization to recognize Indigenous knowledge, which it did through the Nuuk Declaration of 1993.⁴⁷ Simon recognized, however, that she was more of an observer than a participant in the AEPS, despite her position as a representative of the ICC, which she felt was unjust given that the AEPS (and eventually the Arctic Council) claimed to represent the interests of Indigenous peoples.⁴⁸ During the 1996 negotiations that resulted in the “Ottawa Declaration on the Establishment of the Arctic Council,” Simon worked closely with the Saami Council and the Canadian delegation to ensure that the role of Permanent Participant was enshrined in the foundational documents of the Arctic Council.⁴⁹ Finally, following the Ottawa Declaration and a two year-long negotiation process on the Arctic Council’s rules of procedure, the Arctic Council recognized Permanent Participants as a special status reserved for Indigenous groups, separating them from other observer states such as the United Kingdom or Poland, and thereby cementing their role within the institution.⁵⁰ Simon and her peers built off of both Gorbachev’s Murmansk speech and existing Indigenous activism within the Arctic to establish this revolutionary position of Permanent Participants as high-ranking members within the Arctic Council.

While the ICC, RAIPON, and the Saami Council were critical to the inclusion of Indigenous voices on the Arctic Council, their work also enabled other Arctic Indigenous groups to gain the status of Permanent Participant, further promoting issues critical to broader Arctic

⁴⁶ Axworthy and Dean, “Changing the Arctic Paradigm from Cold War to Cooperation: How Canada’s Indigenous Leaders Shaped the Arctic Council,” 7–43.

⁴⁷ “The Arctic Environmental Protection Strategy (The Rovaneimi Declaration and the Nuuk Declaration),” 4–7.

⁴⁸ Stig Brøndbo, “Interview with Mary Simon,” *Shared Voices*, 2016,

⁴⁹ Axworthy and Dean, “Changing the Arctic Paradigm from Cold War to Cooperation: How Canada’s Indigenous Leaders Shaped the Arctic Council,” 7–43.

⁵⁰ Arctic Council Rules of Procedure: As Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting” (Arctic Council Secretariat, September 17, 1998)

Indigenous community. The first full-fledged meeting of the Arctic Council in 1998 welcomed the Aleut International Association as a Permanent Participant, representing the Aleut peoples of Alaska and Russia.⁵¹ By 2000, the Arctic Athabaskan Council (AAC) and the Gwich'in Council International (GCI) joined the Arctic Council as the final two Permanent Participant groups, representing the Athabaskan and Gwich'in peoples living in both the U.S. and Canada.⁵² Over time, these Permanent Participant groups have proven themselves dedicated members of the Arctic Council, despite operating with small budgets and facing large logistical hurdles to contribute to working groups or attend ministerial meetings.⁵³ Furthermore, as climate change wreaks havoc on the Arctic's delicate ecosystem, the Arctic Indigenous peoples have used their presence on the Arctic Council to advocate for increased respect for Indigenous or traditional knowledge.⁵⁴ While the role of Permanent Participant could be strengthened by allowing these members to vote in Arctic Council Ministerial meetings, the establishment of this permanent role within this regional decision-making body gives these Arctic Indigenous peoples a unique platform to ensure that their narratives are heard by larger nation-state actors.

⁵¹ "The Iqaluit Declaration at the First Ministerial Meeting of the Arctic Council" (Arctic Council Secretariat, September 17, 1998).

⁵² "Barrow Declaration on the Occasion of the Second Ministerial Meeting of the Arctic Council" (Arctic Council Secretariat, October 13, 2000).

⁵³ Sebastian Knecht, "The Politics of Arctic International Cooperation: Introducing a Dataset on Stakeholder Participation in Arctic Council Meetings, 1998–2015," *Cooperation and Conflict* 52, no. 2 (2017): 203–23.

⁵⁴ "Ottawa Declaration on the Establishment of the Arctic Council" (Arctic Council Secretariat, September 19, 1996).

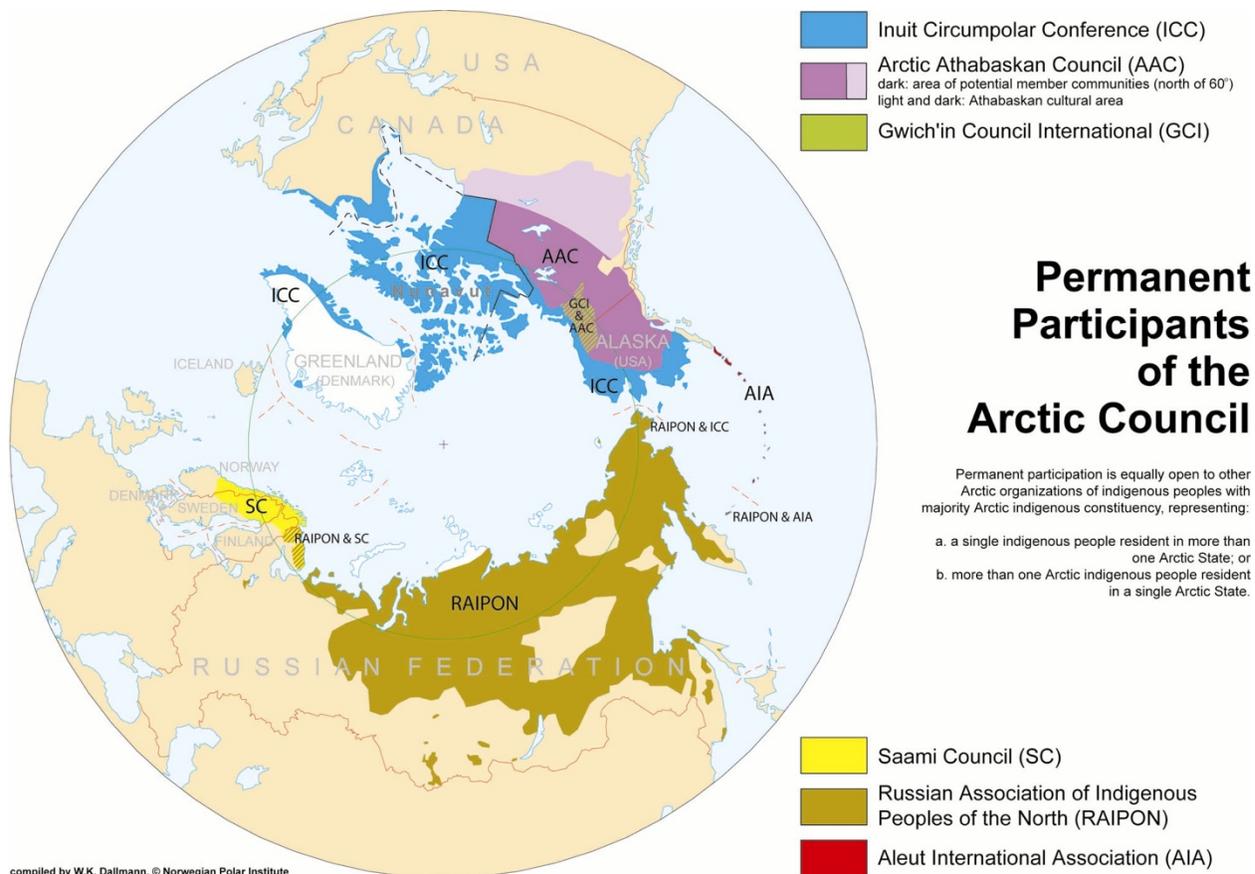


Figure 1: Map depicting the geographical distribution of Permanent Participant groups of the Arctic Council. Compiled by W.K. Dallman of the Norwegian Polar Institute, 2003.

Non-Legally Binding Structure of the Arctic Council

Finally, the non-legally binding structure of the Arctic Council encouraged the incorporation of Indigenous groups as Permanent Participants. While decisions on the Arctic Council are made by consensus of all eight Arctic states, none of the regulations or initiatives that they pass are legally binding, and the Council was purposefully designed so that none of their decisions could be considered enforceable international law.⁵⁵ This lack of legal authority can at times be a hinderance to the Arctic Council's success, as none of its initiatives can be enforced and adherence is therefore optional.⁵⁶ However, as an international body that facilitates communication between Indigenous groups and nation-states, the Arctic Council's lack of legal

⁵⁵ Bloom, "Establishment of the Arctic Council," 712–22.

⁵⁶ Valur Ingimundarson, "Managing a Contested Region: The Arctic Council and the Politics of Arctic Governance," *The Polar Journal* 4, no. 1 (June 24, 2014): 183–98.

authority proves beneficial. This structure both avoids legal questions of state sovereignty in relation to Indigenous peoples, and lowers the stakes for international actors, enabling them to listen to Indigenous voices and cooperate with other states without the potential pressure of a legally binding document that would not serve the state's best interest.

The international law apparatus has no legal precedent to handle the unique claims of Indigenous peoples in regards to land and resources, so the Arctic Council's avoidance of legally binding initiatives circumvents some of these tensions. International laws have historically upheld that states have sovereign rights over their territory, which grants the government the right to use the natural resources of that territory as they see fit.⁵⁷ This concept of sovereignty is why the Canadian government can decide whether it wants to preserve lands or exploit them for resources, and other states have little say over the choice Canada makes (within reason). The legal challenge that has emerged over the past few decades, is that if a state were to grant Indigenous populations control over the natural resources on their ancestral lands, the state would lose the ability to completely control this territory, thereby violating its own sovereignty.⁵⁸ While Indigenous peoples are afforded certain distinct collective rights by international law, they still cannot be represented as sovereign bodies, which is a privilege reserved for states as codified by the 1969 Vienna Convention on the Law of Treaties.⁵⁹ Because the Arctic Council has taken a 'soft law' approach, the institution has avoided these and similar problems in part because it does not seek to engage Indigenous groups as legal actors.⁶⁰

⁵⁷ Daryn Forgeron, "Indigenous Rights: The Hidden Cost of Arctic Development," *Harvard International Review* 36, no. 3 (Spring 2015): 64–67.

⁵⁸ Forgeron, "Indigenous Rights: The Hidden Cost of Arctic Development," 64–67.

⁵⁹ Timo Koivurova and Leena Heinämäki, "The Participation of Indigenous Peoples in International Norm-Making in the Arctic," *Polar Record* 42, no. 221 (2006): 101–9,

⁶⁰ Koivurova and Heinämäki, "The Participation of Indigenous Peoples in International Norm-Making in the Arctic," 101–9.

Gorbachev's Murmansk speech and Indigenous activism provided the motivation and the ideological background for establishing the role of Permanent Participant on the Arctic Council, but it was this non-legally binding structure that incentivized states to allow this to happen. The United States especially did not want to become involved in a new international organization, and only agreed to participate in the Arctic Council if it was not legally bound to its decisions.⁶¹ This hesitation was in part because original versions of the Arctic Council included provisions regarding military security in the Arctic that the U.S. did not want to be legally held accountable for, although the Canadian delegation eventually removed these sections to bring the U.S. onto the Council.⁶² By creating the Arctic Council as a non-legally binding organization, the Council both circumvents the complex issues surrounding concepts of Indigenous rights and state sovereignty under international law, and made it easier for states to participate, as they would not be legally held accountable to the decisions and regulations established by the Council. This has enabled the Arctic Council to consult with and take counsel from the Permanent Participants, and further opens up the channels of communication between Arctic states and their Indigenous peoples.⁶³

Conclusion

While the Arctic Council is far from perfect as an organization, the inclusion of Indigenous groups as Permanent Participants is both revolutionary and puzzling. Although the Arctic states have before and since avoided granting full rights and recognition to Indigenous peoples, during the establishment of the Arctic Council they allowed for the creation of

⁶¹ Bloom, "Establishment of the Arctic Council," 712–22.

⁶² Axworthy and Dean, "Changing the Arctic Paradigm from Cold War to Cooperation: How Canada's Indigenous Leaders Shaped the Arctic Council," 7–43.

⁶³ Koivurova and Heinämäki, "The Participation of Indigenous Peoples in International Norm-Making in the Arctic," 101–9.

Permanent Participants, who can speak and provide feedback during Ministerial meetings, though they cannot vote on these same issues.

The establishment of the Permanent Participants within the Arctic Council is due to three interconnected concepts; the ideas discussed in Mikhail Gorbachev's Murmansk speech, Indigenous activism, and the non-legally binding structure of the Arctic Council. Gorbachev's Murmansk speech reignited global interest in the Arctic region, leading to the establishment of the Arctic Environmental Protection Strategy (AEPS), which eventually began promoting ideals of sustainable development and recognizing the importance of Indigenous knowledge due to efforts from Arctic Indigenous activists. These activists built off of a long history of Arctic Indigenous activism to fight for increased representation in first the AEPS, and eventually within the Arctic Council. Through the work of the Inuit Circumpolar Council, the Saami Council and the Russian Association of Indigenous Peoples of the North, the role of Permanent Participant was created for Arctic Indigenous peoples, providing for the privileges they currently enjoy on the Arctic Council.

All of this work would have gone to waste if the Arctic Council did not have a non-binding legal structure. This allowed the Arctic Council to avoid tricky questions of state sovereignty and Indigenous rights, and incentivized reluctant states to join the organization, as they would not be held legally liable for the initiatives or regulations established by the Council. Taken together, these three elements fostered the growth of the Permanent Participant role for Indigenous peoples on the Arctic Council, providing the impetus and the necessary framework to carry this revolutionary idea into reality. The Arctic Council still has room to improve, and would greatly benefit from further incorporating Indigenous voices by allowing Permanent Participants the right to vote in Ministerial meetings. However, the vital role Permanent

Participants play within this international decision-making body marks an important step for Indigenous rights both within the Arctic and across the globe, as their participation proves that inclusion of Indigenous voices is both possible and beneficial to the organization as a whole.

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