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Editorial

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Editorial: International law for sustainability in Arctic resource development

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Arctic challenge for sustainability

As most regions in the world, the Arctic is one that is best understood through several layers of complexities and nuances. The dramatic effects of climate change on a region perceived as pristine from the outside, a region of communities and people, and rich in resources prone to non-renewable exploitation are all narratives used to define the Arctic. These tropes all provide for the Arctic to be regarded as the epitome of the intellectual challenge of sustainable development. Although sometimes criticised as evasive (Barral, 2015, p. 23), the evolving concept of sustainable development can be a strong tool of international law to "reconcile economic development with protection of the environment" (ICJ, 1997, para 140) and to advance and strengthen the interdependent and mutually reinforcing pillars of economic development, social development and environmental protection both at the regional and global levels (UN, 2002). In the Arctic, as Petrov et al. argue "sustainability and sustainable development are inextricably linked to resource exploitation" (Petrov et al, 2017, p. 7). To address the challenge of sustainable development in the Arctic, this Special Issue focuses on Arctic mineral resource development through the lens of international law.

With the intent to add to the academic discussion regarding the international legal aspects of Arctic mineral resource development, the primary objective of this Special Issue is thus to bring about a broader examination of the content, implementation and effectiveness of relevant international norms and procedures, including their role in informing domestic and local regulations, to achieve sustainability in Arctic mineral resource development. To do so, we chose to focus on mineral resources, encompassing oil, gas, uranium and other minerals, to tackle a harder case for sustainability in Arctic resource management.

This Special Issue on "International Law for Sustainability in Arctic Resource Development" mainly reflects the outcome of the Fourth PCRC International Symposium held at the Polar Cooperation Research Centre, Kobe University, Japan in December 2018. Since 2015, Arctic research in Japan has been enhanced and strengthened through the Arctic Challenge for Sustainability (ArCS), the Japanese government's flagship research project for 2015–2020 (ArCS, 2019). Just as ArCS is adopting a multidisciplinary outlook on Arctic research, we have integrated the academic as well as practical knowledge and information provided by political scientists, natural scientists, Indigenous communities and business sectors in examining the relevant international norms and institutions in the specific context of the Arctic. While some of those multidisciplinary perspectives have been included, others were provided through discussion-oriented panels at the PCRC 2018 Symposium (PCRC, 2018). Amongst the research presented in Kobe and not reflected in the present Polar Record issue, the editors are particularly grateful to Mr. Bruce Harland for his presentation on the Arctic Economic Council (Harland, 2019) and to Ms. Tukumminngiaq Nykjær Olsen for her research on the need to include indigenous knowledge in resource management (Olsen, 2018).

Integrating economic, social and environmental dimensions

A strengthened legal framework for the management of natural resources is a key to balance environmental protection and economic and social development in the Arctic. In his 2016 study where he thoroughly examined relevant treaties, customary norms and other soft-law normative instruments, Timo Koivurova concluded that "there are already vast amounts of international hard and soft-law applicable in the region that influence how natural resources are managed," including some "tailor-made normative guidance for offshore oil and gas operations in an area as unique as the Arctic". He added, however, "the multi-faceted governance landscape of Arctic natural resources is very fragmented, which calls for increasing scholarly efforts at thinking how to build synergies" (Koivurova, 2016, p. 364).

One legal method to achieve such synergies would be to integrate economic, social and environmental concerns and interests reflected in the relevant fields of international law applicable

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to the Arctic, namely international human and indigenous rights law, international environmental law, and international economic and investment law. We suggest that the integration principle at the core of sustainability as a legal concept (ILA, 2002) provides a viable legal method through which the interpretation, application and development of relevant international law on Arctic resource development can be posited more integrally and holistically. All of the research articles included in this Special Issue aim to achieve such integration.

A holistic and integrative approach to international law is particularly important when addressing Arctic issues. The relationship and interconnectedness between various factors in the Arctic landscape cannot be ignored. The fundamental characteristic of the Arctic is its uniqueness in terms of connection between different ecosystems, people and different cultures, traditional knowledge and science and the growing industrial interest to develop the region (Inagaki & Shibata, 2018). In fact, the interconnectedness amongst those factors represents both the challenge and the strength in envisioning effective Arctic social systems, including the international legal system for the Arctic. At the same time, the Arctic particularity of interconnectedness has its own specific contexts within the region. In the area of mineral resource development, the prevailing laws, both international and domestic, applicable to the issue is the law of the place where the activities are actually undertaken. Thus, in this Special Issue, we have taken the examples from Greenland and the Yamal area of the Russian Federation as model cases for our international legal examination.

Engagements from non-Arctic actors

On 5 September 2019, the Japanese consortium of Mitsui & Company and Japan Oil, Gas and Metals National Cooperation approved the final investment decision to acquire 10% stake in the Russian Arctic 2 project, a major liquified natural gas development located on the Gydan peninsula in the Russian Federation (JOGMEC, 2019). As non-Arctic actors, including Asian states and their multinational companies, are increasingly engaged and investing in the development of mineral resources in Arctic environments, the question of whether it is possible to achieve sustainability by integrating environmental, economic and social dimensions has become, arguably, a global problématique. Unlike Antarctica, where the Antarctic Treaty System bans all mineral resource activities, the legal developments to achieve such sustainability in the Arctic have been rather sporadic and driven by the Arctic states' domestic laws and policies in accordance with the principle of permanent sovereignty over natural resources.

While the examination on legal aspects of Arctic resource development is not a new subject and has been the focus of a multitude of research over the last decade (Loukacheva, 2015), it has rarely been examined from the outsider's perspectives. Specifically, the perspectives from non-Arctic states and entities seeking to enter the discourse on the sustainability of Arctic mineral resource management and to participate in such activities have largely been overlooked. More than ever, it is important to provide legal stability and foreseeability conducive to long-term engagement and investment of relevant actors based on transparent and legitimate international norms and institutions being the foundation of applicable domestic laws of the Arctic states. This Special Issue tries to flesh out the development of such international norms and institutions.

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