

'One Map to Rule Them All'? Revisiting Legalities Through Cartographic Representations of the Northwest Passage

Apostolos Tsiouvalas & Jan Jakub Solski

To cite this article: Apostolos Tsiouvalas & Jan Jakub Solski (08 Nov 2023): 'One Map to Rule Them All'? Revisiting Legalities Through Cartographic Representations of the Northwest Passage, *Ocean Development & International Law*, DOI: [10.1080/00908320.2023.2273288](https://doi.org/10.1080/00908320.2023.2273288)

To link to this article: <https://doi.org/10.1080/00908320.2023.2273288>



© 2023 The Author(s). Published with license by Taylor & Francis Group, LLC



Published online: 08 Nov 2023.



Submit your article to this journal [↗](#)



Article views: 286



View related articles [↗](#)



View Crossmark data [↗](#)

‘One Map to Rule Them All’? Revisiting Legalities Through Cartographic Representations of the Northwest Passage

Apostolos Tsiouvalas^{a,b} and Jan Jakub Solski^a

^aNorwegian Centre for the Law of the Sea (NCLOS), UiT The Arctic University of Norway, Tromsø, Norway;

^bThe Arctic Institute—Center for Circumpolar Security Studies, Washington, DC

ABSTRACT

In the legal conceptualization of space, cartography has always been a fundamental tool narrating, representing, generating, or even (re) claiming territory. In this article, we examine the relationship between cartography and international law by looking at different cartographic representations of the area covering the disputed “Northwest Passage” (NWP). In an attempt to discuss how mapping may spring from different ontological assumptions of space among sovereign states and Indigenous communities, this article is devoted to investigations concerning different forms of law–space entanglements drawn from 12 different maps pertinent to the NWP, aiming to critically reconsider the very essence of law applicable to the region. The article supports the argument that approaching the juridical architecture of the Arctic from a pluralistic perspective that also accounts for non-Western visions of space may help as a valuable conceptual lens to rethink “territory” and revisit existing legal realities.

ARTICLE HISTORY

Received 18 April 2023
Accepted 17 October 2023

KEYWORDS

cartography; Inuit spatial thinking; Low-Impact Shipping Corridors Initiative; Northwest Passage; ocean space

Introduction

Maps have always been among the most significant cultural artifacts of human societies, interlacing text along with images and manifesting how human beings conceptualize space.¹ Cartography, as the art and science of graphically representing space, serves a vital role as a source of the narrative of space. As such, maps contribute to the emergence of a narrative of space by means of its partition, the production of “territory”² and the consequential organization of it into thematically relevant segments. This partitioning may rely upon geographic criteria (e.g., oceans, rivers, mountains), as well as cultural (e.g., nations, religions), political (e.g., states, allies/enemies), legal (e.g., sovereign borders, jurisdictional boundaries), and many other criteria. It is this

CONTACT Apostolos Tsiouvalas  apostolos.tsiouvalas@uit.no 

¹ Marie-Laure Ryan, Kenneth Foote and Maoz Azaryahu, *Narrating Space/Spatializing Narrative: Where Narrative Theory and Geography Meet* (Ohio State University Press, 2017), 44.

² The much-contested concept of “territory” is generally used to denote the derivative form of space denoting a produced juridico-political area controlled by a certain kind of power rather than merely a geographical one. See Stuart Elden, *The Birth of Territory* (University of Chicago Press, 2013), 9.

multimodal architectural function of maps that makes them, thus, powerful storytellers of space, as well as of relations and life within it.³

When looking at how cartography marks legalities within space, a causal relationship between cartography and law can be observed: Established legal orders may be incorporated on a map, while, in turn, a map may put forward existing legal or political claims over space in support of a legal argument. In other words, mapping becomes both a “requirement” and a “tool” of power over space,⁴ since maps operate as instruments of legal power, capable of narrating, representing, generating, or even (re)claiming territory.⁵ Drawing lines on space (what Deleuze and Guattari call “striation”)⁶ and representing it as a horizontal flattened Euclidean surface⁷ have been historically a necessary precondition for the creation of sovereign states, aiming to conceptualize space as “territory” and establish sovereign power over a demarcated area,⁸ wherein the sovereign entity succeeds independence from external unconsented intervention (or interference) and determines the monopoly of violence. Territory as a bounded space in international law appears as a historical, geographical, political, and juridical concept that is in constant need of being exercised and performed by sovereign entities. The concept of “territory” is thus not a state of “existence” but a “semiotic practice” originating from the land, which, in turn, gives existential meaning to space and makes it amenable to sovereign power, appropriation, and legal treatment.⁹ In turn, the manner according to which states’ geographical limits are determined, as well as the way authority and control over a people are exercised, is further known as *territoriality*.¹⁰ Taking, however, the concept of territory as granted in thinking about space and idealizing the territorial state as the sole molder of spatiality fall under what Agnew labels as a “territorial trap.”¹¹ Maps thus as an instrumental means of territorializing space and drawing lines upon it have historically borne the responsibility of perpetuating the territorial trap of international law. Yet with borders shifting, new actors emerging, and legal as well as geopolitical relationships constantly changing, cartography becomes a complex and ever-evolving tool in determining law’s relationship to space.¹²

Early modern European cartographic representations of the world provide valuable information about how actors thought about political space, organization, and authority

³ Ryan, Foote and Azaryahu, note 1, 38.

⁴ Elden, note 2, 324.

⁵ William T. Worster, “Maps Serving as Facts of Law in International Law” (2018) 33 *Connecticut Journal of International Law* 279, 293–301.

⁶ The concept of “striation” is particularly discussed in Gilles Deleuze and Felix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (Bloomsbury, 2021), 563.

⁷ Doreen B. Massey, *Space, Place, and Gender* (University of Minnesota Press, 1994), 107.

⁸ Henry Jones, “Lines in the Ocean: Thinking With the Sea About Territory and International Law” (2016) 4 *London Review of International Law* 307, 308; see also John B. Harley and Paul Laxton, *The New Nature of Maps: Essays in the History of Cartography* (Johns Hopkins University Press, 2001), 59.

⁹ Apostolos Tsiouvalas, “Recalcitrant Materialities of a Liminal Ocean: Deconstructing the ‘Arctic Nomos’” (2022) XIV *Yearbook of Polar Law* 76, 80.

¹⁰ Philip E. Steinberg, “Sovereignty, Territory, and the Mapping of Mobility: A View from the Outside” (2009) 99 *Annals of the Association of American Geographers* 467, 470.

¹¹ John Agnew, “The Territorial Trap: The Geographical Assumptions of International Relations Theory” (1994) 1 *Review of International Political Economy* 53, 77.

¹² Friedrich Kratochwil, “Of Maps, Law, and Politics: An Inquiry into the Changing Meaning of Territoriality” (2011) 03 *DIIS Working Paper* 1, 8.

upon it.¹³ Since the beginning of colonization and the dawning of international law, the study of the world gained enormous impetus from overseas voyaging that necessitated an increase in both navigation and cosmography.¹⁴ From the 15th century onward, cartography has served as an instrumental means for European nations to ascertain sovereignty over space and presume imperial claims over previously uncharted areas legally conceptualized as, among others, “*terra incognita*,” “*terra nullius*,” or “*vacuum domicilium*.”¹⁵ Cartography was of decisive importance in these imperial endeavors of European nations, as the world previously “unknown” to the west needed to be illustrated as a “blank space” on maps, thereby opening new avenues for sovereign claims and colonial expansion.¹⁶ Against the backdrop of a territorial conceptualization of space, the colonial world was subject to the acquisition of title through occupation, since “space” in the preexisting societies of the “new” world was not territorially organized by a sovereign authority, delineated boundaries, and land ownership in a Western sense, and thus was considered to be “vacant.”¹⁷ More specifically, nomadic societies were seen as the furthest from sovereign authority, as they lacked permanent territorial confinements and consistent agriculture and fisheries operations: facts that allowed European empires to justify colonization.¹⁸ This dialectic between an imagined vacant space and the processes of drawing lines on it is well anchored in the foundations of the international legal order, and cartography served as a major tool for the latter to attain its expansion.

In this context, throughout the age of “discovery”—or better, “rediscovery,” as De Gourdon puts it¹⁹—the conceptualization of the colonial world as a “*terra nullius*” waiting for European authority and resource extraction was supported by maps of large void spaces that portrayed the Americas (and not least other parts of the world) as an empty territory open for appropriation and exploitation.²⁰ Under the doctrine of discovery, the newly charted areas soon became the European states’ transoceanic territories, vacant of any pre-existing authority and hence susceptible to “occupation” and subject to the colonial rule’s political and economic ambitions.²¹ Soon after, cartography became a device to enable slavery, forced relocations of Indigenous communities, systematized assimilation policies, massive land theft, and even genocides in the newly “discovered” world.²² Under this rationale, America soon became a “produced”

¹³ Jordan Branch, “Mapping the Sovereign State: Technology, Authority, and Systemic Change” (2011) 65 *International Organization* 1, 1–36; see also Christopher R. Rossi, *Remoteness Reconsidered: The Atacama Desert and International Law* (University of Michigan Press, 2021).

¹⁴ Christopher Tomlins, “The Legal Cartography of Colonization, the Legal Polyphony of Settlement: English Intrusions on the American Mainland in the Seventeenth Century” (2001) 26 *Law & Social Inquiry* 315, 316.

¹⁵ *Ibid.*, 362.

¹⁶ Kratochwil, note 12, 26.

¹⁷ Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (University of Minnesota Press, 2014), 100.

¹⁸ Usha Natarajan and Kishan Khoday, “Locating Nature” in Usha Natarajan and Julia Dehm (eds), *Locating Nature—Making and Unmaking International Law* (Cambridge University Press, 2022) 37, 38.

¹⁹ Come Carpentier de Gourdon, “The First America Vs ‘America First’: The Latin Alternative in the ‘New World’” (2005) 9 *World Affairs: The Journal of International Issues* 11, 11–30.

²⁰ Thomas J. McGurk and Sébastien Caquard, “To What Extent Can Online Mapping Be Decolonial? A Journey Throughout Indigenous Cartography in Canada” (2020) 64 *The Canadian Geographer/Le Géographe Canadien* 49, 51; see also Kratochwil, note 12, 26.

²¹ Tomlins, note 14, 323.

²² Emily Jacobi, “Indigenous Cartography & Decolonizing Mapmaking” 22 June 2020, *Technology Solidarity* at: <https://medium.com/technology-solidarity/indigenous-cartography-decolonizing-mapmaking-a6357112d7a7> (accessed 26 January 2023).

European territory charted through maps and legal documents that established jurisdictions in bounded spaces, while dispossessing and destructing preexisting Indigenous populations.²³ In turn, non-Western conceptualizations of space constructed through competing epistemologies were deemed inferior or incorrect and misrecognized in many cases.²⁴

This article looks at different cartographic representations of the geographical area of the Northwest Passage (NWP) to discuss how mapmaking may be shaped by different ontological assumptions of space among sovereign states and Indigenous communities who have been living in the Arctic region since long before the arrival of Europeans. The NWP is a name given to a set of marine routes between the Atlantic and the Pacific oceans, passing through the Canadian Arctic Archipelago.²⁵ Owing to the effects of climate change in the Arctic, the NWP is expected to become increasingly navigable, potentially offering new opportunities for more cost-effective shipping.²⁶ In parallel, and etymologically different from the orientationally Eurocentric and transient notion of “passage,” the area is part of *Inuit Nunangat*, the traditional homeland of the Inuit people.²⁷ Rich ethnographic documentation provides that, from time immemorial, Indigenous communities in this region, like elsewhere in the colonial world, had developed their own mapping tools to narrate space and display their normative relationship to other beings and the surrounding landscape.²⁸ Yet colonization had a deep impact on such traditions and led to their assimilation into mainstream European cartographic techniques.²⁹

Throughout the previous century, and most prominently over the last few decades, the legal status of the NWP has been the subject of debate, with cartography being used as means by competing actors to represent and support legal claims pertinent to the region. Canada’s arguments, represented on maps, include the ephemeral references to the sector principle, reliance on historic title, use of straight baselines, and the application of functional environmental jurisdiction. At the same time, Canada has, at times, invoked the Inuit presence in the region and the traditional utilization of the sea ice and waters in reinforcing its sovereign claims.³⁰ Navigating within maps that contributed to the legal–spatial development of the NWP, this article investigates how cartography has historically functioned as a tool for narrating legal space in the region, fostering claims over territory and promoting settler colonialism in one of the

²³ Tomlins, note 14, 316.

²⁴ John B. Harley, “Deconstructing the Map” (1989) 26 *Cartographica* 1, 1–20.

²⁵ W. Østreng, K. M. Eger, B. Fløistad et al., *Shipping in Arctic Waters: A Comparison of the Northeast, Northwest and Trans Polar Passages* (Springer, 2013), 22.

²⁶ Lawrence R. Mudryk, Jackie Dawson, Stephen E. L. Howell et al., “Impact of 1, 2 and 4°C of Global Warming on Ship Navigation in the Canadian Arctic” (2021) *Nature Climate Change* 673, 673–679.

²⁷ See “The Inuit Circumpolar Council Political Universe,” *Inuit Circumpolar Council* at: <https://www.inuitcircumpolar.com/about-icc/icc-political-universe> (accessed 26 January 2023).

²⁸ See, among others, Mia M. Bennett, Wilfrid Greaves, Rudolf Riedlsperger et al., “Articulating the Arctic: Contrasting State and Inuit Maps of the Canadian North” (2016) 52 *Polar Record* 630, 630–644.

²⁹ *Ibid.*

³⁰ The Secretary of State for External Affairs, Joe Clark, in support of Canada’s argument about the status of the passage claimed that “These islands are joined, and not divided, by the waters between them. They are bridged for most of the year by ice. From time immemorial Canada’s Inuit people have used and occupied the ice as they have used and occupied the land.” Referring to Joe Clark, Secretary of State for External Affairs, Statement on Sovereignty, September 10, 1985, reprinted in Franklyn Griffiths, *Politics of the Northwest Passage* (McGill–Queen’s University Press, 1987), 269–270.

most geopolitically significant areas of the planet. While it seems countercanonical for international lawyers to problematize the axiomatic nature of territorialized space reflected in maps and to reimagine space beyond the territorial common sense,³¹ this article approaches cartography as a historical actant that seeks to homogenize space in order to represent a single territorial reality experienced, practiced, and controlled by sovereign states. However, the article also demonstrates that the cartographic representation of the NWP is not limited to mainstream hegemonic conceptualizations of space, territory, and resources, and that the Inuit have developed mapping tools in accordance with their own legal-spatial worldviews and geophilosophies.³² With the NWP rapidly opening up to international commercial navigation, approaching the juridical architecture of the Arctic Ocean from a pluralist perspective that also accounts for non-Western visions of space may help as a valuable conceptual lens to rethink “territory,” imagine cartography beyond its predetermined territorial confinements, and revisit existing legal realities.

Early Eurocentric Cartographic Representations of the Northwest Passage

Although the idea of a northern ocean passage connecting the west and east edges of the *oikoumene* (the known world) can be traced back to the Greco-Roman geographer Ptolemy and the second century AD, the first efforts of European nations to navigate and chart the Northwest Passage did not take place before the 16th century, when the expeditions over North America were intensified.³³ At that time, a remote area such as the Arctic, inhabited only by Indigenous peoples, was considered *terra nullius* and therefore susceptible to occupation based on the precedent of first discovery. Probably the very first assertion of *dominium* over the region took place in the 15th century when the colonial empires of Spain and Portugal on the grounds of Pope Alexander VI's Papal Bulls and the following 1494 Treaty of Tordesillas divided the oceans into two large segments.³⁴ The Treaty of Tordesillas expanded the former papal decree *Inter caetera*, which had already given Spain and Portugal exclusive jurisdiction to trade with the non-Catholic world.³⁵ By drawing a vertical line cutting eastern Brazil, the Treaty of Tordesillas established exclusive rights for Spain to navigation and resource management in the western portion of the Atlantic, the Gulf of Mexico, and the Pacific

³¹ Nikolas M. Rajkovic, “The Visual Conquest of International Law: Brute Boundaries, the Map, and the Legacy of Cartogenesis” (2018) 31 *Leiden Journal of International Law* 267, 271.

³² We hereby borrow the term “geophilosophies” from Peters to denote the geographically informed modes of thinking; see Kiberley Peters, “The Territories of Governance: Unpacking the Ontologies and Geophilosophies of Fixed to Flexible Ocean Management, and Beyond” (2020) 375 *Royal Society* 1814.

³³ From the ancient Greek times until the late 15th century, most educated Europeans were cognizant of the fact that the world (at the time consisting of Europe, Asia, and North Africa) is a sphere and thus its far left and far right margins should connect at a certain point. See Margaret Small, “From Jellied Seas to Open Waterways: Redefining the Northern Limit of the Knowable World” (2007) 21 (2) *Renaissance Studies* 315; even earlier, in the eighth century BC, Hesiod argued that the extreme limits of land, sea, and air all meet. See Hesiod, *Theogony* (Penguin Classics 1971), 736–742.

³⁴ Donald R. Rothwell and Tim Stephens, *The International Law of the Sea* (Hart, 2016), 2

³⁵ See, in particular, Pope Alexander's third bull *Inter Caetera* (4 May 1493), which granted to the monarchs of Aragon and Castile all lands of the “west and south” of a pole-to-pole line 100 leagues west. See “AD 1493: The Pope Asserts Rights to Colonize, Convert, and Enslave” in *Native Voices Native Peoples' Concepts of Health and Illness* at: <https://www.nlm.nih.gov/nativevoices/timeline/171.html#:~:text=convert%2C%20and%20enslave-,AD%201493%3A%20The%20Pope%20asserts%20rights%20to%20colonize%2C%20convert%2C,its%20Native%20peoples%20as%20subjects> (accessed 26 January 2023).

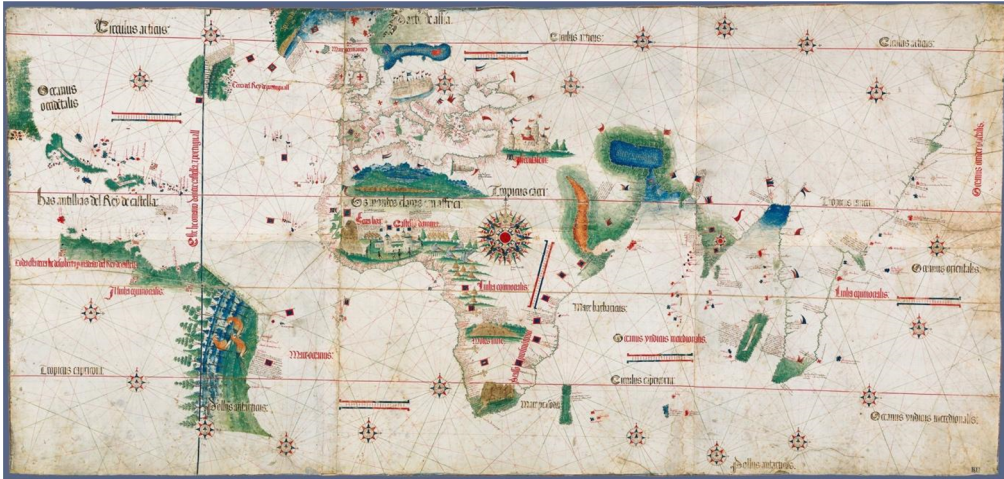


Figure 1. *Cantino planisphere*. The blue vertical line on the left marks the division of possession of newly discovered lands outside Europe between Portugal and Spain, according to the 1494 Treaty of Tordesillas. Source: Biblioteca Estense Universitaria, Modena, Italy. Retrieved from Wikimedia Commons, https://upload.wikimedia.org/wikipedia/commons/9/9c/Cantino_planisphere_%281502%29.jpg

Ocean, and for Portugal in the Atlantic segment south of Morocco and in the Indian Ocean. The Treaty's essential clause referred to the polar regions, too, stipulating that a vertical boundary [*una raya o línea*] was drawn from pole to pole [*derecha de polo a polo del polo Ártico al polo Antártico*] on the said ocean (denoting the Atlantic).³⁶ The oldest preserved map depicting this division and including the polar waters is probably the 1502 Portuguese map *Cantino planisphere* (Figure 1).³⁷ Yet, as the map demonstrates, at this time, European knowledge about North America was minimal and the Arctic was not yet charted or conceptualized as a traversable space with commercial interests for sovereign states. This is not surprising, given that for many centuries the region's vast remoteness and severe climatic conditions did not render the Arctic waters very navigable nor attractive to permanent operations for resource exploitation. Thus, the first assertions of legal claims over the Arctic marine space were not strongly asserted until the early 20th century.³⁸

Three years after the Treaty of Tordesillas, John Cabot's expedition set sail with the *Matthew*, commonly considered the earliest European exploration of the North American coast, in an attempt to find the Northwest Passage.³⁹ Although precise information about the journey of Cabot does not exist, his voyage marked England's first foray into

³⁶ Treaty of Tordesillas, June 7, 1494, Spanish–English ed., in Frances Gardiner Davenport, *European Treaties Bearing on the History of the United States and Its Dependencies to 1648* (Carnegie Institution, 1917), 1:86–100, clause 1.

³⁷ Owing to the limited cartographic methods of the Renaissance, several errors pertinent to the calculation of the geographic lines exist on the map. See Joaquim Alves Gaspar, "Blunders, Errors and Entanglements: Scrutinizing the Cantino Planisphere with a Cartometric Eye" (2012) 64 (2) *Imago Mundi (Lympe)* 181, 181–200.

³⁸ Indeed, fishing and hunting in search of goods such as ivory and fur were already taking place in the Arctic from the 16th century on the basis of freedom of navigation and exploitation; on the early exploitation activities in the Arctic Ocean, see Donat Pharand, "Freedom of the Seas in the Arctic Ocean" (1969) 19(2) *University of Toronto Law Journal* 210, 210–233.

³⁹ Derek Croxton, "The Cabot Dilemma: John Cabot's 1497 Voyage & the Limits of Historiography" (1990) 33 *Essays in History* 42, 42–60.

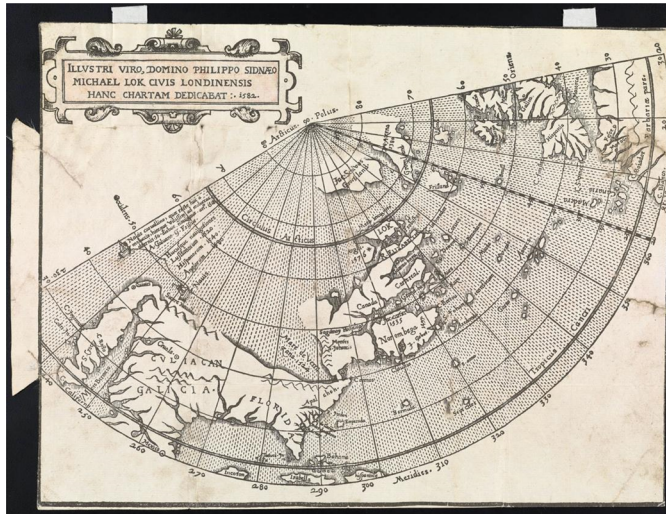


Figure 2. Michael Lok, *Illustri Viro, Domino Philippo Sidnaeo Michael Lok Civis Londinensis Hanc Chartam Dedicabat* (1582). The map, prepared by Michael Lok for Richard Hakluyt's *Divers Voyages* in 1582, displays North America as an empty territory ready to be further explored and appropriated by the European settlers affirming English claims through sovereignty and occupation under the doctrine of discovery. Source: Osher Map Library, Osher Collection, www.oshermaps.org/map/316

the new age of discovery and served as a foundation for England's later legal claims to North America.⁴⁰ Based on the hypothesis that a navigable sea route existed north and west around North America, from that time and for more than two centuries onward, European states sponsored numerous expeditions over the northernmost part of the continent⁴¹ to explore and chart the area nowadays known as the Northwest Passage. Fundamental in further pursuing the exploration of the Passage was the delusion about the existence of the quasi-mythical Strait of Anián boundary between North America and Asia.⁴² The first predictions about the existence of such a strait were documented in 1540 and paved the way for the later charting of the Bering Strait.⁴³

In the decades following Cabot's venture, European expeditions over North America were intensified, and cartographic work of the mid 16th century, most prominently produced by John Dee, and later by merchant Michael Lok, clearly served as an endorsement for colonization, fostering the British claims to North America, and targeting investments in further expeditions.⁴⁴ This idea was reflected in maps that displayed large blank spaces portraying North America as an empty territory open for appropriation and exploitation by the European settlers (Figure 2).⁴⁵ Dispatched

⁴⁰ Ibid.

⁴¹ To mention a few early significant explorers: Gaspar Corte-Real, Jacques Cartier, and Estêvão Gomes. For a comprehensive historical retrospective of European expedition over the Northwest Passage, see Glyndwr Williams, *Voyages of Delusion: The Quest for the Northwest Passage* (Yale University Press, 2003).

⁴² David L. Browman, Stephen Williams, Terry Barnhart et al., *New Perspectives on the Origins of Americanist Archaeology* (University of Alabama Press, 2002), 10–29.

⁴³ Ibid. The Bering Strait was charted much later, after it was first traversed in 1728.

⁴⁴ See Nate Probasco, "Cartography as a Tool of Colonization: Sir Humphrey Gilbert's 1583 Voyage to North America" (2014) 67 *Renaissance Quarterly* 425, 425–472.

⁴⁵ McGurk and Caquard, note 20, 51.

explorers intensively created such maps to chart these “newly discovered” areas, name them (often after their own names), and establish the basis of the expansion of European nations’ sovereignty.⁴⁶ In these semiblack maps, as Kratochwil puts it, “The area readied for colonization remained ‘white’ (for it was unknown) and it was subsequently opened up for ‘whites.’”⁴⁷ The newly explored areas inhabited only by Indigenous peoples gradually fell under the settlers’ sovereignty and “occupation” on the basis of the doctrine of discovery.⁴⁸ However, the difficulty of establishing permanent colonial presence north of the Arctic Circle, owing to the region’s harsh climate, led to a “notional” *sui generis* form of occupation that differed from the rest of the colonial world, and wherein the exercise of administrative power, and thus sovereignty, was initially limited.⁴⁹

In the cartographic illustration of the region and the following pursuit of the Northwest Passage, the contribution of the British explorations of the early 19th century was important, including John Franklin’s three unsuccessful attempts to find the Passage until, in 1845, his boats were tragically lost.⁵⁰ The existence of a passage that connected the Pacific with the Atlantic Ocean throughout the Arctic North thus remained for centuries a mere hypothesis that took hold in the imagination of those Europeans whose unsuccessful journeys in uncharted waters continued until 1854, when Robert McClure first documented a successful voyage through the Passage, combining maritime navigation until the Prince of Wales Strait (between Banks Island and Victoria Island) and overland expedition across Banks Island over frozen waters.⁵¹ To depict the imperial efforts of the British and McClure’s voyage over the Passage, John Hugh Johnson created a compilation consisting of two maps on one sheet, one of the Wellington Channel and Parry Islands, crossing Nunavut and the Northwest Territories, and the other of the wider region north of the Arctic Circle (Figure 3).⁵² Interestingly, Johnson’s creation was not limited to the geographic representation of the Passage but also offered ethnographic documentation of McClure’s trip, with the surrounding imagery portraying the frozen landscape, marine wildlife, Inuit people, and seals hunted by the expeditioners. In a surrounding detail, the map depicts an Inuk man, woman, and child, named as “*Esquimaux*,” dressed in traditional clothes. As observed by Isabelle Gapp, the illustrated Inuit in the map are “visualized as tools in the imperial project,” since they often served as guides and interpreters during such expeditions, and many of them were removed from their homes and communities in order to perform key activities during the colonial endeavors upon a vast part of the passage.⁵³ Hugh Johnson’s map, thus, offers insights into the backdrop of such voyages

⁴⁶ Ibid.

⁴⁷ Kratochwil, note 12, 14.

⁴⁸ Douglas M. Johnston, “The Northwest Passage Revisited” (2002) 33 *Ocean Development & International Law* 145, 156.

⁴⁹ Ibid.

⁵⁰ Andrew Lambert, *The Gates of Hell: Sir John Franklin’s Tragic Quest for the North West Passage* (Yale University Press, 2009).

⁵¹ Williams, note 41.

⁵² Isabelle Gapp, “The Boundaries of Arctic Map-Making: Exploration, Environment and Marginalia” 8 April 2021, *Network in Canadian History & Environment | Nouvelle initiative Canadienne en histoire de l’environnement* at: <https://niche-canada.org/2021/04/08/the-boundaries-of-arctic-map-making-exploration-environment-and-marginalia> (accessed 26 January 2023).

⁵³ Ibid.



Figure 3. Hugh Johnson's *The Arctic Regions* (1856), from John Hugh Johnson, *The Arctic Regions*, showing the North-West Passage as Determined by Cap. R. M. McClure and Other Arctic Voyagers (1856). The map offers ethnographic documentation of McClure's trip, with the surrounding imagery portraying, among others, the frozen landscape, marine wildlife, the Inuit people, and marine mammals hunted by the expeditioners. Source: <https://digital.library.yorku.ca/islandora/object/yul:1153559>

and the expansive process of settler colonialism in the region, echoing previous charting efforts driven by the same incentives of “discovery.” It verifies that throughout the history of the Passage, mapping space became a powerful tool of the territorial dis-possession of Indigenous communities and the establishment of European authority in their traditional homelands.

Disregarding stereotypical colonial narratives that portray Indigenous communities as passive recipients of civilization after the European arrival, the Inuit in many cases harmonically (and even voluntarily) collaborated with the European expeditioners.⁵⁴ Ethnographic sources record that Inuit hunters and European expeditioners and whalers often exchanged goods and services, and contributed to the greater cultural exchange in the context of European expeditions.⁵⁵ The latter was probably increased in the early 20th century when the Norwegian explorer Roald Amundsen became the first expeditioner to sail through Simpson Strait to the south of King William Island and on to the Bering Strait.⁵⁶ Amundsen’s expedition spent about two years in the Inuit hamlet Uqsuqtuuq (Gjoa Haven), learning survival skills and navigation techniques from the local Netsilik Inuit people.⁵⁷ Amundsen and his crew came into close contact with Inuit traditional knowledge, while Western technologies, such as rifles, were introduced to the Inuit.⁵⁸ While a harmonious cultural exchange is at times recorded, the overall nature of cartography in the colonial world consolidated dominant Western narratives of space, supported European legal claims upon territory, and encroached on non-Western forms of conceptualizing space. As the following section argues, mainstream cartographic narratives of space presented territories as homogeneous, absorbing spatialities different from the dominant narrative, and reduced the plurality of spatial orders to simple linear divisions that demarcate territorial borders, determined by the different levels of asserted sovereignty and jurisdiction.⁵⁹

Mapping the Modern Sovereign Dispute Over the NWP

As of 1 September 1880,⁶⁰ Canada established sovereignty over Britain’s former North American territories and possessions, including islands. However, the increase in Arctic exploration spurred by the technological advancement of the beginning of the 20th century gave rise to growing political tensions over possible claims of sovereignty over remote or potentially undiscovered islands in the Arctic.⁶¹ It was felt necessary for Arctic states like Canada and the USSR to come up with prompt and efficient means of defending against possible pretensions of other states to unpopulated islands in the

⁵⁴ Scot Nickels, *Nilliajut: Inuit Perspectives on Security Patriotism and Sovereignty* (Inuit Tapiriit Kanatami, 2013), 19.

⁵⁵ *Ibid.*

⁵⁶ Carol Brice-Bennett, “Inuit Land Use in the East-Central Canadian Arctic” in Milton M. R. Freeman (ed), *Inuit Land Use and Occupancy Project—Volume One: Land Use and Occupancy* (Minister of Supply and Services, 1976), 76–81.

⁵⁷ *Ibid.*

⁵⁸ These exchanges also contributed to Inuit hunting techniques, since Amundsen introduced to Uqsuqtuuq rifles. See Gita Ljubicic, Simon Okpakok, Sean Robertson et al., “Uqsuqtuurmiut Inuita Tuktimi Qaujimaningit (Inuit Knowledge of Caribou From Gjoa Haven, Nunavut): Collaborative Research Contributions to Co-Management Efforts” (2018) 54 (3) *Polar Record* 213, 213–233.

⁵⁹ Kratochwil, note 12, 14.

⁶⁰ *Adjacent Territories Order* (UK), 1880, reprinted in RSC 1985, App II, No. 14.

⁶¹ Pier Horensma, *The Soviet Arctic* (Routledge, 1991), 21–26.

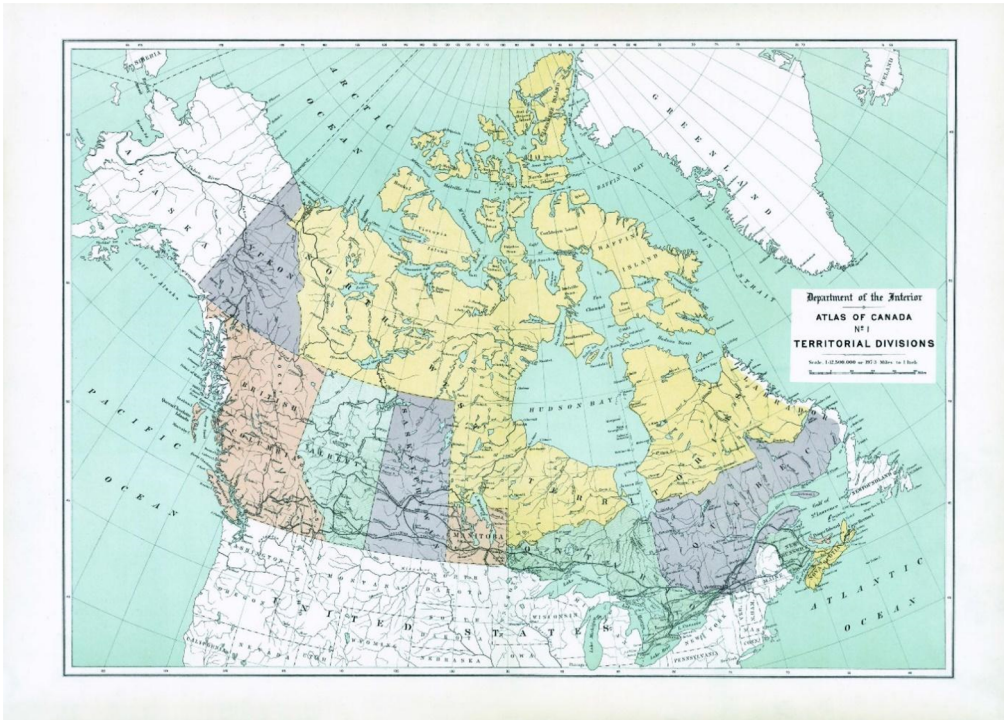


Figure 4. A 1906 Map, First Edition of the Atlas of Canada. The demarcation of the sector line on this map by the Canadian Department of the Interior is the same as the demarcation of Canada's borders. Source: <https://open.canada.ca/data/en/dataset/00eae6e2-d015-5732-aeca-871de6375dee>

Arctic. The requirements of effective occupation—a well-established doctrine of international law at that time—were seen as unattainable in light of the specific geographical features of the region.⁶² It was perceived that the unique characteristics of polar regions rendered generally accepted rules and principles of international law unsuitable for securing title to sovereignty.⁶³ This presumption, in turn, created favorable conditions for the sector theory to emerge and prosper to some extent (see Figure 4, where the map prepared by the Canada's Department of Interior marks a sector line in the same way as it marks state borders).⁶⁴ Using meridians to mark the division of the Arctic into sectors was intended to fill the alleged legal gap as a possible solution for Arctic states to claim title to sovereignty over areas in relation to which “effective occupation” was considered impractical.

Straight lines had been used for delimiting territories in less populated areas,⁶⁵ but the idea of using meridians to divide the Arctic among central Arctic Ocean coastal

⁶² William E. Butler, *Northeast Arctic Passage* (Sijthoff & Noordhoff, 1978), 71.

⁶³ See, for instance, V. Lakhtin, “Rights over the Arctic” (1930) 10 *American Journal of International Law* 703, 704, where he emphasizes that the “normal” course of effective occupation in the Arctic cannot be realized, primarily due to economic limitations.

⁶⁴ Head defines sector theory as “the practice of claiming sovereignty over a sector of the earth's surface, as measured by meridians of longitude.” See Ivan L. Head, “Canadian Claims to Territorial Sovereignty in the Arctic Regions” (1963) 9 *McGill Law Journal* 200, 202.

⁶⁵ Paul Gottschalk, *The Earliest Diplomatic Documents on America; The Papal Bulls of 1493 and the Treaty of Tordesillas* (P. Gottschalk, 1927).



Figure 5. 2016 Map of Circumpolar North, produced by Polar Knowledge Canada and Natural Resource Canada, in collaboration with Global Affairs Canada, available at: <https://www.canada.ca/content/dam/polar-polaire/documents/education/circumpolar-north-nord-circumpolaire.pdf>. This official 2016 map of the Circumpolar North demarcates sector lines as international boundaries.

states specifically can be attributed to Canadian Senator Pascal Poirier.⁶⁶ The theory's compatibility with international law, even in its application to lands and islands, was already questionable at the time when it was proposed,⁶⁷ and Poirier's 1907 motion failed to convince the Canadian Senate at the time.⁶⁸ Canada eventually endorsed the sector theory in 1924, but never consistently invoked it to claim sovereignty over water expanses.⁶⁹ Nevertheless, although in 1969 Prime Minister Trudeau clarified that the sector theory would not apply to the water column or ice, and that the question of the legal status of the waterways and ice is whether they constitute high seas, territorial sea, or internal waters,⁷⁰ one can still observe a peculiar habit of some Canadian institutions to publish maps demarcating what looks like sector lines as international boundaries (see Figure 5).⁷¹ Some confusion is caused by the fact that although Canada does not officially endorse the application of the sector theory in the ocean space, it

⁶⁶ Donat Pharand, *Canada's Arctic Waters in International Law* (Cambridge University Press, 1988), 3.

⁶⁷ *Ibid.* Pharand discusses the concept of contiguity, which served as a legal basis for the sector theory. He dismisses the doctrine of contiguity as a valid principle of international law. His comprehensive analysis has obtained wide recognition.

⁶⁸ Erik Franckx, *Maritime Claims in the Arctic: Canadian and Russian Perspectives* (Martinus Nijhoff Publishers, 1993), 80.

⁶⁹ Pharand, note 66, 48–51.

⁷⁰ Pharand, note 66, 59.

⁷¹ Heather Exner-Pirot, "Poirier's Revenge—The Map of Canada has the Wrong Arctic Boundaries. No, Really" 1 November 2016 at 18:37—Last Updated: Tuesday, 1 November 2016 at 19:17, *Eye on the Arctic* at: <https://www.rcinet.ca/eye-on-the-arctic/2016/11/01/blog-poiriers-revenge-the-map-of-canada-has-the-wrong-arctic-boundaries-no-really> (accessed 26 January 2023).

takes a position that the still unresolved maritime boundary with the United States in the Beaufort Sea should follow the 141st meridian of longitude. While this line coincides with the sector line, it arguably relies on the 1825 Anglo-Russian Boundary Treaty,⁷² not the sector theory.⁷³

The dispute over the legal status of the waters within the NWP arose after the discovery of oil around Prudhoe Bay, Alaska, in 1968.⁷⁴ Canada debated ways to protect the NWP waters from unauthorized foreign vessel passage, especially oil tankers. At the time, Canada claimed these waters as “Canadian waters” without having formulated a clear legal basis.⁷⁵ When addressing the House of Commons, Trudeau adopted a balanced position recognizing that although the waters within the Canadian Archipelago had always been regarded as “national terrain,” there also existed “a contrary view.”⁷⁶

The focus on environmental concerns turned out to be a convenient way of achieving much of what a claim to sovereignty could do. The Throne Speech of 23 October 1969—a year after the announcement of the intention to navigate through the NWP—was the first pronouncement of the Canadian Government’s intent to introduce new legislation “setting out the measures necessary to prevent pollution in the Arctic Seas,”⁷⁷ which crystallized in the adoption of the Arctic Waters Pollution Prevention Act (AWPPA) in 1970.⁷⁸ As observed by McRae, the choice made by Canada then was to take a functional approach, to “exercise only the jurisdiction required to achieve the specific and vital purpose of environmental protection.”⁷⁹ The AWPPA extended Canada’s jurisdiction over foreign vessels to an area of 100 nautical miles (NM) from the land, an area much broader than any acceptable width of the territorial sea (see [Figure 7](#) for the demarcation of the 100 NM Pollution Prevention Zone).⁸⁰ Canada asserted a

⁷² 1825 Convention between Great Britain and Russia Concerning the Limits of their Respective Possessions on the North-West Coast of America and the Navigation of the Pacific Ocean, signed at St. Petersburg, 1825. Reprinted in C. Parry (ed), *Consolidated Treaty Series* (Oceana Publications, 1969), 75, 95–101.

⁷³ David H. Gray, “Canada’s Unresolved Maritime Boundaries” (1997) *IBRU Boundary and Security Bulletin* 61, 61–70. For a discussion on the 141st meridian, see P. Whitney Lackenbauer, “The Beaufort Boundary: An Historical Appraisal of a Maritime Boundary Dispute” in P. Whitney Lackenbauer, Suzanne Lalonde and Elizabeth Riddell-Dixon (eds), *Canada and the Maritime Arctic: Boundaries, Shelves, and Waters* (North American and Arctic Defence and Security Network, 2020), 1.

⁷⁴ Franckx, note 68, 75.

⁷⁵ As discussed by Jan Jakub Solski, “The Genesis of Article 234 of the UNCLOS” (2021) 52 *Ocean Development & International Law* 1, 6–7, Canadian Prime Minister Trudeau reiterated that the declaration of a 100-nm Arctic Waters Pollution Prevention Zone by Canada was not aimed at asserting sovereignty. See Canada, “Canadian Prime Minister’s Remarks on the Proposed Legislation, Transcript of Prime Minister Trudeau’s Remarks to the Press following the Introduction of Legislation on Arctic Pollution, Territorial Sea and Fishing Zones in the Canadian House of Commons on 8 April 1970,” reproduced in “Documents Concerning Canadian Legislation on Arctic Pollution and Territorial Sea And Fishing Zones” (1970) 9(3) *International Legal Materials* 598, 602. However, the waters within the Canadian Arctic Archipelago were still referred to as “Canadian” without specifying what this entails; see Canada, “Canadian Reply to US Government of 16 April 1970, Summary of Canadian Note of April 16, Tabled by the Secretary of State for External Affairs in the House April 17” (1970) 9 *International Legal Materials* 607, 661.

⁷⁶ Michael R. M’Gonigle and Mark W. Zacher, “Canadian Foreign Policy and the Control of Marine Pollution” in Barbara Johnson and Mark W. Zacher (eds), *Canadian Foreign Policy and the Law of the Sea* (University of British Columbia Press, 1977), 109, in reference to *House of Common Debates*, 15 May 1969, 8720.

⁷⁷ *Ibid.*, 111–112, in reference to *House of Common Debates*, 23 October 1969, 3.

⁷⁸ Canada, Arctic Waters Pollution Prevention Act, *Revised Statutes of Canada*, 1985 (AWPPA), c. A-12.

⁷⁹ D. McRae, “The Negotiation of Article 234” in F. Griffiths (ed), *Politics of the Northwest Passage* (McGill-Queen’s University Press, 1987), 101.

⁸⁰ The 1970 AWPPA, the real predecessor of Article 234, applied in “Arctic waters,” which is defined in Section 2 as

the waters adjacent to the mainland and islands of the Canadian arctic within the area enclosed by the sixtieth parallel of north latitude, the one hundred and forty-first meridian of west longitude and a line measured seaward from the nearest Canadian land a distance of one hundred nautical miles, except that in the area between the

right to regulate navigation, including prohibiting it or regulating matters such as construction, design, equipment, and manning (CDEM) standards.⁸¹

Although in 1970 Canada was yet to declare the waters of the NWP as falling under its sovereignty,⁸² it adopted a package of actions as part of its functional approach to jurisdiction. In addition to enacting the AWPPA, Canada extended the width of the territorial sea from 3 NM to 12 NM,⁸³ creating “gates” of the territorial sea at the entrances to the NWP that allowed Canada to ensure that all vessels navigating the NWP would at some point have to pass through the Canadian territorial sea.⁸⁴

Canada had good reasons to suspect that the adoption of the AWPPA would lead to international protests.⁸⁵ To avoid the challenge of potential international litigation, Canada filed a reservation to its acceptance of the compulsory jurisdiction of the International Court of Justice (ICJ).⁸⁶ Canadian Prime Minister Trudeau explained the decision by the recognition that international law had not developed sufficiently to correspond with new realities, and Canada would help it develop.⁸⁷

The subsequent inclusion of Article 234 in 1982 the United Nations Convention on the Law of the Sea (UNCLOS),⁸⁸ which from the Canadian point of view provided international acceptance of its cause and the measures it had adopted, launched a chain of instruments providing for functional jurisdiction, applicable in Canadian “Arctic Waters,” subsequently including also its exclusive economic zone (EEZ) (Figure 6).⁸⁹ These include the amended Arctic Waters Pollution Prevention Act (AWPPA)⁹⁰; Shipping Safety Control Zones Order⁹¹; Northern Canada Vessel Traffic

islands of the Canadian arctic and Greenland, where the line of equidistance between the islands of the Canadian arctic and Greenland is less than one hundred nautical miles from the nearest Canadian land, that line shall be substituted for the line measured seaward one hundred nautical miles from the nearest Canadian land.

⁸¹ For an overview of the AWPPA, see D. McRae and D. J. Goundrey, “Environmental Jurisdiction in Arctic Waters: The Extent of Article 234” (1982) 16 *University of British Columbia Law Review* 197, 205–207.

⁸² K. Bartenstein, “The ‘Arctic Exception’ in the Law of the Sea Convention: A Contribution to Safer Navigation in the Northwest Passage?” (2011) 42 *Ocean Development and International Law* 22, 26 mentions a letter dated 17 December 1973 and written by the Bureau of Legal Affairs, reproduced in E. G. Lee, “Canadian Practice in International Law During 1973 as Reflected Mainly in Public Correspondence and Statements of the Department of External Affairs” (1974) 13 *Canadian Yearbook of International Law* 272, 277–279, as the first official Canadian claim of internal waters.

⁸³ E. G. Lee, “Canadian Practice in International Law During 1973 as Reflected Mainly in Public Correspondence and Statements of the Department of External Affairs” (1974) 13 *Canadian Yearbook of International Law* 272, 283.

⁸⁴ K. Singh and T. Koivurova, “The South China Sea Award: Prompting a Revived Interest in the Validity of Canada’s Historic Internal Waters Claim?” (2019) 10 *Yearbook of Polar Law* 386, 405.

⁸⁵ Armand de Mestral, “Article 234 of the United Nations Convention on the Law of the Sea its Origins and its Future” in S. Lalonde and T. L. McDorman (eds), *International Law and Politics of the Arctic Ocean: Essays in Honor of Donat Pharand* (Brill Nijhoff, 2015), 113, refers to “a drawer full of protests” received by Canada in response to the enactment of the 1970 AWPPA.

⁸⁶ The 1970 Canada ICJ Declaration, 598–599. The declaration terminated the acceptance of compulsory jurisdiction of the ICJ over disputes regarding, inter alia, “the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Canada.”

⁸⁷ Canada, note 75, 600.

⁸⁸ United Nations Convention on the Law of the Sea, adopted 10 December 1982, entered into force 16 November 1994, 1833 UNTS 3.

⁸⁹ Section 2 of the AWPPA defines the Arctic Waters as the internal waters of Canada and the waters of the territorial sea of Canada and the exclusive economic zone of Canada, within the area enclosed by the 60th parallel of north latitude, the 141st meridian of west longitude, and the outer limit of the exclusive economic zone; however, where the international boundary between Canada and Greenland is less than 200 nautical miles from the baselines of the territorial sea of Canada, the international boundary shall be substituted for that outer limit (*eaux arctiques*).

⁹⁰ Canada, note 78.

⁹¹ Shipping Safety Control Zones Order (C.R.C., c. 356).



Figure 6. Shipping Safety Control Zones. Shipping Safety Control Zones Order (C.R.C., c. 356). The map reflects Canada’s functional jurisdiction in light of UNCLOS 234 regarding shipping safety control.

Services Zone Regulations⁹²; and the most recent addition, aiming to implement the Polar Code, the Arctic Shipping Safety and Pollution Prevention Regulations (ASSPPR).⁹³

All these instruments embody some functional aspects of coastal state jurisdiction, and, more precisely, they generally fall within the ambit of the jurisdiction Canada enjoys in accordance with Article 234 of UNCLOS—a provision spawned at least in part out of concern for Canadian sovereignty. They all are legal instruments that also give rise to different cartographic representations, with Canadian “Arctic Waters” being subject to functional division into 16 zones with different conditions of access for ships.⁹⁴ The zones, limited by the outer limits of Canada’s EEZ, are where Canada exercises (limited and functional) coastal state jurisdiction.

However, the *SS Manhattan* incident,⁹⁵ as well as the 1985 voyage of the *Polar Sea*,⁹⁶ galvanized Canada to formulate a full sovereignty claim to waters within the Canadian archipelago. As stated above, the initial reaction within the Canadian government was to devise a way of protecting its claim to “Canadian waters” via a functional tool of AWPPA, not by asserting “sovereignty.”⁹⁷ However, somewhat in parallel, attention was given to substantiating the claim to the “Canadian” waters within the archipelago. The earliest official announcement of Canada’s claim according to which the waters of the

⁹² Northern Canada Vessel Traffic Services Zone Regulations (SOR/2010-127).

⁹³ Arctic Shipping Safety and Pollution Prevention Regulations (SOR/2017-286).

⁹⁴ See Figure 6.

⁹⁵ After discovering oil in Prudhoe Bay, Alaska, in 1968, an American-owned oil company tested the feasibility of using the NWP for oil transport. The controversial 1969 voyage of the *SS Manhattan*, repeated in 1970, prompted domestic debates in Canada about protecting NWP waters from unauthorized foreign vessel passage.

⁹⁶ In May 1985, the United States informed Canada that the *USCGC Polar Sea* would sail through the NWP as a matter of exercise of navigational rights and freedoms and without seeking Canadian permission. Following an exchange of diplomatic correspondence, the *Polar Sea* completed the transit in August 1985.

⁹⁷ Gonigle and Zacher, note 76.

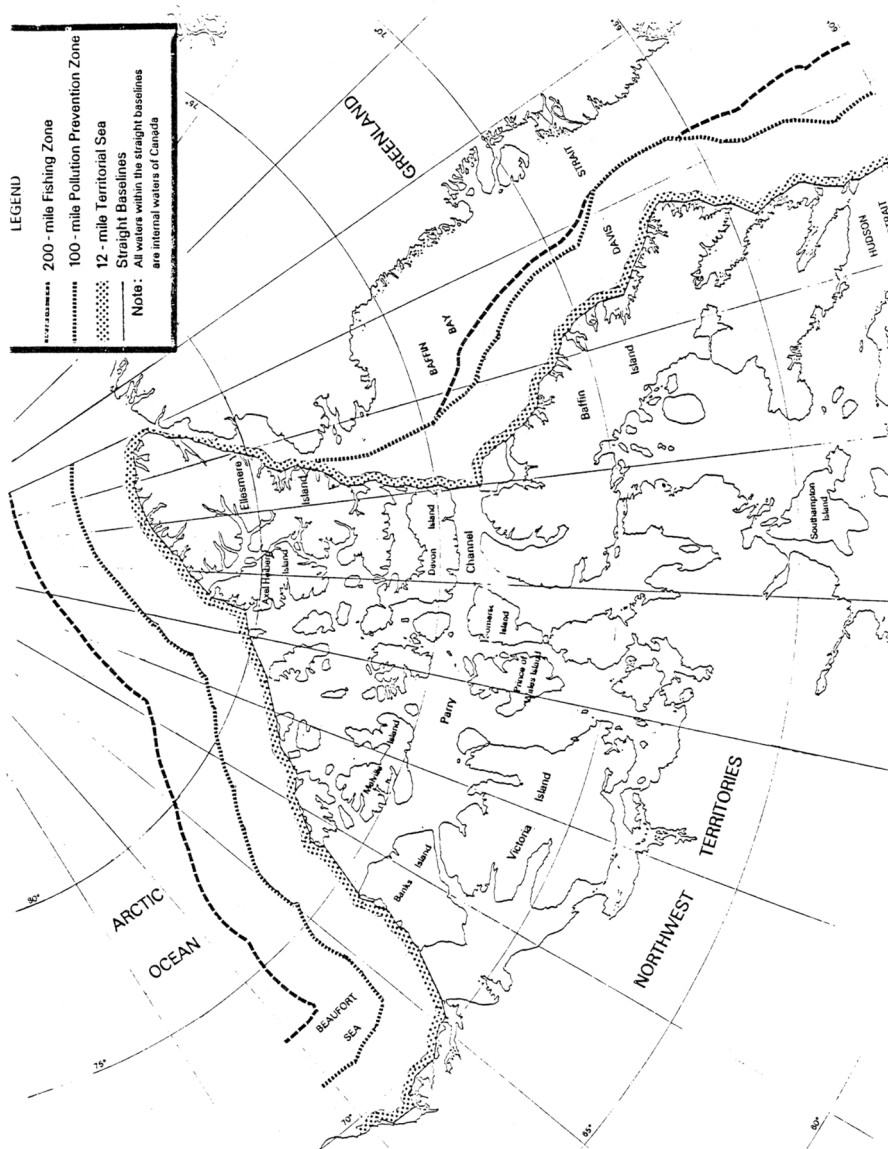


Figure 7. Canadian baselines. Source: Canada: Statement Concerning Arctic Sovereignty, *International Legal Materials*, Vol. 24, No. 6 (November 1985), 1723–1728. The map affirms Canada’s extended assertion of a 100-nm Pollution Prevention Zone.

Canadian Arctic Archipelago are asserted to be “internal waters of Canada, on an historical basis, although they have not been declared as such in any treaty or by any legislation” can be found in a letter of 17 December 1973, by the Bureau of Legal Affairs.⁹⁸ It took, however, another crisis, this time provoked by the passage of the *Polar Sea*, for this claim to appear on the maps.

⁹⁸ Lee, note 83, 277.

The *Polar Sea's* successful transit of the NWP triggered an official response by virtue of a statement to the House of Commons delivered by Joe Clark, the Secretary of State for External Affairs.⁹⁹ The crux of the Canadian position was to emphasize the indivisible nature of Canadian sovereignty, embracing land, sea, and ice, with the islands “joined, and not divided, by the waters between them.”¹⁰⁰

Remarkably, the Inuit use and occupation of both land and waters/ice “from time-immemorial” was, perhaps somewhat instrumentally, invoked to boost the legitimacy of the sovereignty claim.¹⁰¹ A more practical consequence of this statement was a number of specific measures, including establishing baselines around the Arctic archipelago, effective 1 January 1986.¹⁰² Nevertheless, since then, on different occasions, state authorities have invoked the historical Inuit presence over the Canadian Archipelago to support Canadian sovereignty.¹⁰³ Yet although the crystallization of the legal status of the Passage and determination of navigation within it will directly affect many Inuit settlements, Inuit participation at the negotiating tables and in actual debates over the status of the passage, as well as the consideration of Inuit spatial thinking in policy-making, has been minimal if not nonexistent.¹⁰⁴ More generally, excluding the Inuit from law of the sea developments is a fact that extends beyond the status of the passage in question and often appears in Canada’s Arctic policy.¹⁰⁵

The Canadian practice with respect to the NWP has been disputed by other states and can be challenged on different grounds. The first objection is that the claim to internal waters is not valid under international law as some of the baseline segments do not meet the geographical requirement of enclosing a coastline that is “deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity.”¹⁰⁶ Alternatively, it is argued that Canada’s claim to historic title is invalid.¹⁰⁷ To complicate the dispute further, there is a possibility that regardless of whether Canada’s sovereign claim is valid, it may apply concurrently with a navigational regime

⁹⁹ Suzanne Lalonde, “Increased Traffic through Canadian Arctic Waters: Canada’s State of Readiness” (2004) 38 *La Revue Juridique Thémis De L’université De Montréal* 49, 67.

¹⁰⁰ “Canada’s sovereignty in the Arctic is indivisible. It embraces land, sea and ice. It extends without interruption to the seaward facing coasts of the Arctic islands. These islands are joined, and not divided, by the waters between them. They are bridged for most of the year by ice. From time immemorial Canada’s Inuit people have used and occupied the ice as they have used and occupied the land”: Griffiths, note 30.

¹⁰¹ Government of Canada, “Canada: Statement Concerning Arctic Sovereignty” (1985) 24 (6) *International Legal Materials*, 1725. See also the statement of the Foreign Minister Joe Clark in Griffiths, note 30.

¹⁰² Territorial Sea Geographical Coordinates (Area 7) Order (SOR/85-872)

¹⁰³ For instance, in 2009, a report of the Standing Senate Committee on Fisheries and Oceans was published, acknowledging that, if needed, Canada “could invoke the long unbroken history of Inuit usage of the lands and waters” to strengthen its arguments over sovereignty in the area. See William Rompkey and Ethel M. Cochrane, *Rising to the Arctic Challenge: Report on the Canadian Coast Guard* (Standing Senate Committee on Fisheries and Oceans, 2009), 41.

¹⁰⁴ Nickels, note 54, 34.

¹⁰⁵ For instance, Canada’s submission to the Commission on the Limits of the Continental Shelf, established by UNCLOS, has also been done without consultations with the Inuit, disregarding the strong legal basis for consultation provided in domestic litigation; see *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, 2017 SCC 40, [2017] 1 S.C.R. 1069; *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73, [2004] 3 S.C.R. 511; *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*; *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, 2010 SCC 43, [2010] 2 S.C.R. 650; see also *ibid.*, 45. It has to be acknowledged though that in the negotiations of the recent International Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAOFA) the Inuit were part of the Canadian delegation; see https://www.dfo-mpo.gc.ca/international/arctic-arctique-eng.htm#_About_the_agreement (accessed 8 October 2023).

¹⁰⁶ Article 7(1) of UNCLOS.

¹⁰⁷ Pharand, note 66, 125.

of either innocent passage (by virtue of Article 8(2) of UNCLOS) or transit passage (by virtue of Article 37 or Article 35 (a) of UNCLOS).

It is beyond the scope of this article to provide a comprehensive analysis of these different legal possibilities. It may, however, be useful to mention that the NWP has been used for international navigation,¹⁰⁸ including by the *Kiwi Roa* in 2020, which, after unsuccessfully attempting to obtain clearance, defied Canadian authority. Moreover, in reaction to COVID-19, Transport Canada issued regulations that, according to one commentator, “conceded the application of the innocent passage in the NWP.”¹⁰⁹ Even if these were adopted by mistake and subsequently corrected, the two events in 2020 show the vulnerability of the Canadian position—opposed by the United States and the European Community.¹¹⁰ One can only expect that as the Arctic ice melts away owing to climate change, pressure on Canada to recognize navigational rights or freedoms through the NWP will only mount (see [Figure 8](#), which represents segments of the baseline disputed by the United States, and the route that can be used for navigation through the Northwest Passage). It is perhaps ironic that the strongest element in the Canadian claim to sovereignty over the NWP is arguably the Inuit millennia-long presence on, use of, and occupation of the sea ice.¹¹¹

Inuit Spatial Thinking and Cartography

Throughout the history of the Northwest Passage and not least Western spatial thinking in general, cartography has been a means to mark legal claims in space, demonstrate sovereign power and jurisdiction zones, and exclude others from sovereign territory. As the discussion above demonstrates, conventional contemporary mapping of the Passage depicts a Eurocentric conception of space determined by the invisible boundaries of maritime zones that establish certain degrees of sovereignty and jurisdiction over the marine space in accordance with international and domestic legal developments. Such maps speak the legal language of UNCLOS, the International Maritime Organization (IMO), and the Canadian domestic ocean regulations that see space as something to be used by people and subject to sovereign states’ dominion, economic development, and environmental protection.

Spatial thinking commonly reflected within these instruments is deeply rooted in cartesian conceptualizations of the world based on ontological dichotomies such as land versus sea and nature versus culture that can be traced back to the solidification of legal modernity.¹¹² Such dichotomies are reflected in international law’s fundamental

¹⁰⁸ R. K. Headland with colleagues, friends, and associates, “Transits of the Northwest Passage to End of the 2022 Navigation Season” (revised 8 December 2022), *Scott Polar Research Institute, University of Cambridge* at: <https://www.spri.cam.ac.uk/resources/info sheets/northwestpassage.pdf> (accessed 26 January 2023).

¹⁰⁹ Cornell Overfield, “Could a Kiwi Sailor’s Northwest Passage Transit Break the Legal Ice Between Canada and the U.S.?” 25 September 2020, 8:01 AM, *Lawfare* at: <https://www.lawfareblog.com/could-kiwi-sailors-northwest-passage-transit-break-legal-ice-between-canada-and-us> (accessed 26 January 2023).

¹¹⁰ Donald McRae, “Arctic Sovereignty? What Is at Stake?” (2007) 64 *Behind the Lines* 11.

¹¹¹ Suzanne Lalonde, “The Northwest Passage” in P. Whitney Lackenbauer, Suzanne Lalonde, and Elizabeth Riddell-Dixon (eds), *Canada and the Maritime Arctic: Boundaries, Shelves, and Waters* (North American and Arctic Defence and Security Network 2020), 107, 120–121.

¹¹² See, for instance, Val Plumwood, *Feminism and the Mastery of Nature* (Routledge, 1993), 120–140; Becky Mansfield, “Neoliberalism in the Oceans: ‘Rationalization,’ Property Rights, and the Commons Question” (2004) 35 *Geoforum* 313, 313–326.



Courtesy Frédéric Lasserre

Source: Frédéric Lasserre, "Passage du Nord-Ouest: une route maritime en devenir?", *Revue Internationale et Stratégique*, no. 42 (2001).

Figure 8. Frédéric Lasserre, "Le passage du Nord-Ouest: une route maritime en devenir?" The map shows segments of the baseline disputed by the United States, and the route that can be used for navigation through the Northwest Passage. Source: (2001) 42 *Revue Internationale et Stratégique* 143–160, reprinted in Kristin Bartenstein, "Use It or Lose It: An Appropriate and Wise Slogan?" at: <https://policyoptions.irpp.org/magazines/immigration-jobs-and-canadas-future/use-it-or-lose-it-an-appropriate-and-wise-slogan>

spatial order and revealed in the way space is partitioned upon cartographic representations on the basis of state sovereignty.¹¹³ Yet this is not the only way to conceptualize space in the Arctic. Many Indigenous spatial orders across the Arctic diverge from the fundamental dichotomies that underpin the foundations of international law's spatial order and are instead traditionally grounded in holistic¹¹⁴ conceptualizations of space and animist or relational ontologies.¹¹⁵ Inuit customary legal orders have been shaped by the particularities of Arctic landscape conditions (e.g., sea ice, remoteness, coldness)

¹¹³ In conceptualizing the dichotomies about land and sea that underlie European spatial thinking, important has been the contribution of the German jurist Carl Schmitt. See Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (Telos Press Publishing, 2016). It has yet to be mentioned here that Schmitt's work value and significance are highly controversial, mainly owing to his intellectual support for and active involvement with Nazism.

¹¹⁴ It is to be noted here that the term "holistic" has been assessed by some scholars as not appropriate for describing the Inuit worldview since it refers to the idea of compilation of different parts to a whole. See Leah Beveridge, "Inuit Nunangat and the Northwest Passage: An Exploration of Inuit and Arctic Shipping Conceptualizations of and Relationships With Arctic Marine Spaces in Canada" in Aldo E. Chircop, Floris Goerlandt, Claudio Aporta et al. (eds), *Governance of Arctic Shipping: Rethinking Risk Human Impacts and Regulation* (Springer, 2020), 137.

¹¹⁵ *Ibid.*, 142–143.

and are rooted in a special spiritual connection with the surrounding environment and wildlife.¹¹⁶ According to Inuit worldviews, human beings are traditionally seen as not separated from the natural world, while the sea ice constitutes an extension of the land, and, thus, international law's land–sea dichotomy contravenes the holistic spatial vision of the Inuit legal orders.¹¹⁷ As the former Chair of the Inuit Circumpolar Council (ICC) put it in a UN Chronicle, “the Arctic Ocean and the sea ice is our nuna,” which translated into “land,” acknowledging the Inuit's strong bonds to the marine ecosystems—much like nation-states conceptualize the “land.”¹¹⁸ For the Inuit of the NWP, the sea ice is thus not seen as a “barrier” in the development of navigation and commerce, but functions as a bridge to the sea, a symbol of their own mobility across space, reflecting their customary relationship to nature and their historical seminomadic lifestyle.¹¹⁹ Indeed, as observed by Beveridge, there is also a “functional” (and far from being ontological) boundary of land–sea among Inuit, mainly when the sea ice is not present, which, however, becomes blurred when the sea ice appears.¹²⁰

Through this understanding, and with Inuit settlement in the Arctic preceding the arrival of Europeans for many centuries, the Inuit pioneered their own traditional mapping techniques to navigate within space in accordance with their hunting practices and migration cycles. Such cartographic praxes may take a variety of forms, ranging from sewn driftwood to sealskin representations and to carved portable maps.¹²¹ Ethnographers and cartographic researchers most commonly refer to the Wetalltok map of the Belcher Islands (Sanikiluaq), a map of the islands in Disko Bay on the Western coast of Greenland by Silas Sandgreen, or the portable wooden carving maps from eastern Greenland,¹²² created out of driftwood to navigate coastal waters (Figure 9).¹²³ These compact tactile devices represent islands or coastlines in a continuous line, up one side of the wood and down the other. Inuit traditional maps were predominantly of navigational or storytelling use that enabled a variety of senses (e.g. sight, sound, touch) and reflect the way Inuit view the land/seascape, beyond dominant conceptualizations of territory and sovereign borders.

Although most Indigenous peoples developed their own methods of mapping to depict people's stories and communities' relationships to places and other beings, most traditional modes of spatial expressions upon the area now known as the Northwest Passage were deeply affected by the arrival of the Europeans.¹²⁴ European views and ontological assumptions of space were gradually imposed upon preexisting Indigenous

¹¹⁶ Natalia Loukacheva, “Indigenous Inuit Law, ‘Western’ Law and Northern Issues” (2012) 3 *Arctic Review on Law and Politics* 200, 205.

¹¹⁷ Endalew Lijalem Enyew, Margherita Paola Poto and Apostolos Tsiouvalas, “Beyond Borders and States: Modelling Ocean Connectivity According to Indigenous Cosmovisions” (2021) 12 *Arctic Review on Law and Politics* 207, 210.

¹¹⁸ “The Arctic Ocean and the Sea Ice Is Our Nuna,” *United Nations Chronicle* at: <https://www.un.org/en/chronicle/article/arctic-ocean-and-sea-ice-our-nuna> (accessed 26 January 2023).

¹¹⁹ Claudio Aporta, “Routes Trails and Tracks: Trail Breaking among the Inuit of Igloodik” (2004) *Études/Inuit/Studies* 9. Claudio Aporta, D. R. Fraser Taylor and Gita J. Laidler, “Geographies of Inuit Sea Ice Use: Introduction” (2011) 55 *The Canadian Geographer* 1, 1–5.

¹²⁰ Leah Beveridge, note 114, 143.

¹²¹ Rebecca Onion, “A Beautiful Driftwood-and-Sealskin Map, Carved by an Inuit Hunter in 1925” 8 January 2014, 12:15 PM, *Slate* at: <https://slate.com/human-interest/2014/01/inuit-cartography-map-of-a-greenland-bay-carved-by-silas-sandgreen-in-1925.html> (accessed 26 January 2023).

¹²² Robert A. Rundstrom, “A Cultural Interpretation of Inuit Map Accuracy” (1990) 80 *Geographical Review* 155, 157.

¹²³ “Inuit Cartography” 12 April 2016, *The Decolonial Atlas* at: <https://decolonialatlas.wordpress.com/2016/04/12/inuit-cartography> (accessed 28 January 2023).

¹²⁴ McGurk and Caquard, note 20, 51.



Figure 9. Tactile wooden coastal maps of the Ammassalik Inuit from Greenland. These wooden carved maps represent parts of the Greenlandic coastline. Source: Greenland National Museum and Archives, retrieved from Archaeological Institute of America, <https://www.archaeology.org/issues/337-1905/features/7550-maps-greenland-wooden-inuit-maps>.

cartography, and maps of the newly “discovered” places depicting borders, resources, and claims upon space soon became common in the colonial world. Early European expeditions acknowledged the precision of Inuit maps in delineating the complex Arctic ice-scape, and in many cases, European explorers trusted Inuit hunters in producing planimetrically accurate maps consistent with European standards and their voyage’s cartographic needs.¹²⁵ As observed by McGurk and Caquard, since the first contact with the European settlers, Inuit mapping has had to “move back and forth between ancestral and processual mapping and impacted by the colonizers requirements for precise, standardized, and rational mapmaking practices.”¹²⁶ For instance, under the umbrella of Moravian missionaries and Scottish whalers, and using European cartographic tools, the Inuit contributed to a comprehensive mapping of the Inuit presence in the region.¹²⁷ The map *Nunat Kalâtdlit Najugait* from *Atuagagdliutit* no. 1, 1861 (Figure 10), is probably the first such known map that illustrates the entirety of the Inuit territories of North America, demonstrating both the predominant presence of the Inuit throughout the Northwest Passage and the close cartographic work among the Inuit and European settlers.

The familiarization of the Inuit with European cartographic means has been used today to ensure opportunities to advance Indigenous decolonial mapping efforts. Remarkably, Western mapping methods are now often infused with Indigenous

¹²⁵ Rundstrom, note 122, 158.

¹²⁶ McGurk and Caquard, note 20, 52.

¹²⁷ Nickels, note 54, 13.

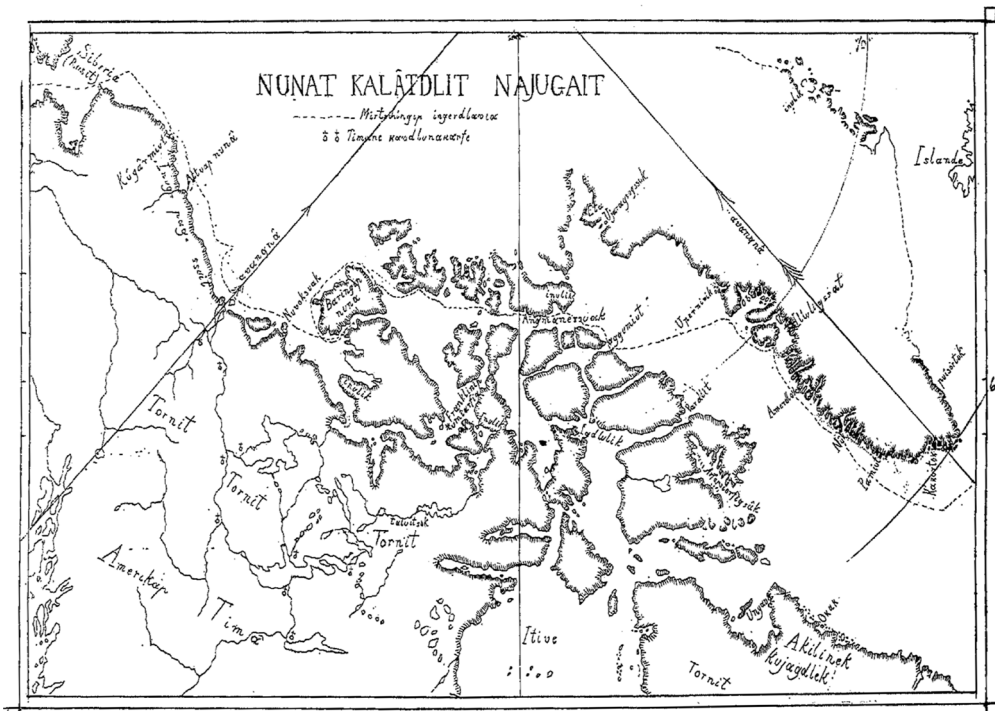


Figure 10. *Nunat Kalädlit Najugait*, originally from *Atuagagdiutit* no. 1, 1861. This is the first known map of the Inuit territories of North America. Retrieved from Inuit Tapiriit Kanatami, *Nilliajut 2: Inuit Perspectives on the Northwest Passage Shipping and Marine Issues* (ITK, 2017), 13.

knowledge and are used by Indigenous groups as tools to counternarrate space and reflect Indigenous beliefs and political claims in light of an ongoing decolonial endeavor. Since the 1970s, Inuit people have been highly involved in mapmaking activities in Arctic Canada, as part of the Inuit Land Use and Occupancy Project (ILUOP) that constituted the legal basis for the Land Claim Agreements of Inuvialuit (1984) and Nunavut (1993).¹²⁸ In 2005, after delineating their last land claims, the *Inuit Tapiriit Kanatami* (ITK),¹²⁹ which serves as the domestic representative organization for the Inuit of Canada, created a new map of Inuit use and occupancy of the Arctic entitled *Inuit Nunaat* (Inuit homeland).¹³⁰

More recently, ITK developed a new map for Canada's Arctic region named *Inuit Nunangat*, which aimed to reflect the Inuit settlements and distinct conception of

¹²⁸ See Milton M. R. Freeman, "Looking Back—and Looking Ahead—35 Years After the Inuit Land Use and Occupancy Project" (2011) 55 *The Canadian Geographer* 20; Committee for Original People's Entitlement, *The Western Arctic Claim: The Inuvialuit Final Agreement* (Indian and Northern Affairs Canada, 1984); Canada: Department of Indian Affairs Northern Development, and Tungavik Federation of Nunavut, *Agreement-in-principle between the Inuit of the Nunavut Settlement Area and Her Majesty in Right of Canada* (Indian Affairs and Northern Development, 1990); Labrador Inuit Association and Canada, *Land Claims Agreement between the Inuit of Labrador and Her Majesty the Queen in Right of Newfoundland and Labrador and Her Majesty the Queen in Right of Canada* (Indian and Northern Affairs Canada, 2005).

¹²⁹ Inuit Tapiriit Kanatami (former Inuit Tapirisat of Canada) is a nonprofit organization in Canada that represents more than 65,000 Inuit and "serves as a national voice protecting and advancing the rights and interests of Inuit in Canada." See "We Are the National Voice of Canada's 65,000 Inuit," *Inuit Tapiriit Kanatami* at: <https://www.itk.ca/national-voice-for-communities-in-the-canadian-arctic> (accessed 26 January 2023).

¹³⁰ Nadine C. Fabbri, "Inuit Nunaat as an Emerging Region in Area Studies: Building an Arctic Studies Program South of the Tree Line" (University of British Columbia, 2015), 68.



Figure 11. Inuit Tapiriit Kanatami, *Inuit Nunangat* map. The map encompasses all terrestrial, marine, and ice-covered areas of the Northwest Passage in accordance with the Inuit conception of space. Source: <https://www.itk.ca/inuit-nunangat-map>.

space.¹³¹ The map *Inuit Nunangat* (Figure 11) encompasses all terrestrial, marine, and ice-covered areas, and demonstrates that the Inuit consider the land, water, and sea ice to be interconnected and “integral to their culture and way of life.”¹³² The map challenged dominant conceptions of space and replaced Canada’s provincial and territorial boundaries with terraqueous/frozen borders based on traditional use and occupancy by the Inuit, raising concerns regarding Canada’s sovereignty and political jurisdiction within traditional areas, particularly over the Northwest Passage.¹³³ Thinking of the NWP as part of the *Inuit Nunangat* may allow for a comprehensive holistic conceptualization of space that erases Western dichotomies, bridges water, sea ice, and land in accordance with the Inuit way of life, and replaces ontologies of power and control with ontologies of “being” in and with nature. Such an approach could better reflect also the general scope of UNCLOS as provided in the Convention’s Preamble, which states that “the problems of ocean space are closely interrelated and need to be considered as a whole.”¹³⁴ Yet, as further observed by Fabbi, a reconceptualization of “territory” as a notion inclusive of ice, water, and land will have far-reaching

¹³¹ The term “*Inuit Nunangat*” was introduced in 2009 as a more inclusive and appropriate term to determine the Inuit territory, encompassing water, land, and ice. To access the map, see “Maps Of Inuit Nunangat (Inuit Regions Of Canada),” *Inuit Tapiriit Kanatami* at: www.itk.ca/maps-of-inuit-nunangat (accessed 11 January 2023).

¹³² *Ibid.*

¹³³ Fabbi, note 130, 68–70.

¹³⁴ UNCLOS, preamble (emphasis added).

implications as to UNCLOS's ability to settle the current dispute over the Passage, as well as to Canada's general commitments toward international law instruments.¹³⁵

Holistic cartographic representations of the Arctic space by Indigenous peoples have also been embedded in online mapping representations, with the Inuit increasingly engaging in such projects aiming to reclaim Indigenous rights and decolonize cartography.¹³⁶ Although online mapping is inherently a Western tool, it has today become a part of the Inuit's "decolonial agenda" and important tool for redefining space.¹³⁷ For instance, the project "*The Northwest Passage and the Construction of Inuit Pan-Arctic Identities*" has mapped the historical Inuit presence along the Northwest Passage, using, instead of precise geographic locations or separate routes on land and in the sea, terraqueous lines that spread across land, sea, and sea ice.¹³⁸ Inuit trails are not static lines as they are depicted in mainstream maps, but mobile entities that represent fluidity across space, tangle with each other, and create a complex meshwork¹³⁹ that cannot be simply reduced to Western cartographic representations.¹⁴⁰ In that regard, the Nunaliit Atlas Framework driven by the Geomatics and Cartography Research Centre (GCRC) at Carleton University has managed to provide access to Inuit communities to build their own interactive maps and digitally document local and traditional Inuit spatial knowledge in cybercartographic atlases.¹⁴¹ What emerges from these maps is that statist representations of territory are mobilized and renegotiated from the bottom up. Furthermore, they resonate with the uncertain materiality of the Arctic environment such that it is dynamic in both space and time and may change form inconsistently, exposing sovereignty's inherent tendency for permanence.¹⁴²

The Low-Impact Shipping Corridors Initiative—One Map to Rule Them All?

The inter-state dispute over the legal status of the NWP is premised on different visions of ocean space: one of the full and exclusive sovereignty by the state of Canada, and one more akin to a *res communis* vision of an international strait where other states are entitled to exercise freedom of navigation for the purpose of transit passage.¹⁴³ Although these different visions are difficult to reconcile, in light of international developments with respect to the rights of Indigenous peoples, the cartographic representation of the NWP/Inuit Nunangat is today subject to other visions of space and

¹³⁵ Fabbi, note 130, 68.

¹³⁶ McGurk and Caquard, note 20, 51–63.

¹³⁷ *Ibid.*, 63.

¹³⁸ "Northwest Passage and the Construction of Inuit Pan-Arctic Identities" *Pan Inuit Trails* at: <http://www.paninuittrails.org/index.html?module=module.paninuittrails> (accessed 27 January 2023).

¹³⁹ The term "meshwork" is here borrowed by Tim Ingold, who points that that while a network is a purely spatial and stable construct, the lines of the meshwork are constantly moving, growing, and entangling each other; see Tim Ingold, *Making Anthropology, Archaeology, Art and Architecture* (Routledge, 2013), 132.

¹⁴⁰ On Inuit trails see Claudio Aporta, "The Trail as Home: Inuit and Their Pan-Arctic Network of Routes" (2009) 37 *Human Ecology* 131; see also Claudio Aporta, "Routes, Trails and Tracks: Trail Breaking Among the Inuit of Igloodik" 28 *Études/Inuit/Studies* 9; see also Beveridge, note 114, 144.

¹⁴¹ Nate Engler, Teresa Scassa and Taylor D. R. Fraser, "Mapping Traditional Knowledge: Digital Cartography in the Canadian North" (2013) 48 *Cartographica* 189, 189–199.

The map can be accessed here: <http://nunaliit.org/> (accessed 8 October 2023).

¹⁴² Philip E. Steinberg, Berit Kristoffersen and Kristen L. Shake, "Edges and Flows: Exploring Legal Materialities and Biophysical Politics of Sea Ice," in Irus Braverman and Elisabeth R. Johnson (eds), *Blue Legalities* (Duke University Press, 2020), 85.

¹⁴³ Article 38 (2) of UNCLOS.

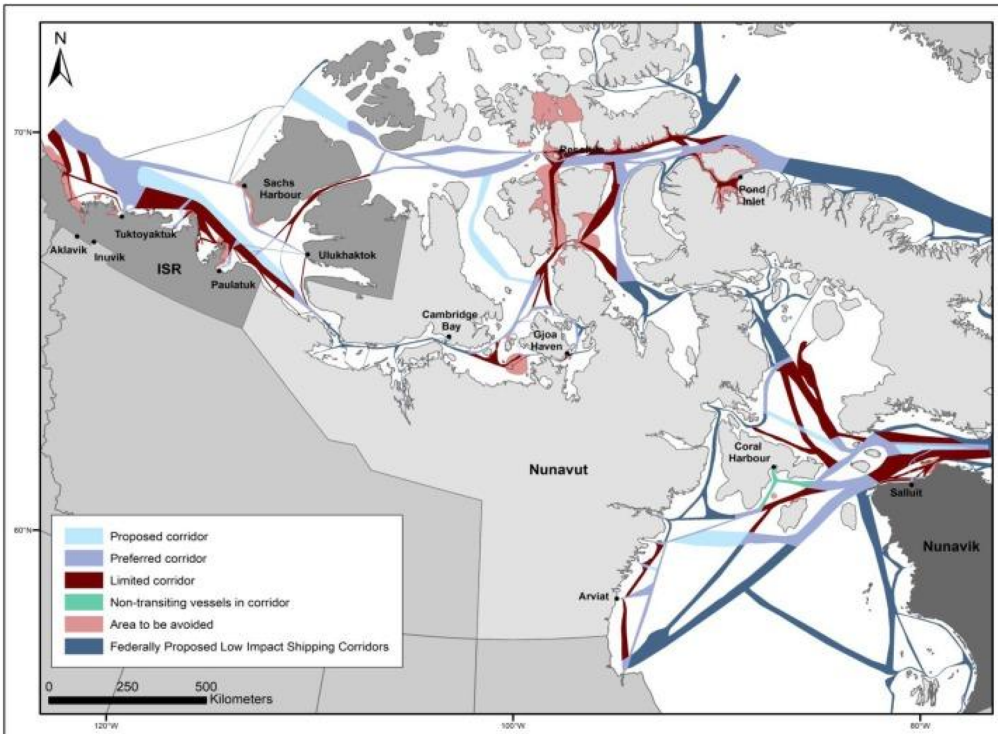


Figure 12. Community recommendations regarding the Low Impact Shipping Corridors. The Low-Impact Shipping Corridors provide for the regulation of dynamic shipping routes throughout Canada’s North. Source: Jackie Dawson et al., “Infusing Inuit and Local Knowledge into the Low Impact Shipping Corridors: An Adaptation to Increased Shipping Activity and Climate Change in Arctic Canada,” (2020) 105 *Environmental Science & Policy*, 19–36, <https://www.sciencedirect.com/science/article/pii/S1462901119309451>.

developments in human rights. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP),¹⁴⁴ although initially rejected by Canada, has, since 2021, been supported through the United Nations Declaration on the Rights of Indigenous Peoples Act.¹⁴⁵ The 2021 Act affirms the UNDRIP as a universal human rights instrument with application in Canadian law, and provides a framework for its implementation¹⁴⁶ that aims to ensure the consistency of Canadian law with the Declaration.¹⁴⁷

Against this context, the Low-Impact Shipping Corridors Initiative constitutes a proposal to reconcile, although on Canadian terms, the different opposing considerations, including the pluralistic visions of space, transcending the ones wielded by the sovereign states. Navigation in the Arctic is a highly risky endeavor, and in that sense, the classic “freedom of navigation” may be of little use if not supported by a system of aids, appropriate charts, and mechanisms to assist in normal operation and in emergency. The initiative avoids the formal recognition of a navigational right or freedom, and instead focuses on the modality of the use of the sea space by different actors (Figure 12). It is revealing that

¹⁴⁴ UN Declaration on the Rights of Indigenous Peoples (adopted 2 October 2007), UNGA Res 61/295 (UNDRIP).

¹⁴⁵ United Nations Declaration on the Rights of Indigenous Peoples Act S.C. 2021, c. 14, <https://www.laws-lois.justice.gc.ca/eng/acts/u-2.2/page-1.html> (accessed 8 October 2023).

¹⁴⁶ Section 4 of the UNDRIP Act.

¹⁴⁷ Section 5 of the UNDRIP Act.

in 2016 the leaders of the United States and Canada, the two champions of the opposing sides of the sovereignty dispute, announced a new partnership to embrace the opportunities and confront challenges in the changing Arctic.¹⁴⁸ The partnership includes a commitment to identify sustainable shipping lanes through the Arctic in collaboration with Northern and Indigenous partners. As a followup, Canada earmarked CA\$ 1.5 billion for its Oceans Protection Plan and launched an Initiative to identify and develop Low-Impact Shipping Corridors. The corridors “are intended to be dynamic shipping routes throughout Canada’s North where the necessary infrastructure, marine navigational support, and emergency response services could be provided to ensure safer marine navigation, while respecting the sensitive northern environment and its ecological and cultural significance.”¹⁴⁹

As such, the ambition is to identify the areas where three types of concerns are taken into account: respect for the sensitive environment, cost-effective provision of necessary navigational support and infrastructure, and respect for cultural sensitivity. It is particularly the latter issue that prompted the innovative collaboration toward developing a governance framework to address local and Indigenous communities’ needs. The initiative is led by Transport Canada and the Canadian Coast Guard, who has been leading engagement with Inuit, First Nations, and Metis organizations and governments, provincial and territorial governments, and other key stakeholders to identify priority areas for investment and potential governance models. In the course of Arctic Corridors and Northern Voices (ACNV) research project, 14 Canadian Inuit communities across Inuit Nunangat were invited to share their views and recommendations for the corridors.¹⁵⁰ The community recommendations identified preferred corridors in different localities, areas to be avoided, specific measures relating to the seasonal use of different areas, recommendations on vessel operation, and areas of inadequate charting. The multitude of factors to be considered when implementing this ambitious initiative will inevitably lead to compromise and trade-offs. It is unlikely that all the recommendations will be given equal weight. However, there are potential and efforts toward developing a genuinely collaborative governance structure to not only design but also manage the low-impact corridors.¹⁵¹ This initiative provides a good opportunity to reconcile the different visions of space and give real voice to the local communities to translate their visions into specific recommendations—indeed to provide “one map to rule them all.”¹⁵² Yet incorporating Inuit interests and spatial views into a state-driven cartographic initiative bears the risk of perpetuating statism

¹⁴⁸ United States–Canada Joint Arctic Leaders’ Statement, 20 December 2016, available at: <https://pm.gc.ca/en/news/statements/2016/12/20/united-states-canada-joint-arctic-leaders-statement> (accessed 8 October 2023).

¹⁴⁹ Jackie Dawson, Natalie Carter, Nicolien Van Luijk et al., “Infusing Inuit and Local Knowledge Into the Low Impact Shipping Corridors: An Adaptation to Increased Shipping Activity and Climate Change in Arctic Canada” (2020) 105 *Environmental Science & Policy* 19, 20; reprinting Michael Levitt, *Nation-Building at Home, Vigilance Beyond: Preparing for the Coming Decades in the Arctic: Report of the Standing Committee on Foreign Affairs and International Development* (House of Commons, 2019), 68.

¹⁵⁰ For a good overview of the recommendations of the 13 out of 14 groups, see *ibid*; Community reports are available at: <https://www.arcticcorridors.ca/corridors-recommendations> (accessed 8 October 2023).

¹⁵¹ In 2022, there was a new round of consultations toward this purpose between the Government of Canada with Inuit, First Nations, and Metis organization and governments; territorial and provincial governments; industry, nongovernmental organizations (NGOs), academia, and others in the private sector; see <https://www.dfo-mpo.gc.ca/about-notre-sujet/engagement/2021/shipping-corridors-navigation-eng.html> (accessed 8 October 2023). See also Natalie A. Carter, Jackie Dawson and Annika Stensland, *Opportunities and Strategies for Effective Management of Low Impact Arctic Shipping Corridors* (University of Ottawa, 2022) for a recent comprehensive survey of views on different management strategies.

¹⁵² The expression “One map to rule them all?,” also used in the article’s title, is based on the popular expression “One ring to rule them all,” used in the trilogy *The Lord of the Rings* by J. R. R. Tolkien. By “One map to rule them

via a territorially grounded conception of the Passage that appears detrimental to the pursuit of self-determination for the Inuit people.¹⁵³ As of the time of writing, it is yet difficult to tell how well all this can be done in practice, but the process is there.

Concluding Remarks

It is undisputable that cartography materializes the way societies conceptualize space and legalities pertinent to it. Since the age of discovery, European nations have been using cartography as a technology of planning that legitimated the establishment of state sovereignty through “lines” upon land and sea and demarcated borders and jurisdictions. Under this rationale, as Harley and Laxton have noted, “the state became—and has remained—a principal patron of cartographic activity in many countries,” determining the dominant narratives of spatial thinking.¹⁵⁴ This cartographic activity though is strongly affiliated to a prolonged history of colonization, competition among sovereign powers, and neglect of different ways of thought.

A bird’s-eye view of the development of cartographic thinking in relation to the Northwest Passage demonstrates that the history of spatial inscription of the Passage is not a static one, but has historically been driven by a territorial rationale imposed on the Passage ever since the first colonial charters were used as avenues for the successful imperial expansion and imposition of colonialism. In this context, maps of the region have reflected a dominant Eurocentric worldview of “space” that is not very relevant to the way the very own people of the region think about it. If “to map is to think,” and thus “to inscribe” worldviews upon space,¹⁵⁵ then there is paramount value in examining how non-Western conceptions of space may challenge dualistic assumptions about the surrounding world that lie at the core of modern spatial thinking. Antithetical to dominant maps decided upon to serve their “makers” and to demonstrate their brute assertion of ascendancy over a colonized “other,” Inuit cartography is nowadays seeking not only to question existing legal spatial thinking but also to reshape it from the ground up, resisting the long colonial legacy of Arctic mapping. This demonstrates that the NWP is not only an arena of dispute among sovereign states, but a rather plural space that currently accommodates different ontological visions, legal orders, and ways of being in relation to space. Inuit cartography thus becomes a tool of countermapping, retelling existing narratives of space and questioning the very understandings of maritime zones and borders, even conceptual dichotomies among land and sea, upon which Arctic law and governance are today premised. Should the Arctic states decide to fully operationalize Indigenous self-determination in accordance with International human rights law and, thus, acknowledge the Inuit terraqueous materialities, then the legitimacy of state sovereignty’s territorial application and cartographic representation over coastal waters and frozen

all?” we refer to the Low-Impact Shipping Corridors Initiative, as it seems that this cartographic initiative incorporates both Inuit and state interests.

¹⁵³ Yet, as explained by Nesiiah, the very idea of self-determination in international law reproduces the law’s territorial assumptions that require spatial confinements, even when used for the benefit of colonised peoples; see, overall, the discussion in Vasuki Nesiiah, “Placing International Law: White Spaces on a Map” (2003) 16 *Leiden Journal of International Law* 1.

¹⁵⁴ See also Harley and Laxton, note 8, 59.

¹⁵⁵ Li T. Murray, “What Is Land? Assembling a Resource for Global Investment” (2014) 39 *Transactions of the Institute of British Geographers* 589.

areas would be drastically challenged. Reconciling Inuit and state spatial orders is not only about geographical accuracy but also about upholding and respecting the rights and heritage of Indigenous communities.

Navigating the history of NWP/Inuit Nunangat throughout cartography for the purposes of this article is thus not only about recognizing Inuit cartography, but also about using it to obtain and promote the local understanding of the localities, which, given the particular relationship with nature, may also be considered good environmental practice. The Low-Impact Corridors Initiative holds great potential to merge worldviews without homogenizing them. Low-impact corridors will not solve the inter-state dispute, and will not displace either the political map of Canada (national boundaries) or Inuit cartography. Rather, the Initiative superimposes one on another in a way that enriches how we conceive of space, and facilitates a synergetic reading of a pluralistic multivision of the Arctic. Recognizing Inuit interests on official state maps helps validate Inuit rights to these lands and waters, enabling them to maintain their cultural heritage and traditional practices.

As long as the rapid pace of change that the Arctic is experiencing creates potential for further commerce and marine transportation, the Arctic states' interest in further territorializing and dividing the Arctic space among sovereign borders will increase, along with their will to extract resources, develop tourism, and pursue high sea fisheries. Against this backdrop, the legal status of the Northwest Passage will likely remain an object of discussion among competing colonizing powers. Claiming sovereignty over the Passage in a Western sense has probably never been on the political agenda of the Inuit. Nor have the Canadian Inuit opposed Canada's legal arguments to claim sovereignty of the passage on the ground of its colonial origins.¹⁵⁶ To the contrary, the comment by the then President of the ICC Canada addressed to the then U.S. Secretary of State Mike Pompeo that "Canadian sovereignty is based on Inuit-Crown land claims agreements as well as more than four millennia of Inuit land use and occupancy throughout the region" served as an important reminder of the need to transcend the traditional notion of state sovereignty.¹⁵⁷ If there is something for states to learn from Inuit cartography and spatial thinking, it is that Arctic juridical imaginary offers different ways of thinking about the surrounding world, ones that are more relational and holistic and that understand space as not merely an object of state dominion and human activities.

Acknowledgments

The article is partly based on the piece "Law of the Sea in the *Kinocene*," presented by Apostolos Tsiouvalas at the NCLOS Conference 2022 with the theme Ocean Space. Research carried out for this article was partially supported by OCEANGO, a project funded by the Norwegian Research Council/Norges Forskningsråd, project no. 315163. The authors thank Nikolaos Dimitrakopoulos for his research assistance.

Disclosure Statement

No potential conflict of interest was reported by the author(s).

¹⁵⁶ Cameron Kirk and Graham White, *Northern Governments in Transition: Political and Constitutional Development in the Yukon Nunavut and the Western Northwest Territories* (Institute for Research on Public Policy, 1995).

¹⁵⁷ "Canadian Inuit Challenge U.S. Stance on Northwest Passage" at: <https://nunatsiaq.com/stories/article/canadian-inuit-challenge-u-s-stance-on-northwest-passage> (accessed 26 January 2023).