

# War, exclusion, and geopolitical tension: the accepted normal in Arctic Council governance?

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The Russian invasion of Ukraine in February 2022 has led to heightened geopolitical tension, on a scale unheard of since the Cold War. The invasion has not only affected the security of Europe, but has also had a profound impact on the relationship of Russia with fellow Arctic states. The military dimension of the Russian invasion of Ukraine has overshadowed Arctic cooperation, and according to Wishnick and Carlson, the invasion has distracted attention from key Arctic issues such as climate change, socio-economic development and Indigenous communities.<sup>1</sup> Russia was keen to utilize its tenure as Chair of the Arctic Council from 2021 to engage with other Arctic Council states to advance its priorities, which included the development and improvement of the life of Arctic inhabitants and Indigenous peoples, climate change

and its impact on the Arctic, environmental protection in the Arctic.<sup>2</sup> Other goals of Russia during its Chairmanship included responsible governance for a sustainable Arctic by promoting collective approaches to the sustainable development of the Arctic, environmentally, socially and economically balanced development of the region, enhanced synergy and cooperation and coordination with other regional structures, as well as 'the implementation of the Council's Strategic Plan, while respecting the rule of law'.<sup>3</sup>

In advance of its tenure as Arctic Council Chair, Russia released several critical Arctic documents: On the fundamentals of the State policy of Russian Federation in the Arctic for the period up to 2035 (2035 Russian Arctic

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<sup>1</sup> Elizabeth Wishnick & Cameron Carlson, 'The Russian Invasion of Ukraine Freezes Moscow's Arctic Ambitions' (2022) *Journal of Indo-Pacific Affairs* <https://www.airuniversity.af.edu/JIPA/Display/Article/3172713/the-russian-invasion-of-ukraine-freezes-moscows-arctic-ambitions/>

<sup>2</sup> Arctic Council, *Russian Chairmanship 2021-2023* (2021) <https://www.arctic-council.org/about/russian-chairmanship-2/>.

<sup>3</sup> Arctic Council, *Russian Chairmanship 2021-2023* (2021) <https://www.arctic-council.org/about/russian-chairmanship-2/>.

Policy), and the Russian Arctic Strategy to 2035 (2035 Arctic Strategy).<sup>4</sup> Together, these documents define the goals, strategies, directions, and tasks Russia will undertake to implement Russian ambitions for economic development in the region on the back of petroleum development and the expansion of the Northern Sea Route.

The Arctic Council, arguably the most important intergovernmental platform for addressing key questions of Arctic regional development, was rapid and loud in its response to the Ukraine invasion, issuing a *Joint statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine* on 3 March 2022:

Canada, the Kingdom of Denmark, Finland, Iceland, Norway, Sweden, and the United States condemn Russia's unprovoked invasion of Ukraine and note the grave impediments to international cooperation, including in the Arctic, that Russia's actions have caused.

We remain convinced of the enduring value of the Arctic Council for circumpolar cooperation and reiterate our support for this institution and its work. We hold a responsibility to the people of the Arctic, including the indigenous peoples, who contribute to and benefit from the important work undertaken in the Council.

The core principles of sovereignty and territorial integrity, based on international law, have long underpinned the work of the Arctic Council, a forum which Russia currently chairs. In light of Russia's flagrant violation of these principles, our representatives will not travel to Russia for meetings of the Arctic Council. Additionally, our states are temporarily pausing participation in all meetings of the Council and its subsidiary bodies, pending consideration of the necessary modalities that can allow us to continue the Council's important work in view of the current circumstances.<sup>5</sup>

This pause in the Arctic Council's cooperation with Russia means that

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<sup>4</sup> Russian Federation, Strategy of development of the Arctic Zone of the Russian Federation and the provision of national security for the period to 2035, signed into law October 2020. This strategy followed the document On the Principles of the State Policy of the Russian Federation in the Arctic to 2035 signed into law 5 March 2020.

<sup>5</sup> Arctic Council, *Joint Statement on Arctic Council Cooperation following Russia's invasion of Ukraine* 3 March 2022, <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

Russia's attempts to address its pressing Arctic issues during its chairmanship will be significantly hampered at the very least, and more likely completely shelved. The Joint Statement issued was deliberately worded, with the term 'pause temporarily' an indication of a pause rather than an action to remove Russia from the Arctic Council or a reconstitution of the Arctic Council without Russia as a member. In reality, this means that the remaining seven Arctic Council members will continue the Council's activities, to the exclusion of Russia's chairmanship and participation. This raises the fundamental question that addressed in this article - can the Arctic Council operate without Russia?

According to Article 1 of the *Ottawa Declaration on the establishment of the Arctic Council* ('the Declaration'), the Arctic Council was established as a high-level forum to provide a means for promoting cooperation, coordination and interaction amongst Arctic states, particularly regarding the sustainable development of the region, and the interests of the Indigenous peoples in

protecting and assisting the environment during the commercial development of resources.<sup>6</sup> Thus, the goal of the Arctic Council is to provide cooperation at a governmental level on issues dedicated to the Arctic area, with Indigenous peoples' involvement at the forefront.

There are no provisions in the Declaration regarding the cancellation of host country's chairmanship or capacity to host meetings. On the contrary, Article 5 of the Declaration stipulates the necessity for rotation of the hosting of the meetings between all members of the Arctic Council. The cancellation of the right of a host country to hold a meeting must be by consensus of ALL Arctic Council Members, as Article 7 requires that ALL Arctic Council states agree with the decisions of the Council. This means that the decision of the other seven members of the Arctic Council to 'temporarily pausing participation in all meetings of the Council and its subsidiary bodies'<sup>7</sup> lacks legitimacy under the provisions of the Declaration.

The Arctic Council is an intergovernmental forum that operates

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<sup>6</sup> Ottawa Declaration on the establishment of the Arctic Council (1996) Article 1(a).

<sup>7</sup> Arctic Council, *Joint Statement on Arctic Council Cooperation following Russia's invasion of Ukraine* 3 March 2022, <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

by consensus, as required under Article 7 of the Declaration – ‘Decisions of the Arctic Council are to be by consensus of the members’. Therefore, the Arctic Council is not the forum for a contemplation of legitimacy or otherwise of Russian actions in Ukraine, or a forum for unilateral action. The decision of the remaining seven Arctic states to ‘temporarily pausing participation in all meetings of the Council and its subsidiary bodies, pending consideration of the necessary modalities that can allow us to continue the Council’s important work in view of the current circumstances’<sup>8</sup> is a breach of Article 7 of the Declaration, since Russia has not agreed to the temporary pause in meetings, and therefore such a pause, temporary or not, violates Article 7.

The operation of the Arctic Council should not depend on the actions or misdeeds of any state. It should function for the aims that it was formed for, as a high-level forum to promote cooperation, coordination and interaction amongst Arctic states, rather than as a forum for punitive action against a state. Otherwise, the Arctic Council leaves it open to politicization for the misdeeds of any other Arctic

Council member that does not act in a way that others agree with.

The neutral nature of the Arctic Council was demonstrated by Norway nominating the AC for Nobel Peace Prize in early 2022, with Norwegian political conservative Bård Ludvig Thorheim declaring that ‘we believe this cooperation is exceptional in international politics and demonstrates the need for cooperation and trust between countries at a time where peace is threatened around Ukraine and other regions’. Russia’s military actions in the Ukraine, whilst clearly a breach of international law, need to be separated from its membership, chairmanship, and participation in the Arctic Council to protect the continued apolitical and non-military focus of the Arctic Council and to ensure that all Council members adhere to both the purpose and objectives of the Declaration and to the spirit of the Arctic Council, especially in relation to Indigenous peoples and nations. Indeed, matters related to military security are specifically carved out of Article 1(a) of the Declaration, indicating the wish of the signatories to not include or consider matters of a military nature within the confines of the Arctic Council.

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<sup>8</sup> Ottawa Declaration on the establishment of the Arctic Council (1996), Article 7.

In practice, this means that although Russia's military actions in the Ukraine require a response within the international geopolitical arena, the Arctic Council is not the forum to undertake such a response. The Arctic Council should not conflate Russian military aggression and action with Arctic regional development and cooperation, environmental protection, climate change, and Indigenous matters, especially since the role of the Arctic Council is to be depoliticized and demilitarized, sitting outside of politics and military security.

Such conflation has attracted the ire of the crucial Arctic Council observer nation China. In October 2022, China's special Envoy to the Arctic for China Feng Gao questioned the actions against Russia, commenting that 'The Arctic Council is based on a declaration and there is no procedure for leaving the council. I doubt that the chairmanship can be transferred to anyone or that Norway can take over

the chair without Russia from a legal point of view.'<sup>9</sup> Although only an observer state to the Arctic Council, China undertakes substantial research activities in the Arctic, as well as heavily investing in the region, particularly through the establishment of the Polar Silk Road as part of its *Belt and Road Initiative*.<sup>10</sup> Such activities are designed to buttress China's Arctic influence and strategic position, given it seeks to become a great polar power by 2030.<sup>11</sup>

Whether such Chinese ambitions will come to pass remains questionable, given the complex relationship between Russia and China, and Russia's ongoing caution over Chinese ambitions in the region. Although China asserts itself as a near-Arctic state and important Arctic stakeholder with the right to a greater role in Arctic governance,<sup>12</sup> Koivurova notes that China perceives Arctic governance to be part of a greater global governance, and therefore China's role in such governance is

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<sup>9</sup> *China: "Will not acknowledge Arctic Council without Russia"* High North News, 15 October 2022, <https://www.highnorthnews.com/en/china-will-not-acknowledge-arctic-council-without-russia>.

<sup>10</sup> Rush Doshi, Alexis Dale-Huang and Gaoqi Zhang, *Northern Expedition: China's Arctic Activities and Ambitions* (2021) Brookings Institute Report, [https://www.brookings.edu/wp-content/uploads/2021/04/FP\\_20210412\\_china\\_arctic.pdf](https://www.brookings.edu/wp-content/uploads/2021/04/FP_20210412_china_arctic.pdf)

<sup>11</sup> Rush Doshi, Alexis Dale-Huang and Gaoqi Zhang, *Northern Expedition: China's Arctic Activities and Ambitions* (2021) Brookings Institute Report, [https://www.brookings.edu/wp-content/uploads/2021/04/FP\\_20210412\\_china\\_arctic.pdf](https://www.brookings.edu/wp-content/uploads/2021/04/FP_20210412_china_arctic.pdf), 1-2.

<sup>12</sup> P. Whitney Lackenbauer, Adam Lajeunesse, and Ryan Dean, 'Why China is not a peer competitor in the Arctic' (2022) *Journal of Indo-Pacific Affairs*, <https://www.airuniversity.af.edu/JIPA/Display/Article/3172586/why-china-is-not-a-peer-competitor-in-the-arctic/>.

significant.<sup>13</sup> China openly declared its interest in the Arctic in its *Arctic White Paper*, which Hossain notes is probably best read as a policy declaration reaffirming China's adherence to pre-existing legal frameworks governing the Arctic region.<sup>14</sup> Such reaffirmation, whilst important in a global context, has little bearing on the decisions and actions of the Arctic Council, given China's observer status and concurrent limited ability to influence the actions and decisions of the Council.

Thus, the actions to limit the participation of Russia in the Arctic

Council remains the purview only of Arctic Council members. The Declaration requires the consensus of all Arctic Council states (including Russia) before Russia can be restricted or prevented from participation in Arctic Council meetings or holding the Chairmanship. Such consensus from Russia is not forthcoming. Thus, the present temporary pause on Russia's Chairmanship and participation breaches Articles 5 and 7 of the *Ottawa Declaration on the establishment of the Arctic Council*.

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<sup>13</sup> Timo Koivurova, 'The current and future role of non-Arctic states in Arctic governance' in Akiho Shibata, Leileu Zou, Nikolas Sellheim, and Marzia Scopelliti (eds) *Emerging Legal Orders in the Arctic: The role of non-Arctic actors* (Routledge, 2019), 26

<sup>14</sup> Kamrul Hossain (2018) "China's White Paper on the Arctic: Legal Status under International Law", *ASIL Insight* 22–7. [www.asil.org/insights/volume/22/issue/7/chinas-white-paper-arctic-legal-status-under-international-law](http://www.asil.org/insights/volume/22/issue/7/chinas-white-paper-arctic-legal-status-under-international-law)